

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 9 January 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), L Brown, I Cochrane, J Elmer, L Fenwick (substitute for S Deinali), P Jopling, D McKenna, E Peeke (substitute for J Cosslett), I Roberts, K Robson, K Shaw and A Surtees

Also Present:

Councillors L Hovvels, E Mavin, L Mavin and J Miller

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, J Cosslett, S Deinali, C Kay and R Manchester.

2 Substitute Members

Councillor E Peeke substituted for Councillor J Cosslett and Councillor L Fenwick substituted for Councillor S Deinali.

3 Minutes

The minutes of the meeting held on 12 December 2023 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

Councillor L Brown, in relation to Items 5a and 5b, 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 applications 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.

The Chair, Councillor D Freeman, in relation to Items 5a and 5b, 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 applications 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 D Oliver, in respect of Item 5a, noted he was a member of the South Durham College Advisory Board, however, he had not had any input into their submission in objection to application on the agenda.

Councillor P Jopling, in respect of Item 5a, noted she was a member of the Adults, Wellbeing and Health Overview and Scrutiny Committee, however, she had no involvement in respect of the application on the agenda.

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

a DM/23/02622/FPA - Land South of South College, The Drive, Durham, DH1 3LD

The Senior Planning Officer, Steve France 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 Senior Planning Officer advised that some Members of the Committee had visited the site and were familiar with the location and setting. The application was a full planning application for the erection of a 74-bed care home facility (Class C2 Use), with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities and was recommended for approval, subject to the conditions and Section 106 Legal Agreement as set out in the report.

The Chair thanked the Senior Planning Officer and asked Sarah Douglas, Senior Commissioning Manager, Adult and Health Services to speak in respect of the application.

The Strategic Commissioning Manager noted there were 95 care homes in County Durham looking after older people and added that care homes fell under her area of responsibility.

She added that the occupancy rate for care homes in County Durham was 86.5 percent, which was not high enough to be sustainable, with one expecting levels of around 92 to 93 percent. She explained there was concern from care homes in terms of sustainability and noted the recent closure of a care home in Durham in September 2023 and with new care homes opening at Spennymoor and Consett, alongside two planned for Bishop Auckland and Newton Aycliffe. She added that additional care homes placed pressure on existing care homes in terms of numbers and occupancy.

The Strategic Commissioning Manager noted that care spending was the single largest area of spend for Durham County Council. She added that the developer had not engaged with the Strategic Commissioning Team and the proposals were not in line with the Council's or national policy in respect of aiming to keep older persons in their own home wherever possible. She noted there was no need for further care homes in County Durham. She added that more care home sites would impact upon care home staff recruitment, and pressure and competition for care home staff was an issue that she felt that the Committee should be mindful of.

The Strategic Commissioning Manager noted that additional care homes would increase pressure on the NHS and would increase the need for staff, including District Nurses, Advanced Practitioners and at the nearby Accident and Emergency Department.

The Chair thanked the Strategic Commissioning Manager and asked Roger Cornwell, representing the City of Durham Trust, to speak in support of the application.

R Cornwell thanked the Chair and Members and explained that on behalf of the City of Durham Trust, he was asking the Committee to support the Officer's recommendation to approve the application. He added he had two points to make.

Firstly, R Cornwell explained that the objection from the Principal of South College was not an official University one, nor was he saying it was. He added that there had been no comment from Durham University itself. R Cornwell noted that students did not have an unlimited right to enjoy a lifestyle with our regard to their neighbours, adding that it was one of the jobs of a college Principal to keep student behaviour within bounds.

Secondly, R Cornwell explained that the City of Durham Trust accepted that there was pressure on capacity of the Claypath Medical Practice and not just that NHS facility. He noted that it was a broader issue for the wider NHS and needed to be addressed at a higher level than that of one medical practice.

He added that the housing developments in the pipeline for Sherburn Road and Sniperley Park would add possibly 6,000 to 9,000 extra patients for the medical practices in the Durham area. He noted the impact of the 74 extra patients, even with additional needs, paled into insignificance. He noted that plainly we needed more Doctors in Durham and refusing the application would not solve that problem.

R Cornwell noted that research the City of Durham undertook when developing the Durham City Neighbourhood Plan (DCNP) predicted that there would be an additional 1,500 people aged over 75 in the wider Durham area by 2035 looking to the future, which would equate to a need for around 150 extra places in care homes. He noted the closure of the Hallgarth care home in the past year, and more broadly in County Durham in the past three months there had been proposals for care homes in Stanhope and Shotley Bridge which had been replaced by apartments and a hotel respectively.

R Cornwell concluded by noting that with an aging population we needed more care homes and asked if Members would please approve the application.

The Chair thanked R Cornwell and asked Ian Ward, representing the Applicant, Torsion Care, to speak in support of their application.

I Ward explained that Torsion Care was based in Leeds and operated care home sites within the Midlands and North East of England. He noted they developed, built and ran care homes, assisted living and extra care facilities and as main contractor and operator, Torsion Care had a vested interest in the full life of such developments.

I Ward explained that within a five-mile radius of the site, only 14 care homes had been developed, with five since 2000 and non in the last five years. He explained that the proposed development was sympathetic to its surroundings, and the standard Torsion Care layout was designed for efficiency. He noted that the development would generate a minimum of 70 jobs for those in the local area, including in terms of builders and tradespersons in construction of the care home. He noted the design had an energy performance certificate (EPC) rating of A, adding that BREEAM and low carbon were at the forefront when developing the application. He noted the inclusion of air source heat pump and solar panels, alongside underfloor heating, all contribute to a development that would be of great benefit to the area.

