

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 12 November 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors L Brown, J Cosslett, S Deinali, J Elmer, L Fenwick (substitute for J Clark), R Manchester and K Shaw

Also Present:

Councillors V Anderson and J Blakey

1 Apologies for Absence

Apologies for absence were received from Councillors D Oliver, A Bell, J Clark, K Robson and A Surtees.

2 Substitute Members

Councillor L Fenwick substituted for Councillor J Clark.

3 Minutes

The minutes of the meeting held on 8 October 2024 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

Councillor L Brown noted she was a Member of the City of Durham Parish Council and 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 Item 5b - DM/24/01551/FPA - 37-38 Silver Street.

The Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council and 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 Item 5b - DM/24/01551/FPA - 37-38 Silver Street.

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

The Chair noted Items 5c - DM/24/02200/FPA and 5d - DM/24/02161/LB, relating to 90 Gilesgate, Durham had been withdrawn.

a DM/20/02046/FPA - Grange Farm, Coxhoe, Durham, DH6 4HH

The Senior Planning Officer, Callum Harvey 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 demolition of existing farm outbuildings and erection of 83 dwellings (Amended description 14/05/2024) and was recommended for approval, subject to the conditions and s106 Legal Agreement as set out in the report.

The Senior Planning Officer referred to aerial photographs of the site, highlighting two fields which had previously been in agricultural use, and a tree-lined former railway to the west of the site with open fields beyond. He explained there were residential dwellings to the north, east and southeast. He noted Coxhoe Park to the southwest of the site, and that a public right of way (PROW) ran through the centre of the site. He added the existing agricultural buildings in the northeast corner of the site would be removed as part of the proposals. It was explained that access would be taken via Coronation Terrace, and a Sustainable Drainage System (SuDS) would be located at the southwest corner of the site.

The Senior Planning Officer noted that since the initial application submitted in 2020 there had been several amendments to the scheme, including an increase in garden depths, additional parking bays and a reduction by nine dwellings from the initial scheme to accommodate those changes, leaving the current 81 proposed dwellings. He explained as regards 12 affordable units being offered off-site, secured via s106 Legal Agreement. He referred Members to the extent of adopted highways in the area and proximity of Coxhoe Park. He explained that Officers had agreed a reduced amount of public space within the application site in this particular instance, on the basis of the adjacent Coxhoe Park to the south, and that off-site provision had instead been agreed, to be secured via s106 Legal Agreement.

The Senior Planning Officer noted four trees alongside the PROW, with three having been included in a recent Tree Preservation Order (TPO), whilst the fourth tree did not warrant a TPO due to its poor condition. The Committee were referred to photographs of a nearby bus stop close to the proposed access and it was explained that it would require relocation as part of the proposals.

The Senior Planning Officer explained that there had been objections received from Coxhoe Parish Council, Coxhoe Primary School and a Local County Councillor to the application, citing a lack of s106 contribution in relation to Primary School Places. He noted that there had been no other concerns raised by statutory consultees. He explained that the Council's Drainage Section had not objected to the scheme, however, had raised concerns in terms of lack of sufficient integrated drainage across the site, therefore the proposals were in conflict with County Durham Plan (CDP) Policy 35(d). He explained that there had been objections raised by three members of the public, with issues including impact on highway safety, drainage, and ecology.

The Senior Planning Officer noted there were some further updates since the publication of the agenda papers. He explained that within the report pack, within the section 'Statement of Proactive Engagement', paragraphs two and three actually referred to a separate development and had been erroneously included in the report and therefore should be ignored. He added that the applicant had clarified their intention to use off-site credits to achieve a Biodiversity Net Gain (BNG), and the Ecology Officer had no concerns with the proposed approach.

