

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Special Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Thursday 30 March 2023** at **1.00 pm**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors V Andrews (substitute for A Surtees), A Bell, L Brown, S Deinali, J Elmer, R Manchester, C Marshall, J Quinn, K Robson and K Shaw

Apologies:

Apologies for absence were received from Councillors I Cochrane, C Kay and D McKenna

1 Apologies for Absence

Apologies for absence were received from Councillors I Cochrane, C Kay, D McKenna and A Surtees.

2 Substitute Members

Councillor V Andrews substituted for Councillor A Surtees.

3 Declarations of Interest

The Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not had any input into their submission in objection to application on the agenda. He added that he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

Councillor L Brown noted she was a Member of the City of Durham Parish Council, however, she was not a member of their Planning Committee and

had not had any input into their submission in objection to application on the agenda.

She added that she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

Councillor S Deinali noted in respect of Item 5b she was Member of the Monk Hesleden Parish Council, however, she had no input into their submission in objection to application on the agenda.

4 Applications to be determined by the Area Planning Committee (Central and East)

a DM/22/03247/FPA - Rushford Court, North Road, Durham, DH1 4RY

The Senior Planning Officer, Louisa Ollivere (LO) gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the erection of new ancillary student accommodation facilities building built within grass embankment; minor external changes to existing Harding building including re-instatement of historical entrance location and implementation of associated landscaping scheme and was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer (LO) noted some updates to the report, with proposed changes to Condition 5 within the report, to change the open hours of the hub/bar for serving drinks and/or food to 0730 to 2300 Mondays to Thursdays, 0730 to 0000 on Fridays and Saturdays and 0730 to 2230 on Sundays. She added that the Local Member had also suggested changes to the hours of operation in relation to construction works, deliveries and so on, to take place 0800 to 1800 on Monday to Friday and 0800 to 1400 on Saturday and with no works or deliveries to take place Sundays, Public or Bank Holidays.

The Chair thanked the Senior Planning Officer (LM) and asked Jeremy Cook OBE, Pro-Vice-Chancellor (Colleges and Student Experience) from Durham University and Matthew Roe, agent for the applicant to speak in support of the application.

J Cook thanked the Chair and Committee for the opportunity to speak and the Officer's feedback on the report and positive recommendation. He noted the strong partnership of the University with Unite Group in terms of the

development in 2019/20 and the development for another college within the University.

He noted the Council and University also working in partnership, looking at issues in terms of students including less reliance on houses of multiple occupation (HMOs) and to have accommodation for students that drew them into the city. He noted the collegiate approach taken in Durham and explained how the college became the student's 'family unit' and noted the proposed senior and junior common rooms to help students interact, and not just stay in their bedrooms. He noted the proposals would allow for temporary use by the College of St. Hild and St. Bede while their old site was restored, then for use by a new, eighteenth college for Durham University.

M Roe noted the work with the Council, proactive in ensuring the design was sensitive to heritage assets, noting the report stated that any harm would be 'less than substantial'. He added that the public benefits of the proposals were significantly greater than any minor harm, including: providing an eighteenth college for Durham University; temporary use by the College of St. Hild and St. Bede; addresses student need; provides a 21.6 percent total net increase in habitat units; and significant CO₂ savings.

The Chair thanked the speakers and asked the Committee for their comments and questions.

Councillor J Elmer noted he was pleased to see such a development come forward from the University. He noted the pressure on the city in terms of HMOs and those large Purpose Built Student Accommodations (PBSAs) that were not under University control. He noted the design was good, with creative use of the sloping location, being very well screened and with many elements designed to go a long way to mitigate harm to the surrounding area and non-designated heritage assets. He noted the work in terms of biodiversity and CO₂ savings and added that the biggest issue was that it took the pressure off the permanent residents of the city. Accordingly, he moved that the application be approved, subject to the amended conditions as referred to by the Senior Planning Officer (LO).

Councillor A Bell echoed the comments from Councillor J Elmer, noting the design fit very well into the site and existing buildings. He noted that the photomontage within the presentation really helped to understand the design and its relationship to the other buildings and surrounding area and thanked Officer for that. He seconded the motion for approval put forward by Councillor J Elmer.