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

Councillor P Jopling noted she had attended the site visit and had noted the close proximity to the college. She added she did not feel that any amount of screening would be able to prevent noise from the nearby students, and while it was all well to ask students to not be noisy, their behaviour would be impacted from alcohol consumption as there was a bar. Those issues aside, Councillor P Jopling noted that she felt the largest issue was that of health, as set out within pages 22 to 24 of the report pack. She noted that it was stated that there was no need for another care home, and that the county was not short of care home beds, the Council's own figures and as referred to by the Officer in attendance. She added that she was extremely concerned in terms of the impact on the Medical Practice's existing patients and noted she felt the £15,000 contribution was a derisory amount. She noted she would have felt different if a facility of this size had included an in-house Doctor and that, as it stood, it would leave larger problems for the Local Authority. She noted she had spoken to one of the Local Members, Councillor L Brown, and understood that there should have been another Doctors Surgery in the city and from her understanding the Accident and Emergency Department at the University Hospital of North Durham was busy.

Councillor P Jopling noted that older people represented a greater impact upon the NHS and require more care, in general, compared to younger people. She reiterated that she felt that should the application be granted, the problems would be passed on to the Council and the surrounding community. She added she also felt that it would not be fair on the college either. Councillor P Jopling noted that in her view the proposals were too close to the college, would cause trouble for the future, were not based upon need, and were in the city centre where she felt many older people would not want to live. She concluded by noting she may vote against the proposals.

Councillor L Brown noted she had some questions and observations. She asked how far the living accommodation was from the college hub and new purpose build student accommodation (PBSA). She noted that Claypath Medical Practice had two surgeries, however, noted they served the 22,500 students and remaining residents in the city centre. She noted that the Masterplan for the Mount Oswald site had included a GP Surgery, however, that had fallen by the wayside and therefore there would be an impact in terms of community assets and asked if any National Planning Policy Framework or County Durham Plan (CDP) policies would apply in that respect.

The Senior Planning Officer noted that the report did discuss the proximity of those buildings at paragraph 141, with the hub being 32 metres away, though to the service side of the building.

He noted that the 850 bed PBSA was only at the outline phase and therefore there was no definitive distance from that development, though noted it was likely to be around 30 to 40 metres, although as there was some open space between the two sites, and a cycleway and some trees with a tree preservation order, it could be up to around 60 to 70 metres. Councillor L Brown asked for the minimum distance to a living area, the Senior Planning Officer reiterated 32 metres.

The Chair noted the reference to healthcare and the statement from Claypath Medical Practice. He noted that he understood that the Practice was looking to expand in the city as they could not accommodate the number of patients they have currently. He added that while it had been stated that there was sufficient care home provision within the county, that was not the same as saying there was sufficient care home provision within the city area. He noted the closure of the Hallgarth care home and added that was not purely as a result of low occupancy, as there had been an application to have student accommodation on that site, refused at Committee.

Councillor J Elmer noted the issue of need, in respect of additional care homes, and asked if that was a material consideration. He asked if there was an understanding of need across the whole County versus that of the city area. He noted his personal experience in trying to secure a care home place for family and that he had been required to travel some distance out of the city area to obtain such care. He added that he was not convinced by the argument that there was not sufficient need.

Councillor J Elmer noted the position in respect of medical provision was quite strange, with the large 850 bed PBSA approved at the outline stage, and with other major developments amounting to between 6,000 to 9,000 new residents in the near future. He added that would result in a considerable uplift, and that the impact of the proposals in from of Members seemed so tiny compared to those larger upcoming developments. He added it seemed strange Claypath Medical Practice had objected to this application, however, had not objected to those developments that would result in an additional 6,000 to 9,000 residents.

The Chair allowed the Strategic Commissioning Manager to respond to the question from Councillor J Elmer. The Strategic Commissioning Manager noted that the level of occupancy in Durham City was 84 percent, less than the County Durham average. She noted that Chester-le-Street had an overprovision of care home places and that there had been a reduction in the number of nursing beds in the county, and region, that many 'deregistering' as nursing homes and moving to being 'residential' homes.

She added that was a situation that was being closely monitored, however, the general trend was for a focus on 'extra care' noting seven sites, and in-house provision, with specialist dementia care at Spennymoor, and Poppy Dene at Peterlee being examples of the focus on 'extra care'. She added that Members would be familiar with the Care Quality Commission (CQC) and explained that there had assessed the quality of care within County Durham and that 90.5 percent were assessed as either good or outstanding, a very good statistic which demonstrated that our market in County Durham was very good.

The Senior Planning Officer reminded Members that while relevant in terms of impact upon the NHS, and as a material planning consideration, each application was looked at on its own merits. He noted that the objections in terms of need raised by Adult and Health Services were at a strategic level, however, the applicant had provided their own assessment which demonstrated need at the local, divisional level. He added that the applicant had noted that within a three to five mile radius of the application site, it was likely that many of the future care home residents would already be patients of the Claypath Medical Practice and not represent an additional burden. He noted that the NHS response received by the Planning Department was that the contribution via the Section 106 Agreement was sufficient to mitigate the increased demand from the application. He added that if any new permission were sought in the area, a similar imposition would be placed and therefore he would caution against too much weight being placed upon need.

Councillor K Shaw noted the Strategic Commissioning Manager had explained the County Durham position and the impact seemed clear. He noted Members had sat in the chamber and heard evidence in terms of other need, such as housing need, and noted he would not be supporting the application.

Councillor P Jopling asked Officers if they felt that the £15,000 contribution towards NHS provision was sufficient. The Senior Planning Officer explained that the NHS had standard formulae relating to contributions, based on the number of people, type of development and so on. He added that the North East and North Cumbria Integrated Care Board (NENCICB) had provided their response to consultation noting a requirement for a £15,000 contribution to be secured via Section 106 Legal Agreement. He added that the amount for each Section 106 contribution relating to any new development was provided on a per-application basis.