The Senior Planning Officer explained that the applicant had confirmed, in plans submitted, locations for air-source heat pumps and noted the positions proposed were deemed acceptable. In respect of affordable rent, levels of discount for the Discount Market Sale units, to ensure they are below the one hundred and forty thousand pounds cap, had been agreed with Officers as being: a twenty percent discount for the two-bedroom dwellings; and a twenty five percent discount for the three-bedroom dwellings. It was added that the Affordable Housing Officer had raised no concerns with those agreed discounts.

The Senior Planning Officer noted that in respect of Education, as set out in the report, whilst Coxhoe Primary was the nearest Primary School to the site, the Council's Education Officer was mindful of the existing capacity at other primary schools within a two-mile radius of the site, those being at Kelloe, Bowburn, and West Cornforth. He explained that the two-mile radius method was the County Council's adopted policy when calculating financial contributions toward the capacity of Primary Schools, when assessing planning applications.

He added that, due to the identified capacity at the other schools within two miles of the site, the Education Officer advised that the County Council could not reasonably require a financial contribution from the developer under this planning application. The Senior Planning Officer noted that to do so would conflict with Paragraph 57 of the National Planning Policy Framework (NPPF) as well as conflict with Policy 25 of the County Durham Plan (CDP).

The Senior Planning Officer explained that, following the publication of the Committee Report, the Parish Council had submitted a rebuttal to the Education Officer's position, querying the current and forecasted pupil roll numbers. He added that the Parish Council had also highlighted the previously approved developments in the local area and the impact those would have on capacity. He noted that the Education Officer had reviewed the Parish Council submission and confirmed that the numbers which were stated in within the Committee Report were correct. He explained that the Education Officer reiterated that there was sufficient capacity at Primary schools within two miles of the site and therefore the County Council could not reasonably require a financial contribution from the developer under this planning application.

The Senior Planning Officer concluded that while there had been some concerns in respect of layout and loss of Grade 3A Agricultural Land, they were not felt sufficient to justify refusal and therefore the application was recommended for approval, subject to the s106 Legal Agreement and conditions as set out within the report.

The Chair thanked the Senior Planning Officer and noted that Parish Councillor S Dunn, Chair of Coxhoe Parish Council, had circulated some e-mail correspondence between the Parish Council and the Education Officer for consideration by the Committee. He asked Parish Councillor S Dunn to speak in relation to the application.

Parish Councillor S Dunn thanked the Chair and Members and noted that he was making representations on behalf of the Parish Council and reflecting the views of local residents. He explained that it was not felt fair that there were no developer contributions relating to primary education, contrary to NPPF Paragraph 57 and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

He explained that paragraphs 59 to 72 of the Committee Report set out the Parish Council's objections to the application, with the Parish Council challenging the two-mile rule, noting that while the two-mile criteria may be deemed acceptable in urban areas, the Parish Council felt that for young children and their parents to be expected to walk 1.7 miles to school, between villages on fast, and at times unlit, busy country roads was an unreasonable expectation. He added that local village school was only 600 metres away from the proposed development.

Parish Councillor S Dunn noted that initially, the Education Officer had stated the original application submitted in 2020 had required a s106 contribution of £441,090 in respect of primary school places. He noted that subsequently, updated comments from the Education Officer in July 2024 stated that a contribution from developers was 'no longer required', there being primary school places available at schools within two miles. He noted that the Parish Council would ask the Committee to request a voluntary primary s106 contribution from the developer although according to their current policy, the Council could not require it.

Parish Councillor S Dunn noted that within his e-mail of 5 November 2024, questions were raised as regards the number of pupils on roll at the local primary schools, with information gathered from the schools themselves differing from those provided by the Education Officer. He added that the Education Officer had confirmed their numbers, noting 1,044 combined capacity and a maximum of 789 pupils on roll over the next 10 years. Parish Councillor S Dunn noted that figures obtained from the schools directly gave a combined net capacity of 1,251 and with 1,021 on roll currently. He added that was 207 fewer spaces available, with 232 more pupils on roll. He noted he did not think the figures provided by the Headteachers were wrong. He added that the Education Officer had not taken into account additional development, noting 898 properties had been approved or were pending within the area. He added that this latent demand would saturate and exhaust any spare capacity within the primary schools in the area.