Councillor C Marshall noted he agreed with the points raised by Councillors J Elmer and A Bell, however, he noted that one application was not a 'golden bullet' and noted that there was still a lot of work to be done with the Council and the University to look to manage student property demand.

Notwithstanding, he noted the proposals represented exactly the type of student accommodation that was needed, and he looked forward to more quality schemes of this nature coming forward in the future, with such good design.

Councillor L Brown noted that the application was within her Electoral Division and noted that it provided no more accommodation, rather provided a student hub and facilities. She added her thanks to the Senior Planning Officer (LO) for the amended conditions to construction times, a benefit to local students and residents, and noted she supported the application.

Councillor K Robson noted he was very happy with the proposals, noting purpose built student facilities were always preferable to retrofitting into older, existing properties and he supported the application.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions as set out within the report and amended conditions relating to hours of operation and construction hours.

b DM/22/00102/OUT - Land to the east of Eden House, High Hesleden, TS27 4QF

The Principal Planning Officer, Leigh Dalby (LD) gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for outline planning consent (with all matters reserved save for access) for the erection of up to 18no. dwellings (amended description) and was recommended for approval, subject to the conditions and Section 106 Legal Agreement as set out in the report.

The Chair thanked the Principal Planning Officer (LD) and asked the Committee for their comments and questions.

Councillor L Brown asked as regards the distance from the development to the nearest bus stop. Councillor S Deinali noted she was one of the Local Members in respect of the application. She explained as regards the location of the bus stop and frequency and destinations of the local bus services, she noted bus stops around 100 metres away on the opposite side of the road.

Councillor A Bell noted it was a strange application in that it appeared to be in a non-sustainable location, there were no objections, no comments from the Local Members and no speakers on the application. He noted it was difficult to judge whether residents wished for the previous haulage use to cease and to have it replaced with residential development. He asked for comments from Highways in terms of right turn into the site and whether there would be any issues. The Principal DM Engineer, David Battensby noted that the site had been looked at very carefully, with an acute angle shown in reference to Mickle Hill Road. He noted that it was the existing access for the haulage business and that at that point nearer to the junction, vehicle speeds would be lower than further along the road. He noted that with only 18 properties proposed, peak generation only represented 10 vehicles and therefore it was more likely vehicles would not need to wait to make the right turn into the site, and the number of occasions in terms of waiting would not be great.

The Principal Planning Officer (LD) reminded the Committee noted that Monk Hesleden Parish Council had provided objections to the application and noted the last bus from the nearby bus stop ran at 7.48pm.

Councillor S Deinali noted that when she initially saw the application she had concerns relating to the access position, that being originally to lead on to Fill Poke Lane. She noted that issue had been addressed and noted that there was only limited traffic through the village. She noted concerns raised as regards sustainable location, however, she noted existing residents use facilities at the other nearby villages in terms of GP Surgery and schools and noted the connections to the nearby A19 and other villages. She added that Fill Poke Lane led to the popular Tweddle Farm and there was also the nearby Crimdon Dene and newly construction Hub, as well as links to the Haswell to Hart Walkway.

Councillor J Elmer noted it was an interesting application, adding he disagreed that it was a sustainable location, it being quite apparent that residents would likely have to use a car in order to access shops and services and therefore would not be in line with County Durham Plan Policy 6. He noted the justification for the approval recommendation was the 'unneighbourly use' by the haulage business. He noted that therefore it was important to understand what local residents wanted, however, he was still at a loss to understand what they would want. Councillor S Deinali noted that there was an hourly bus service to other villages, towns and she agreed that this could be improved to be more frequent, but more people using the services would help make those services more sustainable.

Councillor C Marshall noted that in order to make communities more sustainable there was a need to get more people into an area to help drive investment in services.