Councillor P Jopling noted the issue she had was that even if the provision was extended at the Medical Practice, there were already issues in getting an appointment with a Doctor.

She added that it was frustrating that, if the application was agreed, we would not be sure that any additional GP provision would be in place for a long time, similar to other housing developments that were still without shops or transport in place long after development had been completed. She added she felt that the Committee had a duty of care to the existing patients and that the issue was one of amenity. She reiterated there were three pages within the report noting the impact upon health provision.

The Chair noted existing permissions, and those in the near future, would amount to around 6,000 to 9,000 additional patients and therefore the additional medical provision required for this application appeared to be a 'drop in the ocean' when compared to those developments.

The Lawyer (Planning and Highways), Neil Carter noted the discussion in respect of the need for the type of development and sustainability. He explained that there was no policy requirement in respect of need, and therefore the number of care home places or sustainability or impact upon the sustainability of other care homes sat outside of the Planning system. He noted that his advice to the Committee was that any refusal relating to need would be unsustainable. He added that the NHS contribution decided upon had been as a result of the official response and while that was in discord with the comments from the local Medical Practice, the official body had responded to the consultation noting a £15,000 contribution would be appropriate. He added it would be for the local Medical Practice to approach the official body in order to make their representations, and for the Committee to consider the application as set out.

Councillor P Jopling noted she still felt it was an issue of impact upon amenity, and therefore was it not an issue for Policy 29 or 31 of the CDP. The Lawyer (Planning and Highways) noted that Policy 31 referred to residential amenity and therefore would relate to the impact of the scheme on the college and vice-versa. Councillor P Jopling reiterated she felt that the impact of healthcare was an impact upon amenity. The Lawyer (Planning and Highways) reiterated that healthcare was outside of planning in terms of the need or sustainability, with the impact upon amenity being subjective.

Councillor L Brown asked if the Medical Practice could be considered as a community asset and policies associated apply. She also noted that, if the application were to be approved, if the construction start time within Condition 11 could be altered from 0730 to 0800.

The Senior Planning Officer noted that 'asset of community value' referred to village greens and the like and did not apply to GP Surgeries. He noted that Part 8 of the NPPF noted that elements of any community should be placed together, namely such facilities.

He reiterated that the response from the standard NHS consultee had been to suggest a contribution that would mitigate the impact of the development and therefore any refusal on the healthcare provision would likely prove difficult to defend given that response. He added that while there may be some time lag in terms of any contribution, he felt that if the Medical Practice were looking for a new site, the contribution may be available quite quickly.

Councillor L Brown moved that the application be approved, as per the recommendation set out within the report, subject to an amended Condition 11 to have the commencement of works at 0800.

Councillor A Surtees asked if the economic impact of the development was a material planning consideration. The Lawyer (Planning and Highways) noted that economic benefits or disbenefits could be a material consideration. Councillor A Surtees noted she did not agree with the figure relating to provision being around 84 percent occupied and noted that many people from all over the county were living in care homes in the East of the county. She noted that the impact of an additional care home would impact upon the economics of all the care homes in County Durham and that if there were more built, based upon the current numbers, we would not be able to forward plan in terms of numbers. She added she would not be supporting the application.

Councillor J Elmer noted he was torn over the issue of need, and while not a material consideration, it was difficult to rule out, as stated by Councillor A Surtees. He noted in respect of the residential amenity, he felt the University would be able to manage any impact. He recalled the Sheraton Park development, where the University had a nearby bar located and they themselves had stated the situation between their bar and the residential properties would be 'manageable'. Councillor J Elmer clarified that, in relation to medical provision, there was a high likelihood that a high proportion of the new residents of the proposed care home were already existing patients of the Claypath Medical Practice and for that, and the other reasons stated, he would second Councillor L Brown's motion for approval of the application.

Councillor K Shaw noted he supported the comments made by Councillor A Surtees.

The Chair noted a motion for approval had been made by Councillor L Brown, seconded by Councillor J Elmer and upon a vote being taken the motion was **LOST**.

Councillor K Shaw proposed the refusal of the application, based upon the economic impact. He was seconded by Councillor A Surtees.

The Lawyer (Planning and Highways) advised that while Cllr Surtees' had eloquently expressed her motion in terms of economic disbenefits, in truth this still amounted to an issue of need or competition relating to care homes, which was not for the planning system to determine. He added he was still of the view that such a refusal would be unsustainable at any subsequent appeal.

Councillor A Surtees noted that existing provision would be impacted by the proposed development. The Chair noted he felt that was still referring to need. Councillor P Jopling noted she felt it was amenity, given the close proximity to the college. The Lawyer (Planning and Highways) noted the motion for refusal had been made and seconded in relation to economic impact and added that amenity had not been raised as an issue to include. He asked if the comments from Councillor P Jopling were meant as a rival motion for refusal, or if she wished to amend the existing refusal motion to include amenity as a second refusal reason. Councillor P Jopling noted that she felt there was no amenity to service the proposed care home, and that there would be a greater impact as older people in care homes required more care and therefore there would not be the amenity to cope in terms of the existing GP provision.

The Lawyer (Planning and Highways) said he understood that Cllr Jopling was proposing an amendment to the refusal motion to add a second refusal reason and that this would need to be supported by Members if it were to be voted upon. He also, reiterated that his advice was that a refusal based upon economic impact would not be sustainable at appeal. In terms of amenity, he reiterated that impacts on the NHS in terms of healthcare would not fall within the amenity policy although would fall within other policies but he would need to understand why the contribution requested by the NHS would not be sufficient.