Parish Councillor S Dunn noted that paragraph 291 of the Committee report stated that '*Officers are mindful of Paragraph 57 of the NPPF, which states that Planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development*'. He added that paragraph 292 set out that '*the contribution which has been requested by Councillor Anderson is not considered necessary to make the development acceptable in planning terms*' and '*the request for a contribution does not meet all of the tests under Paragraph 57 of the NPPF, meaning officers cannot reasonably secure the sum from the developer*'.

Parish Councillor S Dunn noted those assertions were on the basis of factually incorrect information, and therefore the Committee should take that into consideration when looking at the Officer's conclusions, especially at paragraph 352 of the Committee Report. He reiterated that the Parish Council would ask the Committee request that the developer volunteer s106 contributions or that the Committee defer the application in order to request contributions or refuse the application as there was not adequate contributions in relation to primary education.

The Chair thanked Parish Councillor S Dunn and asked Councillor V Anderson, Local Member, to speak in relation to the application. Councillor V Anderson noted she fully supported the comments made by Parish Councillor S Dunn. She explained she had written to the Committee to ask they request that the developer voluntarily contribute s106 monies in relation to primary school places. She added that Coxhoe Primary School was not fit-for-purpose, with the school being at capacity, with one class taught in a corridor, another on a mezzanine floor. She noted that was highly unacceptable. She emphasised that the Headteacher, Teachers and all the Staff were doing a tremendous job, however, the school was at a crossroads, it needed extra space and needed financial contributions from developers. Councillor V Anderson explained that the school hall did not have capacity for all pupils on roll. She asked the Committee if they would let their primary aged child walk the proposed routes to the 'alternative schools', noting unfit pathways, the busy A1(M) main roundabout and busy roads. She added that all children from Coxhoe should be able to attend their local school, with developers contributing to places accordingly.

The Chair thanked Councillor V Anderson and asked Councillor J Blakey, Local Member, to speak in respect of the application.

Councillor J Blakey explained that she fully supported the comments from the Parish Council and local residents. She asked as regards 'proactive engagement', noting that she, and other Local Members, had not been consulted or engaged with by the developer. She added that one point of access for entry and exit on one the busiest stretches of main road could lead to problems. She explained that locals had begged for improvements to the road over the last 10 to 12 years. In respect of s106 contributions, she reiterated the point that local children needed to be with their local friends at the school in the village, and to separate children by sending them to other schools was something that could break their resilience. She urged the Committee to take on board the concerns raised by objectors.

The Chair thanked Councillor J Blakey and asked Jayne Bartle, Headteacher of Coxhoe Primary School, to address the Committee.

J Bartle explained she had been Headteacher at Coxhoe Primary School since 2018, and Deputy Headteacher from 2009 to 2018. She noted the vast majority of parents in the area sent their children to their local school. She noted that the school had one form of entry in Reception, and some children at the edge of the village had missed out on a place at the school due to the distance criterion. She explained that the School Governors, School and Education Department at Durham County Council (DCC) had all worked together regarding remodelling, with designs for extensions to increase capacity. She added that the main school was an old building, recently having celebrated its centenary.

She explained that the Published Admission Number (PAN) was 355 technically, however, the historic nature of the site, with large lobby spaces, meant that not all the space considered was actual teaching space.

J Bartle explained that a third extension had been designed, to be funded by developer contributions, if requested. She noted the approximate £375,000 s106 contribution from the Barratts development at Bogma Farm, and initial estimate of approximately £440,000 from the proposed development and noted the importance in terms of growing the school.

J Bartle noted the DCC policy change, however, the School were concerned that parents from within the village were not eligible for a school place at their local school and were required to attend other schools outside of the village, travelling along walking routes that were not, in their opinion, safe. She explained that 18 Year 3 pupils being taught within a former corridor and that following a recent visit by the Head of Education who had recognised the need for additional space and toilets. She reiterated there was a need for developer contributions to meet the needs of the village, to help build for the future. She noted the school was at heart of the village and all village children should be able to attend the school.