He noted that in rural communities, housebuilding was one of only a few ways of rebalancing those local economies. He noted that most households were car users, and that the more contentious would choose to buy an electric vehicle (EV), however, it was a fact for those more rural areas. He noted that on balance he was happy to move approval of the application in order to help improve the sustainability of the area. He was seconded by Councillor J Quinn.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions and Section 106 Legal Agreement as set out within the report.

c DM/22/03823/FPA - 3 St Monica Grove, Crossgate Moor, Durham, DH1 4AS

The Planning Officer, Michelle Hurton gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change use of dwellinghouse (C3) to 7 bed large HMO (Sui Generis) including changing the use of the garage into a habitable room and was recommended for approval, subject to the conditions as set out in the report.

The Chair thanked the Planning Officer and asked Members to recall a previous application for the property at 1 St. Monica Grove, approved at Committee at its meeting in February. He asked Parish Councillor Susan Walker, to speak in relation to the application.

Parish Councillor S Walker thanked the Chair and Committee and noted that the Parish Council objected to the application on several counts. She noted that, firstly, in respect of the issue of parking, the Council's Highways Section accepted that three parking spaces was required and submitted plans did show three spaces. She noted, however, that one of the spaces would be locked in behind two other cars, which was never an ideal arrangement especially in a household of three unrelated adults. She noted that more worrying was that in gaining the third parking space it appeared that there was a requirement to remove an established hedge which would not only impinge on the privacy of the residents of 5 St. Monica Grove but was also in

direct contravention of CDP Policy 40 which stated that hedges should not be lost unless the benefits clearly outweigh the harm, which the Parish Council felt was clearly not the case in this instance.

Parish Councillor S Walker explained that, should the Committee be minded to approve the application, the Parish Council would ask that the hedge was protected, and the number of bedrooms be reduced to five, to allow for the fact there would only be parking for two cars, in accordance with the Council's own parking supplementary planning document (SPD). She noted that it also appeared that there was no provision of EV charging or bicycle storage facilities, contrary to CDP Policy 16.3 (d) and Durham City Neighbourhood Plan (DCNP) Policy T3. She added that the supplied plans appeared to show there was no route to remove bins from their storage location without the removal of cars, which was not an acceptable arrangement and contrary to CDP Policy 16.3 (e). She reminded the Committee that the CDP stated that development would only be permitted if it meets Policy 16.3 (d) – (g), which the proposed development clearly did not.

Parish Councillor S Walker noted that, secondly, the application was in reality a joint development, as evidenced by the fact the plans for 1 St. Monica Grove were included within the application. She noted that the Parish Council felt it was a de facto PBSA project that sought to overdevelop what were, and should continue to be, residential properties in an established residential street, by imposing high density transient student presence among what were families with young children and older residents, to the detriment to their amenity. She explained that this was contrary to CDP Policy 31 and noted that if the development was permitted, there would be significant loss of amenity to the current residents of both St. Monica Grove and Lyndhurst Drive, with up to 12 unrelated adults living at a single location. She noted it would cause significantly more noise, rubbish and traffic with all the separate journeys and deliveries, more than two family homes, of which there was a significant shortage of in the area. She noted this was contrary to the spirit of CDP Policy 16.3 and because of that, the Parish Council would ask that, if the Committee were minded to approve the application, that they make the recommendations of the Council's Noise Action Team (NAT) mandatory conditions. Parish Councillor S Walker explained they included that prior to occupation of the premises, a scheme of sound proofing measures, to ground the ground floor bedrooms, shall be installed, with the aim of the scheme to ensure that the noise insulation of walls between adjacent properties shall be sufficient to prevent excessive ingress of noise. She added that another condition should be applied to ensure that the use was for HMO use only, with no more than seven occupants to be in the residence at any one time and added that if Committee were minded to reduce the number of bedrooms to five, the occupancy would also be reduced to five.

Parish Councillor S Walker noted that the NAT recommended, and Planners were advised to ensure via condition, that a suitable tenant management plan was provided by the applicant.

She noted that thirdly, there was the issue of need, adding that one of the CDP targets was to create mixed, balanced communities and explained that within Durham City it was increasingly difficult to find affordable family homes and yet, by the University's own admission there was a surplus of student accommodation. She added that was sufficient University and private sector accommodation to meet the 2026/27 target for student numbers and the Parish Council felt it was unacceptable that ordinary working class people were being squeezed out of the city, purely for the benefit of developers.