Councillor A Surtees noted her motion was for refusal based upon the economic impact on existing care home provision, similar to the impact of any new university upon the existing university, or any new supermarket on existing supermarkets, with a new care home impacting upon existing care homes. The Lawyer (Planning and Highways) noted that was effectively a reference to competition, as spoken about by the Strategic Commissioning Manager, in terms of the impact of an additional care home on the economics of the area. Councillor P Jopling noted she felt it was for Planning Officers to find policies to support the Committee in terms of any refusal.

The Senior Planning Officer noted that Policy 31 referred to residential amenity, for example whether a property was being overlooked. He reiterated the comments from the Lawyer (Planning and Highways) in that medical provision sat elsewhere, and not within planning.

He noted the planning remit was quite narrow and urged caution and reiterated Officers had noted they did not feel the reasons for refusal given would be defensible. He reiterated that amenity referred to in Policy 31 was residential amenity. Councillor P Jopling noted when residential development was considered, the provision of sustainable transport was considered and therefore was healthcare provision a similar amenity. The Chair noted that Councillor A Surtees did not appear to support Councillor P Jopling's interpretation of amenity and there was a motion put by Councillor A Surtees, seconded by Councillor K Shaw for refusal.

Councillor P Jopling asked what policy was being cited in the refusal, adding she was happy to go with the motion put by Councillor A Surtees just that she felt adding Policy 31. The Lawyer (Planning and Highways) noted that whilst there appeared to be some confusion in relation to Policy 31, he asked if there was any appetite to add it to the proposed refusal. Councillor P Jopling asked why health provision was not amenity. The Lawyer (Planning and Highways) reiterated that healthcare provision was not amenity as referenced within Policy 31.

The Senior Planning Officer noted that Policy 31 referred to impact upon health, living, the natural environment and that refusal should set out any reason why it was felt that any mitigation against those impacts was not sufficient. He added the at the CDP and DCNP noted that, in principle, that such development was good, and that any shortfall should be met via mitigation. He asked whether Members were saying that the issues could only be mitigated at a strategic level.

Councillor P Jopling noted that Members were here to make a decision and if they were just being asked to agree applications then why were Members invited to the meeting. She added she felt that Officers were saying Members could not make a decision. The Chair noted that was not what Officers were saying, they were simply providing advice in terms of the refusal reasons suggested. He noted there was no support for adding Policy 31 (amenity) to the refusal proposed so far, and therefore Councillor P Jopling was not in a position to move forward on those grounds. At this stage Cllr Jopling said she would withdraw her motion.

The Chair reiterated that a motion for refusal had been put forward by Councillor A Surtees and seconded by Councillor K Shaw, and upon a vote being taken it was:

RESOLVED:

That the application be **REFUSED** as the development will result in unacceptable economic impacts upon existing older persons accommodation provision and providers in County Durham, compromising economic growth, taking into account both local business needs and wider opportunities for development, contrary to paragraph 85 of the National Planning Policy Framework (NPPF).

b DM/23/03302/VOC - 12 Ferens Park, Durham, DH1 1NU

The Principal Planning Officer, Paul Hopper gave a detailed presentation on the report relating to the above mentioned 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 Principal Planning Officer advised that some Members of the Committee had visited the site and were familiar with the location and setting. The application was for the variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA to add a north facing window in the side wall of the rear extension, east facing window in the side utility extension and remove north facing side window in snug area and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer highlighted that the matter before Members was solely the variation of condition application, and not the other works which had already been previously agreed. He noted the City of Durham Parish Council had highlighted the concerns raised by residents and had suggested obscure glazing as a possible solution. He added there had been objection from a neighbour who noted several reasons including a severe impact upon residential amenity, privacy and failure to meet minimum separation distances.

The Principal Planning Officer noted that the comments from objectors had been taken into account, however, Officers felt that the application represented a minor impact to an existing scheme and would have a neutral impact upon the Conservation Area. He concluded by noting the application was in accord with the relevant policies and was recommended for approval.

The Chair thanked the Principal Planning Officer and asked Prof Neil Walton, local resident who had objected, to speak in relation to the application, noting he had some slides to accompany his presentation.

Prof N Walton explained he was the resident of 15 Ferens Park and was objecting to the north facing window.

He referred Members to a photograph of 12 Ferens Park, as part of his presentation slides, and explained that the window was well within the 21-metre minimum separation distance required and had significant views over the rear of his property. He added that windows on side elevations were not a requirement and that guidance stated that, if they were to be included, they should use obscure glazing. Prof N Walton noted that the Officer had agreed that the application was not compliant in this regard. He explained that he disagreed with the view of the Officer and felt that the window represented severe harm and that the mitigation proposed would not work due to the height and angle. He noted that he felt the window was not essential, however, if it was determined to be essential it should be obscure glazing and remain so in future.

Prof N Walton asked why planning policy had not been followed, noting two previous applications that had been incorrect and that the amended scheme had a new window 0.5 metres closer to his property, now in a large kitchen/living area. He reiterated that the amended scheme introduced a larger non-compliant window, closer in context of his living room and was not obscured glazing. He noted the mitigation proposed was the fence, however, the position was highly elevated, with the window at their ground floor being at his properties first floor level. He added that the window would have views on to all eight windows of his property, not just the kitchen, including his bathroom. He concluded by noting that all of his bedrooms were within 21 metres and therefore the proposed window should be removed, or a condition placed to require obscure glazing in perpetuity.

The Chair thanked Prof N Walton and asked Dr Peter Newman, the applicant, to speak in support of his application.

Dr P Newman noted that there had in fact been a window in the location proposed for around 20 years, and when constructed at the time permission had been granted. He noted the window was very important and its use, in addition to light, was to be able to view down on to the grassed area within his own garden to be able to check on his three children playing. Without the window, he would not be able to view on to his garden. He explained there had been a number of serious concessions made following complaints from neighbours in terms of the number of windows and views on to 'primary habitat', with a balance being for some windows to have obscured glazing.