The Chair thanked J Bartle and asked Chris Dodds, Senior Land Director representing Gleeson Homes, the Applicant, to speak in support of their application.

C Dodds explained that Gleeson Homes specialised in entry-level housing for low to middle earners, often first-time buyers, and had over 80 similar sites across the North East. He noted the proposals were for 83 homes, with care having been taken to price those homes affordably for the local market, with the most affordable being capable for those earning minimum wage and referred to the affordable options within the scheme. He added that Gleeson also offered savings in relation to energy bills, with a 49 percent reduction to heating costs, with an approximate saving of £1,300 per year.

C Dodds emphasised the contributions that were proposed, with approximately £528,000 in total in relation to open space, GP provision, secondary school capacity, SEND provision, and affordable homes. He explained as regards the sponsorship work of Gleeson in supporting local junior sports clubs, as well as initiatives in terms of apprenticeships and sustainability in addition to the s106 contributions for the local community. He concluded by noting he hoped the scheme, on a sustainable site, would be supported by Members, and added that Gleeson were bound by the NPPF and recommendation of the Education Officer and thanked the Officers for their work and professional manner in dealing with the application.

The Chair thanked C Dodds and asked Officers to respond to the points raised by the speakers, including those raised by Parish Councillor S Dunn, and Councillor J Blakey in relation to highway safety.

The Senior Planning Officer noted the Parish Council disagreed with the numbers as provided by the Education Officer. He noted that, as per the e-mails Members were provided with, the Education Officer had reiterated that the numbers within the report were correct. He explained that the application had initially been submitted in 2020, prior to the new school at Bowburn opening in 2021-2022. He explained that therefore Officers could not require a voluntary contribution, as per NPPF Paragraph 57. The Senior Planning Officer noted that the Parish Council had referred to 100 dwellings pending at Cornforth Lane, however, as that application was still pending, they could not be taken into consideration. In relation to the Highways matters raised, the Senior Planning Officer noted he would defer to the Principal DM Engineer, David Battensby. He added that the two-mile radius policy when calculating Primary School capacity through the Planning process was adopted by the Council's Cabinet in 2016.

The Lawyer (Planning and Highways) Neil Carter, noted the dispute in respect of numbers at the local primary schools, with the official figures from the Education Officer not aligning with those set out by Parish Councillor S Dunn. He noted that there were clear rules in terms of s106 and where it can and cannot apply, as set out within the Community Infrastructure Levy Regulations. He noted the key requirement and test was 'if necessary to make the development acceptable' and Officers had determined it was not necessary, based upon the numbers provided by the Education Officer. He added that if it failed that test, the Authority could not request any s106 in respect of primary school places. He noted that the developer could volunteer such funds, however, if they did so the Committee could not afford any weight to that offer in the determination of the application.

The Principal DM Engineer noted that proposed access was fully assessed and met all required standards, including in terms of visibility and capacity.

He noted the single entry/exit was acceptable, with no requirement for double access. He added in terms of the safety of the footways at the Bowburn interchange, the A1(M) had a signalised crossing, with the routes to Bowburn and Cornforth being fully lit, while the routes to Kelloe and Cassop were not fully lit.

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

Councillor L Brown noted, if the Committee were to approve the application, she would ask for an amendment to Condition 14 in terms of start time for construction works to be 0800.

She added that the discrepancy between the pupil numbers cited by the Education Officer and the Parish Council was very concerning, adding it would have been beneficial if the Education Officer had been at Committee to speak on the matter. She added she was not aware of number as set out in the 2021 Census being less than the numbers from applications having been granted.