Parish Councillor S Walker explained that the application was for a development that was both unwanted by local residents and unneeded. She noted the Parish Council had numerous representations from residents who were opposed to the development. She added that while the Parish Council received complaints from the Committee in bringing such matters before Members, it was the job of the Parish Council to do so and it was the job of the Committee to represent the best interests of the residents of Durham, to listen to their views and to find ways of ensuring that the city remained a tranquil and connected place for permanent residents. She noted the Parish Council would plead that, rather than give hints and tips to developers on how they could get the application 'over the line', which she noted appeared to have happened in this case, that Members find a way of doing what the ordinary residents of the community wanted.

The Chair thanked Parish Councillor S Walker and asked Jon Old, speaking on behalf of residents, to address the Committee.

J Old noted there had been 62 objections to the application from the surrounding area, from a spectrum of residents young and old, those with families and those that were retired. He noted the area was within walking distance to nearby schools and was ideally suited for families, with such housing being in short supply. He noted residents had been disappointed that the application for 1 St. Monica Grove had been approved and had not been considered alongside this application. He noted it would in total represent 12 unrelated adults living across the two adjacent properties, effectively a PBSA. He noted that 1 St. Monica Grove was being advertised as a six bed property, not five bed. He explained that new MHO data would be put forward in April and noted the applications had not been deferred to take this into account. He referred Members to a presentation slide which set out properties that residents understood were used by students, and that this would represent a student density within 100 metres to be 11.6 percent.

J Old noted that such applications were an assault on residents' quality of life, contrary to CDP Policy 16.3 and added that CDP Policy 29 (e) noted that development should represent a minimum impact on amenity. He asked that if the application be approved that a 24 hour telephone contact be provided for residents use in reporting issues.

In respect of the parking arrangements, J Old noted that for 12 unrelated adults in total, the number of parking spaces was insufficient, contrary to CDP Policy 6 (e) and asked that the new parking standards be applied in this case.

J Old noted that the area represented a direct route into the city and was part of the National Cycle Network, however, was used as shortcut by students. He noted articles within the Northern Echo from 2019 as regards HMO figures and reiterated there would be an update to figures in April. He asked that the application be deferred until such figures were available or refused as there was no evidence of need, alongside issues with parking and highway safety.

The Chair thanked J Old and asked Officers to respond to the points raised.

The Principal Planning Officer, Paul Hopper (PH) noted that the issues raised were similar to those raised in connection with the previous application referred to for 1 St. Monica Grove. He noted they had been discussed at the last Committee and were addressed within the report. He added that in respect of HMO data, it was updated at two points within the year, the next being in April. He noted that when the report was ready to be considered by Committee it would be listed to be heard, adding there was no planning reason to defer. In terms of car parking, he noted the section within the report set out the view of the Highways Officers, with there being an opportunity for three space without the removal on the hedge. In respect of bin storage, he noted there was a management plan, and the proposals showed the number of bins for the number of occupants could be accommodated, though additional conditions could be applied should Members be minded to do so.

The Chair thanked the Principal Planning Officer (PH) and asked the Committee for their comments and questions.

Councillor L Brown noted she was one of the Local Members in respect of the application and had a keen interest in the matter. She noted she agreed with the Parish Council in terms of a condition to protect the hedge and would ask that construction hours be brought in line with those agreed for 1 St. Monica Grove, with 0800 start times. She noted that Neighbourhood Wardens had been contacted as regards issues already with the works at 1 St. Monica Grove, with issues relating to the footpath, and asked that Construction Management Plan (CMP) be put in place in terms of this

application to prevent such issues. She noted it was a very difficult application, on the one hand local people were not very happy while on the other there were not policy reasons for refusal, which she felt was very disappointing. The Chair asked as regards the proposed conditions put forward by Councillor L Brown.