Dr P Newman noted that guidance as regards a 21-metre separation distance was not rigid in its application, adding there was no direct line of sight when the mitigating fence was installed. He noted that there were three windows within the distance, not 10. He added there would be no impact upon privacy, below the 1.8 height and being a reduced size, width when compared to the window that had been in place for the previous 20 years.

Dr P Newman noted other concessions included the removal of a side door, bay window and raising of the fence by two metres with the introduction of foliage. He asked therefore if the new window impacted more than the existing window, noting that it would not be visible to the lower floor of the neighbouring property and that the angle of the window to the neighbouring property also had to be taken into account. Dr P Newman noted he did not wish for more upheaval for his family, especially the impact on his children not being able to live in the property while works were ongoing.

The Chair thanked Dr P Newman and asked the Committee for their comments and questions.

Councillor P Jopling noted she had attended the site visit and asked the Principal Planning Officer to stand at the proposed window inside the extension in order to be able to appreciate the line of sight from the position and the internal floor levels. She noted that to be able to see into the neighbouring property, one would need to be seven feet tall, adding it would be very difficult to see into the ground floor of the neighbouring property. She noted that the screening proposed would be ample and she could not see an issue with the window and mitigation as proposed, the applicant having done as much as possible in that regard. Accordingly, she moved that the application be approved as per the Officer's recommendation. Councillor E Peeke seconded the motion for approval and upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED** as per the conditions set out within the report.

c DM/23/00476/FPA - Whitehouse Farm, Wheatley Hill, Durham, DH6 3LX

The Planning Officer, Michelle Penman 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 Planning Officer advised that some Members of the Committee had visited the site and were familiar with the location and setting. The application was for the temporary siting of mobile home for a period of 3 years to be occupied by the farm manager and was recommended for refusal, for reasons set out in the report.

The Planning Officer noted that consultee responses included no objection from the Highways Section, accepting the short-term, 3-year use.

She added that Wheatley Hill Parish Council offered support to the application, noting the struggle of the farm manager commuting from Peterlee. The Planning Officer explained that the Landscape Section noted that they would not support the application on a permanent basis, however, would support a temporary permission, provided some mitigation measures were undertaken. She noted other statutory consultees had no objections, however, offered some advice in respect of the nearby public right of way. It was added that no public representations had been received.

The Planning Officer noted that development within the countryside was not permitted, with a few exceptions and that CDP Policy 12 did allow for new rural worker's dwellings. It was noted that in this case, there was an existing farmhouse on the site and the applicant had failed to demonstrate that the additional mobile dwelling was needed. She noted that accordingly, as the application was contrary to NPPF Paragraph 84, and Policies 10 and 12 of the CDP, it was recommended for refusal.

The Chair thanked the Planning Officer and asked Local Member, Councillor J Miller, to speak in respect of the application.

Councillor J Miller noted that he would offer his support to the application and had called it to Committee so that Members could determine the application. He noted that he could not see why the recommendation was for refusal, in respect of one caravan, temporarily, for a farm worker to be able to help secure the farm. He added if the application was refused, the farm would not have a qualified person on site and noted a recent incident where a number of quad bikes had been racing in the field nearby, causing issues with livestock. He noted he agreed with the Parish Council in their support of a local job, noting while only a short commute by car, it was problematic by public transport, especially given the very early starts required for farming.

Councillor J Miller noted paragraphs 33 to 35 of the report noted there had been no concerns raised from Officers in terms of the application, and that the Highways Section had noted they would only have concerns if the arrangement was permanent. He added that paragraph 49 wrongly stated that the existing farmhouse could accommodate any farm worker, however, the property was occupied by an existing tenant. He noted he felt that it was inappropriate for the Local Authority to suggest that the applicant make a tenant homeless to accommodate a farm worker.

Councillor J Miller reiterated that he fully supported the application and noted he could see no negatives from the application, the site being barely visible from the main road. He noted a much more intrusive illegal caravan park nearby that had not yet been dealt with. He asked that Members approve the application.

The Chair thanked Councillor J Miller and asked Local Member, Councillor L Hovvels, to speak in respect of the application.

Councillor L Hovvels noted she felt strongly in respect of the application and had attended Committee to show that support and represent her local residents. She noted the farm had been in operation for over 70 years and that it was difficult to get a bus to the farm from Peterlee at the times required, if not impossible. She noted a fishing pond nearby, and in terms of the rural aspect of the site, there had been no issues with this farm in the past. She noted the issues with farming in general across the wider County and felt it was important that we supported farms in terms of their viability. She asked the Committee for a common-sense approach, noting that while there was new development at Marley Fields, the house prices would be such that they would not present a viable option.

The Chair thanked Councillor L Hovvels and asked Edward Dinning, Agent on behalf of the applicant, to speak in support of the application.

E Dinning noted that the application had been validated on 17 February 2023, in response to pre-application advice being sought. He noted that it had taken 11 months for the application to get to Committee for determination. He explained that the applicant's husband's health had deteriorated, and he had been unable to help with the work associated with the farm. He noted it had been at a critical time in terms of winter and therefore it was necessary for a live-in farm manager. He noted that the only other alternative would have been to make the farm manager redundant and to close the farm and evict the residents of the farmhouse.