Councillor J Elmer explained he wished to drill down further into the primary school numbers more. He noted the Parish Council had spoken to Headteachers at the local schools and obtained the numbers on roll. He added that Planners had consulted with the Education Department, with their figures seemingly very inaccurate if differing from the numbers Headteachers were reporting as being on roll at their schools. He asked whether the Committee were obliged to accept the Education Department and Census data. The Senior Planning Officer noted that the Local Education Authority (LEA) were the experts in terms of those on roll and projections and therefore the Committee should afford their advice significant weight. He reiterated that the discrepancy had been noted, with the Education Officer confirming they were confident as regards the numbers they provided. Councillor J Elmer asked if their calculations had been made using previous Census data. The Principal Planning Officer, Graham Blakey, noted that the Pupil Place Planning (PPP) Document had last been updated in 2023, and was subject to annual review and Department for Education national figures were also considered. He noted that therefore numbers were based upon the 2021 Census as well as those annual documents and updates. He reiterated that as regards Coxhoe, there were 1,044 places across the local schools, with Bowburn having two forms of entry. He concluded by noting that the evidence base was the PPP Document and therefore the position was as had been set out by the Lawyer (Planning and Highways).

Councillor S Deinali noted she had met with the Corporate Director of Children and Young People and he had made reference to pupil projections and noted smaller cohorts, noting some schools may struggle in future in terms of numbers, with decreasing birth rates. However, she noted that conversely primary schools were struggling in terms of funding and noted she felt any request the Committee could make in that regard could be helpful. The Senior Planning Officer noted the developer was aware of the request as suggested by the Parish Council, however, the Local Authority was not able to make such a request for the reasons stated. The Lawyer (Planning and Highways) reiterated that the Committee could not require any such contribution, affirming that if the developer did volunteer then the Committee could not afford that weight in the decision-making process.

Councillor S Deinali noted the s106 contributions as set out for SEND provision and asked if Coxhoe Primary School would be able to access that funding.

The Senior Planning Officer noted that contribution had been agreed, in principle, by the developer. The Principal Planning Officer noted that LEA took a countywide approach to SEND provision, and added this was set out in the recent Development Viability, Affordable Housing and Financial Contributions Supplementary Planning Document (SPD) 2024, with the LEA to look to draw down funds and allocate accordingly in relation to SEND provision.

In reference to the methodology in determining projections, Councillor J Elmer asked whether, given there were figures obtained directly from the schools that did not match with projections, if the application were to go ahead, was the Committee effectively forcing children to walk 1.75 miles along a busy main road. He added that it was more likely it would result in additional car use, forcing car ownership and increasing associated car mileage, in direct conflict with CDP Policy 33 in respect of carbon emissions. He noted that Coxhoe Primary School was the closest school and could accommodate all pupils if the extensions referred to were made. He concluded by noting that the applicant had initially expected to pay s106 monies in respect of primary school places and therefore he felt it was a monumental, wasted opportunity. The Chair noted that expectation had been a few years ago and now, with the new school at Bowburn, the situation had changed.

The Principal Planning Officer noted that had the £10million new school at Bowburn not been built, then s106 contributions would have been requested in relation to the application, however, the PPP Document now suggested there was sufficient capacity within two miles, as per LEA policy.

He reiterated that Officers' opinion was that any request by Committee for s106 contributions in relation to primary school places would fail the Community Infrastructure Levy test and could be challenged.

Councillor J Cosslett noted the 1.75-mile journey referred to by Councillor J Elmer was estimated to take around 26 minutes by foot, suggesting Councillor J Elmer was correct and that therefore parents would be likely to travel by car instead.

Councillor S Deinali noted the point made by Councillor J Elmer in relation to projections and the numbers given by the schools directly in terms of pupils on roll. She noted the development was not yet built, however, it needed to be accounted for in terms of impact. She explained she was very disappointed that Members could not afford weight to this and added that, as a teacher herself, she understood the pressures faced by schools. She noted that despite that, she could not see any way to overturn the recommendation.