The Principal Planning Officer (PH) noted that the working hours could be changed to mirror those for 1 St. Monica Grove. In relation to a CMP, he noted that would not normally be pre-commencement, though a potential condition could be worded as regards a trigger point. He noted that a specific condition relating to the hedge may prove difficult, however, he recalled that in the past landscaping plans had been used to include that anything with such plan be protected for a period of five years. Councillor L Brown noted as an aside that it was hoped that a Controlled Parking Zone could be brought in for the area.

Councillor A Bell explained he had been on the Committee since 2009 after Local Government Reorganisation and noted that HMOs had always been an issue. He added the CDP was now in place, with the 10 percent threshold and therefore he would find it hard to find a policy reason for refusal, though he did sympathise with the points made by the Parish Council and local residents. He asked for information as regards what would happen if data in April showed a higher percentage of HMOs. The Principal Planning Officer (PH) reiterated that data was collated twice each year, and that policy as adopted within the CDP noted this. He asked Members to recall that the issue had been discussed at the examination in public of the draft CDP and now that the CDP was adopted, the policy would be adhered to, unless there were other material considerations. He reiterated that there was no reason to hold or defer the application in that respect.

Councillor J Elmer noted concern that one of the rooms did not meet the Nationally Described Space Standards (NDSS). The Principal Planning Officer (PH) noted that had been initially the case, however, an update within the report notes that was no longer the case.

Councillor J Elmer noted that CDP Policy 16 and that while the percentage relating to HMOs within the report was stated as 6.1 percent, the Parish Council and residents state that it was greater than 10 percent. He noted he had read the policy and did not see where it stated it would be based on Council Tax data gathered at a specific time. The Principal Planning Officer, (PH) noted it related to the Class N exemptions, and that data was released twice annually, meaning that in those six month periods, that was the most accurate Class N data. Councillor J Elmer noted he felt that data was not as accurate or up to date as it could be and asked for clarification from the Legal Officer. The Legal Officer (Planning and Highways), Laura Ackermann noted that the data referred to was not out of date, it was that collated at the time of the Council Tax data sift, and that the data was accurate until the next time it

was collated and reported. Councillor J Elmer asked if the Council did not have access to the data at all times to be able to assess at any time. The Legal Officer (Planning and Highways) noted that the procedure in place was for twice annual reporting, noting that the process was time consuming. Councillor J Elmer noted that he disagreed and felt that the Graphical Information System (GIS) data could be kept up to date at all times. The Principal Planning Officer (PH) reiterated that the methodology was as agreed at the examination in public, with Class N data having been felt as robust. Councillor J Elmer noted he had been at the examination in public and did not recall any reference to data being reported twice a year. He explained he felt that this application was the exact opposite to the first item brought forward by the University. He noted this application sought to cram in as many students as possible and while he was not happy with the application it was very complex in terms of looking to try and refuse under policy. The Legal Officer (Planning and Highways) noted the examination in public the use of Council Tax records had been discussed and the Inspector had agreed with the methodology, initially it had been annual, now twice annually.

Councillor R Manchester noted that with the approval of the application for 1 St. Monica Grove in February, surely the data was out of date by at least one HMO. The Principal Planning Officer (PH) noted that policy allowed to take into account non-started previously agreed permissions, adding the figures relating to this were set out within the report and they still were below the 10 percent threshold.

Councillor A Bell noted that the issues were complex in terms of HMOs, however, in this case he would move approval as per the recommendations and suggested conditions as referred to by Councillor L Brown and the Principal Planning Officer (PH). Councillor S Deinali noted she could not see any policy reason to refuse the application and seconded the motion put forward by Councillor A Bell.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions as set out within the report and amended and additional conditions relating to operating hours, landscaping plan and construction management plan.

Councillors A Bell, C Marshall and S Deinali left the meeting at 2.27pm

d DM/22/03703/FPA - 17A Seaside Lane, Easington Colliery, Peterlee, SR8 3PF

The Principal Planning Officer (PH) gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use to hot food takeaway (across all three levels) and erection of high velocity duct/flue/cowl to rear, extracting above eaves but below ridge level and was recommended for approval, subject to the conditions as set out in the report.