E Dinning noted that NPPF Paragraph 84 stated that development could take place if there was an established need, he added that a livestock farm required a 24-hour presence. He noted that if the farm manager happened to have a majority share in the farm itself, he would have been permitted to build a house. He added that CDP Policy 10 supported new buildings, as long as they were of an appropriate size, construction and commensurate with the use. He added that having a 24-hour presence was also required in terms of preventing vandalism of the site. He noted that CDP Policy 12(e) referred to permanent dwellings and reiterated the need on site and a lack of other viable options. He added that the applicant would be happy for a condition to be included with any permission granted, that would require removal of the temporary structure should the farmhouse become available for use within the three-year period.

E Dinning noted he would dispute the claims that information had not been provided, with an accountant's letter having been provided.

He noted that paragraph 83 of the report conceded that the visual harm was not sufficient that it could not be mitigated, and other statutory consultees had equally provided no objections to the proposals. He noted that if the Committee agreed with the Officer's recommendation, then they would be required to evict the tenants of the farmhouse, breaking the word given to the tenants by the applicant.

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

Councillor P Jopling noted she had attended the site visit and asked what would happen in three years' time if the position was the same in terms of requiring a farm manager on site, however, the farmhouse was still occupied. The Planning Officer noted that the permission, if granted, would lapse after three years, with the applicant having to remove the mobile home, or seek a new planning permission. Councillor P Jopling noted that if it was recommended for refusal now, would it not be the same case in three years' time.

Councillor A Surtees asked if there was permitted development rights in terms of such a temporary structure, and that if the application was refused, would there be a circumstance where the applicant could fall back on permitted development rights. The Principal Planning Officer, Jennifer Jennings noted that there were no permitted development rights in this case, with the conversion of agricultural land to residential. Councillor A Surtees noted she understood that in terms of Government guidance that if required as a function of the use of the land, then it would be permitted development rights, adding she recalled such use when looking at other applications. The Principal Planning Officer noted that permission for the erection of a dwelling on the land could not be given via permitted development.

Councillor K Shaw asked if there were any conditions that Planners felt could be applied to make the application permissible. The Principal Planning Officer noted that the temporary nature and reinstatement after were in the application's favour, however, it was being recommended for refusal on principle, with no need demonstrated or detailed financial information as required by CDP Policy 12.

Councillor J Elmer noted that, as the Agent and Officers had pointed out, Policies 10 and 12 did provide a way to grant permission, though frustratingly there had not been the evidence required presented. He noted the condition was temporary and asked, as suggested by the Agent, for a condition to move into the farmhouse should it become vacant. The Principal Planning Officer noted that, should the temporary permission be granted, after three years, the permission would lapse, and any new application would be assessed.

She noted that if a new tenant occupied the farmhouse, she felt we would be in the same position. She added she did not think any condition as suggested would meet the tests as outlined in planning policy guidance, if permission were to be granted.

The Lawyer (Planning and Highways) noted the suggestion from Councillor J Elmer, however, he explained that the granting of permission for a period of three years, albeit temporary, was implying that the farmhouse was not available or suitable for that period. He added he felt it would not be necessary to include such a condition as suggested.

Councillor D Oliver noted he was torn in respect of the application, adding his disappointment in terms of a lack of evidence provided. He explained that intuitively he felt there was a need for the mobile home and a presence on site and noted his sympathy for the applicant's situation.

Councillor L Brown noted that the caravan on-site was visually prominent, you could see it from the main road. She added that should Members be minded to approve the application, would there be a condition as regards landscape mitigation in that respect. She asked, following the farm manager living on site, whether their presence had impacted in terms of thefts or anti-social behaviour at the site.

The Chair allowed the Agent to respond to the question. E Dinning noted that the farm manager had only recently been in occupation, therefore it was perhaps too soon to be able to note any impact. He reiterated that the applicant would be happy for the farm manager to move into the farmhouse if the tenants moved out. He noted the application was for three years initially, if they knew the farmhouse would be vacant in say six months, they would have sought six months permission. Councillor L Brown noted that if the current tenants were living rent-free, it may prove difficult to convince them to vacate.

Councillor A Surtees noted that refusal was recommended as there had not been sufficient evidence of a functional need and asked therefore if Members could move for a deferral in order to provide the applicant time to provide such evidence as required, or any slight re-siting of the caravan as required. She added that she felt there was a case in terms of economic viability, accepting that it had taken 11 months to come before the Committee. The Planning Officer noted that there had been much discussion back and forth between the Council and the applicant over the 11 months, the applicant had not been forthcoming in respect of the financial information required, that this information had not been brought forward was one of the reasons why the application had been scheduled for determination by the Committee.

Councillor E Peeke noted the farmhouse was on land for use by the farmer and farm manager, adding she felt that was what should be used.

Councillor D McKenna noted he had reflected upon the comments from the Local Members and noted that their knowledge of the area should be taken into account, adding he felt if the permission was only temporary for three years, he would agree to permission being granted.

Councillor K Shaw noted he understood the position of the Planning Officers, the time taken over the 11 months to get to Committee and the functional element having not been demonstrated. He asked if there was any benefit of deferral of the application to get such information, and if it was not forthcoming, then the Committee would be in the same position in terms of a refusal recommendation. The Lawyer (Planning and Highways) noted that may be a question to pose to the applicant and their Agent. He added that if they could provide additional information then there could be reason for deferral, however, if all information had been provided, there would be no real reason to defer.

The Chair allowed the Agent to respond. E Dinning noted that all financial information had been provided, the farm had operated for over 70 years and therefore must be viable, else it would have closed down. He added that the applicant's accountant had noted the business was viable and that three years' worth of back accounts had been requested, that only being a requirement for new businesses, not existing businesses. The Lawyer (Planning and Highways) noted that the Agent had indicated that they had provided all the information they felt was required and therefore there did not appear to be any benefit in deferral of the application.

Councillor L Brown moved that the application be refused as per the Officer's recommendation, she was seconded by Councillor E Peeke and upon a vote being taken, it was:

RESOLVED

That the application be **REFUSED** as per the reasons set out within the report.