Councillor K Shaw explained he shared the concerns and disappointment in respect of the s106 contributions in respect of primary school places, however, each application had to be looked at on its own merits. He asked as regards the two other developments referred to, and whether they been required to contribute s106 monies. The Principal Planning Officer noted the Barratt development at Bogma Farm had been agreed pre-COVID-19 and the scheme was nearly completed, and therefore was prior to the new school at Bowburn and had been required to contribute in relation to primary school places. He noted the Miller Homes development was for a similar number of properties as the application being considered and therefore it may also not require contributions in terms of primary school places, though that was to be determined through its own application.

Councillor L Brown noted that it seemed completely wrong, and asked if there were any way to refuse the application in terms of Policy 33, encouraging car use. The Senior Planning Officer noted his strong advice was as per the report, a recommendation for approval. The Principal Planning Officer noted that he felt the two-mile radius within LEA Policy would be referenced by a Barrister at any subsequent appeal of a refusal by Committee.

The Chair noted the recommendation was for approval and added that while that was the case, it was clear all Members were very unhappy. He added that there seemed little merit in deferral of the application, and it had been made clear the Committee could not require the developer contribute s106 monies in relation to primary school places.

Councillor L Fenwick noted while she sympathised with the position of the school, there was a need for affordable housing and therefore she would move approval of the application. Councillor L Brown reiterated that she was very unhappy and felt the developer could have offered a contribution, however, as there were no grounds for refusal she would, with a heavy heart, second approval.

Councillor J Elmer added he felt there was little option for the Committee, however, the matter had exposed a contradiction between Local Planning Authority (LPA) and LEA Policy, with planning policy encouraging less car use, and the two-mile LEA policy forcing the exact opposite. Councillor S Deinali noted the two-mile radius related to the walking to school policy.

Upon a vote being taken it was:

RESOLVED:

That the application be **APPROVED**, subject to the conditions and s106 Legal Agreement as set out within the report.

b DM/24/01551/FPA - 37-38 Silver Street, Durham, DH1 3RD

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 the conversion of lower ground floor and part of the ground floor from retail (E) to form 1no small HMO (C4) and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the context of the site within the Conservation Area and setting of the World Heritage Site of the Castle and Cathedral. She noted no objections from the Highways Section and added there had been objections received from the City of Durham Parish Council. She noted their objections were summarised within the report and a representative was at the meeting, however, their main concerns related the sizes of bedrooms No. 2 and No.3, light, bin storage, need and fire escape meeting requirements.

The Planning Officer noted the Houses in Multiple Occupation (HMO) Licensing Team had noted the property did not require a licence, and HMO Data noted 67.7 percent HMOs within a 100-metre radius. She added there were no objections from the Environmental Health or Design and Conservation Teams.

She explained there had been a letter of objection from the City of Durham Trust, referencing Nationally Described Spaces Standards (NDSS) and fire safety.

The Planning Officer concluded by noting that the application was acceptable in principle and subject to s106 contribution and conditions as set out in the report the application was recommend for approval.

The Chair thanked the Planning Officer and asked Parish Councillor G Holland, speaking on behalf of the City of Durham Parish Council, to address the Committee.

Parish Councillor G Holland thanked the Chair and Committee and explained that when the Parish Council called the application to Committee it was based on the Parish Council's past experiences with the provision of HMOs in our city. He added that in this particular application, there were uncertainties in the documents available to the Parish Council, relating mainly to the NDSS and HMO regulations and their interpretation.

He noted that 37-38 Silver Street was yet another proposed HMO conversion adding that, in principle, the Parish Council supported this type of development over the shop as it helped to prevent the ongoing loss of vital family housing in the city, and it also made effective use of little used rooms in an area where the business rents were very high. He noted that fundamentally, it made commercial sense and the Parish Council supported it.

He added that this meant that, in such localities, a few of the normal constraints of Policy 16 could be set aside, however, other policies could not. He noted that relaxing one policy did not mean that one should let everything go or accept second best, the duty of care remained the same.