The Chair thanked the Senior Planning Officer (LM) and asked the Committee Services Officer to read out a statement on behalf Councillor A Surtees, Local Member.

"Members of the Planning committee apologies for not being in attendance to read this statement in person. I have huge concerns with this application and appreciate your time in listening to this statement which will be read out by the Committee Services Officer. On the whole I feel that the application is detrimental to the community of Easington for a number of reasons and contradicts a number of planning guidelines and policy.

Firstly NPPF 8 Promoting Healthy and Safe Communities. Reducing levels of obesity is a key objective of the council and an overconcentration of hot food takeaways can have a detrimental impact on vitality and viability, as such it is recommended that not more than five percent of premises should be hot food takeaways – furthermore that no new hot food takeaways should be permitted within 400 yards of a school. This application contradicts both, there is a Nursery School (on Crawlaw Road) that is less than 200 yards of this proposal and of the 42 commercial premises in the vicinity only 22 are trading and at least six of those are hot food takeaways. I would argue that both of these elements should determine refusal of this application. Furthermore there is a youth group to operate out of the Methodist Church directly opposite this proposal covering ages 5 to 11 years and 11 years plus.

It is also stated within this report that it is not considered to increase ASB or fear of crime, some facts to consider here are within a six month period 111 incidents of anti-social behaviour were reported of which the main area was around the main street area of an existing hot food takeaway.

At Paragraph 48 (in relation to additional noise and odour) of the report the Environmental Health Officer (EHO) has commented that 'the information

submitted is not sufficient to allow full consideration against the thresholds stated in the Technical Advice Note (TANS). At Paragraph 49 the Environment officer objected to the operating hours.

At Paragraph 50 no details of the menu have been provided which in turn means that the proposed extraction unit does not directly relate to the types of food it should be fit for purpose for. This again cannot be robustly assessed, nor risk assessed based on the EMAQ/DEFRA guidance for the control of odour and noise.

At Paragraph 51, linking back to my first observations about healthy neighbourhoods, how can this be considered as in my opinion there is a high proliferation of hot food takeaways if the findings are based on operation units opposed to all of the nits including the closed and boarded up ones that have not traded for decades in some instances. At a personal level I am also at a loss as to why the application is for a take away over three levels when the building is described as a two storey end terrace and why would you need a three storey takeaway?

Committee Members, thank you for listening to this statement and I would ask that you consider my observations with this proposal and refuse the application based on the following, thank you:

- * within less than 200 yards of a school,*
- *less than 20 yards away from youth provision,*
- *in an area with high levels of anti-social behaviour,*
- *no details of menu, supported by EHO*
- *no details of odour and noise impact, supported by EHO*
- *in an area of high deprivation with more than 5% of units being take aways in existing operational commercial units”.*

The Chair thanked the Committee Services Officer and asked Dr Anton Lang, agent for the applicant, to speak in support of the application.

Dr A Lang explained that that the Case Officer's report and presentation by the Principal Planning Officer (PH) had already address most of the main points in relation to the application. He noted that the proposals were in line with CDP and NPPF and reference to incorrectly applied distance criteria within written objections was incorrect in itself and therefore was not relevant. He noted that any existing issues of anti-social behaviour were not for this application to address and suggested that any new premises would actually be likely to reduce such behaviour. As regards the menu, this was picked up via condition, with details to then inform the type of ventilation system to be used as Committee were likely already aware from previous similar applications. He explained that seeking permission for three storeys may not look good in principle, however, it was simply to be able to use the whole

building for storage rather than three storeys of hot food takeaway. He noted previous use as a tattoo parlour and tanning salon and reiterated that the upper floors would be for storage.

In reference to the concerns raised by the Parish Council, Dr A Lang noted that there were five hot food takeaways and 21 empty units and explained that the use Class A1 and E did not inhibit other class use. He concluded by noting he felt those issues raised would not have sufficient weight at any appeal of an approval decision and noted he would be happy to answer any questions from the Committee.

The Chair thanked Dr A Lang and asked the Committee for their comments and questions.