Councillors D McKenna and I Roberts left the meeting at 12.10pm

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The Principal Planning Officer, Paul Hopper 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 Principal Planning Officer advised that some Members of the Committee had visited the site and were familiar with the location and setting. The application was a change of use from dwellinghouse (Use Class C3) to house in multiple occupation (HMO) (Use Class C4) and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer noted that when visiting the site, Members had noted that works to install additional parking had been completed. He noted that the percentage of HMOs within a 100-metre radius of the property was 1.2 percent and including two unimplemented permissions for HMOs at 5 and 9 Monks Crescent increased the percentage to 2.4 percent. He noted that with those two, and the proposed permission, that would result in a 3.4 percentage of properties within 100 metres.

The Principal Planning Officer noted seven letters of objection to the application, and objections from Local Members and Belmont Parish Council had been received, with Local Members and a representative from the Parish Council being present at the meeting.

The Principal Planning Officer concluded by noting that while the objections had been taken into account, Officers felt the application was in line with policies and did not represent an adverse impact upon residential amenity or highway safety and therefore was recommended for approval.

The Chair thanked the Principal Planning Officer and asked Parish Councillor Patrick Conway to speak on behalf of Belmont Parish Council.

Parish Councillor P Conway thanked the Chair and Committee and noted that the longstanding issue of the proliferation of HMOs was once again back in front of Members. He noted that the Parish Council, and Local Members, were increasingly being asked about the issue from local residents. He noted that the issue was a judgement call, especially in respect of Policy 16. He explained the applicant has referred to a 'tipping point', with Policy 16 setting out the 10 percent threshold, however, it was becoming apparent more and more that this was less useful as a metric. He noted that when Planning Officers were invited to a meeting of the Parish Council, they had said that Policy 16 was only one policy amongst many others within the CDP.

Parish Councillor P Conway noted that the applicant had not stated that there was any need for such HMO provision, with the University having already stated that there was no further HMO need in Durham City.

Parish Councillor P Conway noted that the NPPF set out that social, economic and environmental impacts should be taken into account, and the Parish Council felt there should be further discussion on those areas. He added that the Parish Council felt that those elements had not been demonstrated and that therefore the principle should be questioned. He referred to residential amenity and explained that a small cluster of HMOs within an area of family homes, with a bedroom on the ground floor opposite a family home, would have an adverse impact. He noted that student properties were often untidy and their gardens unkempt, another impact upon residential amenity. He added that while there would be parking provided on-site, it was known that the increase in visitor vehicles and movements associated with an HMO were noted, especially with the property in question being located close to a junction.

Parish Councillor P Conway noted that local residents were concerned as regards the sustainability of a balanced community, and in keeping homes affordable in their neighbourhood for future generations, as set out within the developing Neighbourhood Plan. He reiterated that CDP Policy 16 was only one of a number of policies for the Committee to consider, and he would say that judgement could be made to reject the application based on policies and the reasons stated.

The Chair thanked Parish Councillor P Conway and asked Local Member, Councillor L Mavin to speak in respect of the application.

Councillor L Mavin thanked the Chair and Committee and noted that the current 100 metre radius, as set out within Policy 16, did not work in situations such as the application before Members, a cul-de-sac. She explained that 28 properties were in the cul-de-sac and noted that with numbers 5 and 9 Monks Crescent already being HMOs, the application would in fact take the number to three out of 28, representing 10.7 percent, over the 10 percent threshold and contrary to Policy 16.

Councillor L Mavin noted that the encroachment of HMOs would encourage people to move out of the area, accelerating the unbalancing of the local community. She noted that it was essential to maintain that balance and students were by their nature transient and not part of the local community. She added that there would be detrimental impact upon residential amenity, contrary to Policies 29 and 31 of the CDP and she would urge the Committee to refuse the change of use of the property to an HMO.

The Chair thanked Councillor L Mavin and asked Gary Swarbrick, Agent for the applicant to speak in support of the application.

G Swarbrick noted the concerns raised by the Parish Council and Local Councillors and reminded Committee that Policy 16 referred to a 10 percent threshold within 100 metres of an application property. He noted that 10 percent was therefore the defined 'tipping point' in policy and as stated by the Officer, that 10 percent had not yet been reached.

He noted that this 10 percent threshold was that which had been endorsed by the Planning Inspector in his endorsement of the CDP. G Swarbrick noted that demonstration of need was not a material planning consideration and therefore the application could not be refused on such grounds. He noted that as the application, and including permissions not yet undertaken, did not reach the 10 percent threshold of HMOs within 100 metres, by definition, there was not an over-proliferation of HMOs, and any refusal on those grounds would be contrary to policy and previous permissions granted, especially those where the percentage was greater than in this case, though still below the 10 percent threshold.

G Swarbrick noted that the location of the property, on the outskirts of the city, were such to be more attractive to students wanting a quieter location, with those wishing for more a 'party' atmosphere likely to chose other areas. He noted that notwithstanding this, there would be clauses within tenancy agreements as regards standards of behaviour, and the University too had codes of conduct for students, and the Police and Council had powers to act in cases of anti-social behaviour as necessary. He added that while the concerns were noted as regards the possibility of anti-social behaviour, it would need to be demonstrated to be taking place, not just as a possibility.

G Swarbrick concluded by noting that there was sufficient parking provided, the property was in a sustainable location, and that the NPPF stated that overturning Officer's professional recommendation should be 'rare and exceptional', therefore Members should approve the application.