Parish Councillor G Holland explained that, in judging applications such as this one, one relied upon CDP Policies 29 and 31 and any potential harm caused to the living conditions of future occupants. He added that outweighed any private benefits that a change of use would achieve. He noted that, in particular, Policy 29 stated that "*all new residential development will be required to comply with the NDSS*". He added that, to the Parish Council, it seemed that, far too often, for the sake of convenience, that basic tenet had been set aside.

It was explained that the Parish Council noted that, whereas it meets the NDSS in terms of its Gross Internal Area, the proposed internal space sizes for Bedrooms 2 and 3, as shown on the plans and elevations, seemed barely satisfactory.

Parish Councillor G Holland noted that, as measured, the Design and Access Statement showed Bedroom 2 with an internal floor space of 8.83 square metres and Bedroom 3 with an internal floor space of 8.65 square metres, however, there were no room dimensions indicating how the measurement was made. He added that nor did the Statement explain whether those dimensions included the adjoining en-suite to each bedroom. He explained that, furthermore, the internal corridors within each bedroom should not have been included within the calculation, and that essential details were simply missing and as a result, the Parish Council concluded that the size of the proposed bedrooms could only provide minimal living conditions for no more than three future residents.

Parish Councillor G Holland explained that, to add confusion, the Officer's statement in paragraph 102 of their report that "*standards used to assess amenity under policy 29e of the CDP are not used rigidly*" and in paragraph 103 that "*the rigid application of NDSS is not considered appropriate*" was far from reassuring. He added that, to the Parish Council, not rigid meant flexible, with planning regulations therefore becoming no more than arbitrary guidelines. He asked where it was stated that the NDSS did not apply fully to HMOs?

He continued, explaining that the introduction to the NDSS stated quite clearly that it was "*suitable for application across all tenures*" and the application was new residential development, and therefore the regulations applied.

In terms of the living environment, Parish Councillor G Holland explained that the Design and Access Statement offered the comforting sentiment that "*all rooms have high levels of daylight*". He added that was odd, given the small size of the windows, all facing North West. He noted that indeed, the inadequate ventilation and light to some of the rooms had not been addressed and was unacceptable. He added that although not directly a Planning matter, it was up to Building Control to evaluate and approve, as set out in paragraph 128 of the report. He highlighted that the Council's own HMO standards must apply and the regular phrase that the HMO standards did not apply because the property did not need to be licensed was not true, the standards applied to all HMOs.

Parish Councillor G Holland explained that, of even greater concern in terms of health and safety, was that the HMO Officer had accepted that each of these small windows would act as the primary means of escape should a fire break out in the kitchen area. He asked if Officers could explain how those windows could possibly offer a safe and secure means of escape. He added that there was no clear indication about the arrangements for waste storage and disposal within applicant's so-called Refuse Strategy.

He emphasised that handling the extra output from the HMOs must be managed and maintained correctly.

Parish Councillor G Holland explained that at the very heart of matters, stood the protection of CDP Policy 29 and its associated regulations. He noted in this case there were also heritage concerns, especially in Silver Street, one of the oldest in the city, with the traditional timber features that exist contributing to the overall historic character and appearance of the host buildings.

He noted that the applicant's intention to remove the timber framed windows in favour of uPVC was justified by the Officer with the comment that "*while ordinarily timber would be expected, in this case the windows are within a modern rear basement elevation of low quality*". Parish Councillor G Holland noted that it was by such slow and measured steps that the historic integrity of our city was dismantled.

In summary, he noted that the Parish Council must treat such applications with caution because of inadequate information and the flexible interpretation of planning policies and regulations created uncertainty.

He concluded by noting the Parish Council trusted that the Committee understood its position and had confidence in the Committee's ability to make appropriate decisions with regard to this and other such applications.

The Chair thanked Parish Councillor G Holland and asked the Planning Officer to address the points raised.