Councillor J Quinn noted CDP Policy 30 and asked as regards the 400 metre proximity to a local nursery. The Principal Planning Officer (PH) the wording of the policy was 'school or college', and accordingly it was to look at the rationale for the policy, in terms of school age children.

Councillor K Shaw noted he was struggling with the conclusion within paragraph 67 of the report and that the issue was that of imbalance to the mix of shops currently, rather than as regards the future use of any other empty shop units. The Principal Planning Officer (PH) noted that the proposals for hot food takeaway did not preclude any other use in the retail centre and was not undermining the principle of use of the retail centre for retail use. Councillor K Shaw asked if the application was approved would that not then cause an imbalance. The Principal Planning Officer (PH) noted that Officers felt that the addition of one hot food takeaway would not create an imbalance.

Councillor L Brown noted that, given the proposed hours of operation, a licensing application would mirror those in the planning permission. The Principal Planning Officer (PH) noted that information as regards any permission granted would be shared with Licensing colleagues.

Councillor J Quinn moved that the application be approved as per the Officer's recommendation, he was seconded by Councillor L Brown.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions as set out within the report.

e DM/22/02292/VOC - 5 North Road, Durham, DH1 4SH

The Senior Planning Officer, Lisa Morina (LM) gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the variation of condition 2 of planning permission 4/99/00534/FPA to allow a change in opening hours and was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer (LM) explained that the application had originally been presented to Committee in December 2022, where Members resolved to defer the proposal to allow Durham Constabulary to present further evidence. She noted that since that time, Durham Constabulary had withdrawn their objection to the scheme, with details as set out within the report.

The Chair thanked the Senior Planning Officer (LM) and asked Parish Councillor S Walker, representing the City of Durham Parish Council to speak in relation to the application.

Parish Councillor S Walker thanked the Chair and Committee and noted that the City of Durham Parish joined with the City of Durham Trust in strongly opposing the proposals and urged the Committee to refuse the application today. She noted that firstly the application followed a report from the Parish Council to the County Council's Planning Enforcement Team as regards the premises unlawfully operating 24 hours per day Thursdays to Saturday. She noted that Condition 2 of their original planning permission restricted operating hours of the casino to between 0900 and 2200 each day. She noted that the fact the applicant had knowingly operated outside of these hours demonstrated a scant regard to both planning conditions imposed and the duty of care the operator had to its clientele and the wider community in the city. She added that it therefore brought into question the fitness of the management to run such an establishment when they had minded wilfully to disregard the agreed operating hours by such a margin. Parish Councillor S Walker explained there was also the issue that allowing planning conditions to be flouted in such a manner would inevitably result in a loss of credibility for all planning conditions, which should be avoided at all costs.

Parish Councillor S Walker noted that the applicant's Agent rightly identified a number of nearby commercial premises located within the immediate vicinity of the application site, however, they had most crucially failed to

highlight there were over 30 residential properties within the locality, a number of which would be sensitive receptor of those activities associated with the premises.

Parish Councillor S Walker noted that while the Parish Council welcomed the fact that the applicant had dropped their plans for unrestricted trading hours, the Parish Council believed that the premises should be restricted in its operating hours to that of nearby commercial premises, namely Sainsburys Local, being 2300 and The Five Bridges, being midnight. She noted this would be to ensure no adverse impact to residential amenity to those living on the upper floors of the building and nearby.

Parish Councillor S Walker explained that CDP Policy 29 (e) stated that development must “*minimise the impact of development upon the occupants of existing adjacent and nearby properties*”; and continued at (f) to say that development must “*contribute towards healthy neighbourhoods and consider the health impacts of development and the needs of existing and future users*”. She noted that in addition, Policy 31 relating to amenity and pollution stated that development would be permitted where it could be demonstrated that there would be no unacceptable impact either individually or cumulatively on health. She noted the premises operated not only as a gambling centre, but also an ancillary tanning service. She added that the nature of both of those operations in no way promoted the health and wellbeing of their respective clientele and the fact that the premises had sought to operate 24 hours a day, seven days a week made that even less so. She noted that the Parish Council were concerned that the permission could lead to the exploitation of vulnerable individuals and noted that no noise impact assessment had been carried out, a requirement of DCNP Policy E4.