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

Councillor A Surtees noted that objectors within their submissions had stated there was a covenant on the property and requested details of how such covenants work. The Lawyer (Planning and Highways) noted that while there may be a covenant in place, such were a separate issue to planning permission and would be private law matter, outside of the planning process. However, in terms of how they would usually work, the burden would attach to one property, the benefit to another and it would therefore be up to the property with the benefit, to enforce any breach.

Councillor L Brown noted the Agent had referred to Policy 16, and that the application was compliant. She reiterated the point made by the Parish Council, that other policies existed within the CDP, most notably Policies 29 and 31. She added that while on site she had noted that 7 Monks Crescent had been sold it being in between 5 and 9 Monks Crescent, those properties already having HMO consent. She noted that the likelihood was an HMO application for that property may follow in due course. She asked as regards cycle storage if the garage was to be converted to a bedroom. The Principal Planning Officer noted that the expectation was for cycle storage in the garage in perpetuity, to be secured by condition, with no change to that unless a further application in that regard was submitted and approved.

Councillor L Brown noted that construction seemed complete from the site visit, and asked if floorplans could be checked in terms of conversion back to a family home. She reiterated that Policies 29 and 31 should be given more prominence.

Councillor J Elmer noted he felt that consistency with previous decisions was important, and recently the Committee had refused some HMO applications where Members had felt the application was contrary to Policy 31 in terms of impact upon residential amenity. He noted he felt this type of application would impact on residential amenity, in terms of noise and untidy properties, wherever there were family properties. He noted that another factor was the transient nature of students, not integrating into communities. Councillor J Elmer noted the comments from the Parish Council in terms of there was no need for further HMOs, however, there was a demonstrable need for more family homes. He added he disagreed with Officers in respect of need not being required to be taken into account, adding that surely it was for the Planning Committee to consider what was needed in terms of balance within a community. He noted he felt Policy 31 provided sufficient weight in order to refuse the application.

Councillor P Jopling noted that there would be impact in terms of continually approving HMO applications. She added that developers would continue to buy and convert properties to HMOs, to the detriment of those looking for a family home. She noted that HMOs were known to be generally not kept to a high standard and she felt parking would become an issue over time. She noted she was not minded to support the application.

Councillor D Oliver noted the sense of déjà vu in respect of another HMO application before Committee. He added that, to be consistent with other decisions, there were not sufficient reasons for refusal.

In respect of previous decisions by the Committee to refuse HMO applications, Councillor D Oliver asked if there had been any determinations or information from the Planning Inspectorate that may be relevant. The Chair noted he had visited Grey College recently and they had a number of unoccupied rooms available.

The Principal Planning Officer noted that six applications were at the appeal stage with the Planning Inspectorate. He noted the appeal closest to resolution was that relating to The Larches, however, that referred to a large HMO development, different in scale to the application before Committee.

He noted that while Members may have some concerns in respect of Policy 16, and the 10 percent threshold and how it was applied in situations, such as cul-de-sacs and the impact upon balanced communities, there were other policies within the CDP and Members could refer to other policies, noting Policies 6, 29 and 31 had been referred to within comments.

Councillor E Peeke noted that she would second Councillor J Elmer if he was proposing refusal of the application.

Councillor D Oliver noted he was not confident in a refusal, and asked if deferment to await appeal decisions was an option. He noted that the evidence in terms of impact were clear and set out in a policy that seemed sensible in aiming to reduce overall impact. He noted he would be minded to go with the Officer's recommendation.

The Lawyer (Planning and Highways) noted the refusal motion and asked if Members could drill down to explain what exactly they felt was contrary to Policies 29 and 31 in this case, and what evidence base was being referred to in terms of sustainability of such refusal reasons. Councillor J Elmer noted Policy 31 referred to residential amenity, and this would be impacted upon in terms of noise and anti-social behaviour and that the untidy nature of student properties, would negatively impact upon the cohesion of the local community. He noted the evidence was that of Local Members and Committee Members over the last 10 years looking at such HMO applications within the city and surrounding suburbs.

The Principal Planning Officer asked for some specific reasons, noting those provided could be said of any HMO development, not just the application being considered. Councillor J Elmer noted that it was based upon the Committee's experience of these specific types of HMO applications. Councillor P Jopling noted that if you looked at Durham City, where former social housing had been converted, there was clear evidence of overloading of students. The Lawyer (Planning and Highways) noted that he felt any refusal on such grounds would struggle to be substantiated at appeal. Councillor J Elmer noted he felt that it should be tested at appeal.

The Lawyer (Planning and Highways) reiterated his concerns and added that there was the potential for costs to be awarded against the Authority in respect of such testing.

The Chair noted that many streets within his Electoral Division were considerably over the 10 percent threshold and while not directly comparable to areas in the suburbs, there were a number of recent decisions for refusal by the Committee. Councillor L Brown noted she agreed with the Chair and Councillor P Jopling and added that if we were able to take a Planning Inspector to such areas, they would find it beneficial.

Councillor D Oliver asked again whether deferral was a useful option, given he felt refusal was a concern at any appeal stage. The Principal Planning Officer noted one of the previously referred to appeals was for non-determination, and therefore it would be likely a similar situation should the application be deferred. He recited the Committee's previous refusal reason, as referred to by Members, adding that reference to Policy 6 could be removed if Members did not feel it was relevant in this case. Councillor J Elmer agreed and noted his motion for refusal as per his previous statement and using the refusal reason recited by the Principal Planning Officer. It was noted he had been seconded by Councillor E Peeke and upon a vote being taken, it was:

RESOLVED

That the application be **REFUSED** as the change of use of the property to a house in multiple occupation (Use Class C4) within this locale would unbalance the community and have a detrimental impact upon community cohesion and adversely affect the amenity of residents within the local area from increased noise and disturbance. Therefore, the proposal is contrary to Policies 29 and 31 of the County Durham Plan.