The Planning Officer noted that Bedroom No.2 was 9.0 square metres, with Bedroom No.3 being 8.8 square metres, not taking into consideration the corridors within each of the bedrooms, and as single occupancy met the NDSS.

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

Councillor L Brown proposed that, if minded to approve the application, the Committee amend the start time of construction to 0800. She referred to bin collection from the front of the property and noted a worry as regards timely return following collection. She asked as regards arrangements with existing students upstairs and noted that it was not preferable to have bins anywhere near to Fowlers' Yard. She asked for information relating to daylight and in respect of the safety issues raised.

The Planning Officer noted six bins, to be stored in the same location as previously, slightly extended to also include cycle storage.

Councillor L Brown asked if there could be a condition in relation to taking the bin back into the storage area after collection. The Principal Planning Officer, Paul Hopper noted that if the Committee felt there was insufficient information on the matter they could condition as regards further information. He noted that Officers felt there was sufficient information in this regard and that there was sufficient light. The Principal Planning Officer noted that any potential issues in respect of the fire escape would be addressed by colleagues from Building Control. The Chair noted there were already bins from the other student properties and, as a Local Member, he was not aware of any issues at the location to date. The Planning Officer noted that any conditions the Committee may wish to consider would apply to the application only, and not apply to bin storage arrangements for the first floor HMO accommodation which uses the bin/cycle storage area.

Councillor L Brown noted she was wary as there would be six bins, she felt a condition as regards emptying twice a week rather than once a week would be beneficial. The Principal Planning Officer noted bin storage was covered via Condition 4 within the report. He added that conditions relating to the times and frequency of emptying of the bins would likely fail the condition test, though further information could be sought on arrangements as part of the condition. Councillor L Brown noted she worried about a build up of food waste, especially in summer.

The Lawyer (Planning and Highways) noted concern as regards the reasonableness of any condition that would specify the number of times bins would require emptying, adding that concerns regarding bins could be better addressed via a management plan. Councillor L Brown noted that the issue was the Committee would not have sight of any management plan until after a decision was made. The Chair noted he would not support any move of bin collection, as it would make it more likely to result in bins sitting on Saddler Street.

Councillor J Elmer asked as regards comments from the Design and Conservation Team. The Planning Officer noted they had no objections, noting the loss of timber framed windows to the rear as the building was not a Listed Building or non-designated heritage asset. Councillor J Elmer noted that planning policy around ten years ago was such that timber-framed windows were required within the Durham City Conservation Area. The Planning Officer noted that the window could not be viewed by the public and uPVC was deemed acceptable. The Principal Planning Officer noted that given the quality of the uPVC type proposed, and the position and vantage, the proposals had been considered acceptable by the Design and Conservation Team. Councillor J Elmer noted that it was 'death by a thousand cuts' in terms of the impact upon heritage in the city. He asked as regards the fire escape, and whether that would be an issue that Building Control would come back upon.

The Principal Planning Officer noted that any change following this application would require a variation of condition application, with any such future potential application not having weight in relation to the current application. The Lawyer (Planning and Highways) agreed with the Principal Planning Officer, noting if Building Control required amendments, they would need to be regularised via a variation of condition application, or relevant process at that future time.

Councillor S Deinali moved approval of the application as per the Officer's recommendation, including a 0800 start time for works, and for additional information in respect of management plan for bins storage. The Principal Planning Officer noted Officers would make the necessary amendments to Condition 4 in relation to the bin storage.

Councillor L Fenwick seconded the motion for approval and upon a vote being taken it was:

RESOLVED:

That the application be **APPROVED**, subject to the conditions as set out within the report, with an amendment to Condition 4 in respect of further information relating to bin storage, and amendment to Condition 8 in respect of an 0800 start-time for construction work.

c DM/24/02200/FPA - 90 Gilesgate, Durham, DH1 1HY

The item was withdrawn.

d DM/24/02161/LB - 90 Gilesgate, Durham, DH1 1HY

The item was withdrawn.