Parish Councillor S Walker noted that the Parish Council was extremely concerned that the permission would set an unwelcome precedent for future proposals and make them more difficult to resist, adding incrementally to adverse impact upon residential amenity. She noted the Parish Council utterly rejected the Environmental Health Officer’s conclusion that 0800 opening may also be possible when the application only sought 0900 opening. She concluded by noting the Parish Council felt the application conflicted with CDP Policies 29 and 31, DCNP E4 and key parts of the NPPF and urged the Committee to refuse the application in its current form.

The Chair thanked Parish Councillor S Walker and asked Jonathan Wallace, Agent for the applicant to speak in support of the application.

J Wallace thanked the Chair and Committee and noted Claire Welsh and Steven Suggitt from Luxury Leisure to answer any questions as required. He noted he would not recap the points made at Committee in December, and noted the deferral was to allow Durham Constabulary to bring forward details

in relation to their objection. He noted, as stated by the Senior Planning Officer (LM) that those objections had now been withdrawn. In terms of hours of operations, the operator had apologised on the issue had been highlighted, ceased those hours of operation and submitted the application for variation of conditions as before Members.

J Wallace noted that the focus over the last 20 years had shifted in Durham City, with an increase on the night time economy. He noted that the applicant owned the upper floors, and they were not residential and clarified that a noise assessment had been submitted. He explained that the Team operating the premises would ensure noise levels were in line and noted no amplified sounds. He added that customer numbers were similar to that of other sites operated by Luxury Leisure and around no more than 10 per hour. He added that the majority were single individuals and not groups and therefore less likely to be an issue in terms of noise. He concluded by noting the proposals would result in two new jobs and that given no objections from the Council's NAT or Durham Constabulary that the Committee would approve the application.

The Chair thanked J Wallace and asked the Committee for their questions and comments.

Councillor J Quinn asked as regards the 'accidental' 24 hour operation. The Chair asked J Wallace to respond. J Wallace noted that the management of the premises at the time had noted another similar premises nearby was operating longer and in error extended the hours. He added that once this had been known by Luxury Leisure such operation ceased and a planning application was submitted. Councillor J Quinn asked what safeguards were in place to ensure such an error was not repeated. J Wallace noted that should approval be granted, the details of permitted hours would be communicated to those operating the premises clearly and as regards the need to strictly adhere to those times.

Councillor J Quinn noted when the application was for 24 hour operation he could not have supported it, however, with the reduced hours and withdrawn objections from the Police he would move that the application be approved.

Councillor J Elmer noted that, given the levels of anti-social behaviour and crime in the city centre, opening until 0200 meant there was more temptation for those coming out of pubs and clubs to gamble and potential for those who may lose money to be in an angry frame of mind when exiting the premises. He noted the Police had withdrawn their objections, however, he felt the Committee needed to look at each application on its own merits and he felt that he could not see any justification for the extension of the opening hours, and he agreed with the Parish Council on restricting the opening hours and therefore he would propose that the Committee refuse the application.

The Chair noted that the Police and Parish Council had not objected to other gambling premises and asked for clarification from the Senior Planning Officer (LM). The Senior Planning Officer (LM) noted the Chair was correct and that 0200 opening hours had been agreed by the Environmental Health Officer, the application was deferred for Police to present further evidence in terms of crime statistics relating to North Road. She noted that upon further investigation by the Police they then withdrew their objections in relation to this specific property / application. The Chair noted that if the Committee was minded to refuse, given the Police having withdrawn their objection, he felt that would have significant weight at any appeal of the decision. The Principal Planning Officer (PH) noted that any specific response from consultees, including Durham Constabulary would always be taken into account, however, that did preclude Officers taking a different view, nor the Committee taking a different view.

Councillor K Shaw noted he would second the recommendation for approval put forward by Councillor J Quinn.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions as set out within the report.