

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Special Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Friday 17 May 2024** at **1.30 pm**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors D Oliver (Vice-Chair), L Brown, S Deinali, J Elmer, P Jopling, C Kay, R Manchester, K Robson, K Shaw and A Surtees

**Also Present:**

Councillors M Wilkes and M Wilson

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, I Cochrane and D McKenna.

**2 Substitute Members**

There were no Substitute Members.

**3 Declarations of Interest**

Councillor M Wilkes explained that in respect of Item 4a - DM/23/03325/FPA - Anvil, Abbey Road, Pity Me that he lived on the road in question, however, he noted that the Constitution referred to those voting on a matter and therefore, as he was not a Committee Member and not voting on the matter he did not feel there was an issue for him to speak. He added he would withdraw from the meeting after he had spoken if required.

The Lawyer (Planning and Highways) noted that he had spoken with Councillor M Wilkes in advance of the meeting and had explained that the advice from the Director of Legal and Democratic Services was Councillor M Wilkes did have a disclosable pecuniary interest and that precluded him from speaking on the item.

He added that however, the decision was for Councillor M Wilkes, reiterating that the legal advice was not to speak and to leave the Chamber.

Councillor M Wilkes noted that if the advice was correct in terms of Councillors as individual residents, the implication was that all Councillors within the county could not speak on any application within their area. He added that he felt Paragraph 10 of the Constitution was very clear in terms of decision makers and Councillors who were Members of a Committee discussing, making a decision or voting, and therefore, as he was not a Member of the Committee, he did not feel that there was an issue. The Lawyer (Planning and Highways) noted that the legal advice remained the same; that Councillor M Wilkes ought to leave the Chamber, but it was a matter for Councillor M Wilkes.

The Chair explained that he was happy in terms of Councillor M Wilkes speaking, noting that Councillor M Wilkes had been provided with the legal advice. He noted several Members of the Committee wished to comment on the issue.

Councillor P Jopling noted she felt that, as Councillor M Wilkes was not on the Committee and not voting on any application, there was no reason why he could not speak on behalf of residents. She added she was worried about the implication of the advice given and noted that the Committee would listen to all the points raised, however, the Members of the Committee would make up their own mind on the applications.

Councillor J Elmer explained he felt the advice set a very dangerous precedent adding that the 2006 Local Government White Paper on Strong and Prosperous Communities had set out a duty in terms of openness, as had the Local Government and Public Involvement in Health Act 2007. He asked that the advice would be looked at again.

Councillor L Brown noted she had been allowed to speak on an application that had been at the end of her road, she had spoken and had left the Chamber during the debate and decision making on the matter.

Councillor C Kay noted that he looked forward to hearing from Councillor M Wilkes on the application, adding he too felt Councillor M Wilkes should not be precluded from representing local residents.

The Lawyer (Planning and Highways) concluded by saying that he did not intend to debate this issue with Members.

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

**a DM/23/03325/FPA - Anvil, Abbey Road, Pity Me, Durham, DH1 5DQ**

The Senior Planning Officer, George Spurgeon 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 for change of use from dwelling (C3) to children's home (C2) for up to three children aged 8-17, the retention of a sensory room and an office within the rear garden (description amended) and was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer noted a minimum of three staff would operate 8.00am to 8.00pm, with a minimum of two staff overnight. He noted the application was part retrospective in terms of the two constructed outbuildings, one being a sensory room, one being an office for the Children's Home Manager. He added there was a requirement for a condition restricting the hours of operation for the sensory room. He noted that the premises was not currently being used as a children's home, therefore the retrospective aspect only applied to the outbuildings. It was explained the proposals were for one bedroom to be for staff, one to be allocated as an office, leaving three bedrooms for children.

The Senior Planning Officer noted that there had been objections received from Framwellgate Moor Parish Council in terms of highway safety and parking issues. He added that the Council's Highways Section had offered no objections to the application, noting there was sufficient in-curtilage parking, with four spaces being provided, greater than the requirement of two spaces. He noted that the Council's Children and Young People's Service (CYPS) had noted that they felt the application was suitable for up to three children and noted that there was a need for such smaller children's homes. The Senior Planning Officer noted that Environmental Health had not objected to the application, however, had asked for conditions in relation to a management plan and for a maximum of three children. He added that Durham Constabulary had offered no objection to the proposals, subject to a condition relating to a management plan. It was explained that there had been nine letters of objection received, with the main reasons for objection set out within the Committee report, including: parking, traffic, residential amenity, anti-social behaviour, and the application being part retrospective.

The Senior Planning Officer noted that Councillor M Wilkes had objected to the application in terms of car parking and the retrospective element of the application.

The Senior Planning Officer noted that the main policy being considered was County Durham Plan (CDP) Policy 18 relating to children's homes and noted that the Council's CYPS had noted the need for such provision, and the applicant had noted that the home would be for children from County Durham. He added the site was in a sustainable location and reiterated the Police had offered no objection in terms of crime or the fear of crime. The Senior Planning Officer concluded by noting that while there had been a level of objection to the application, Officers felt that the application complied with policy and therefore was recommended for approval, subject to the conditions set out within the report.

The Chair thanked the Senior Planning Officer and asked Councillor M Wilkes, Local Member, to speak in relation to the application.

Councillor M Wilkes explained that he, and Councillor A Hopgood, had asked that the application be called-in to Committee due to the concerns raised by local residents and the Parish Council. He explained that he had not learned of the application from the Planning Department, rather residents had noted the children's home and office at the site without consent, some elements having been constructed, making the application part retrospective. He noted that national guidelines were clear that minimum standards would apply, as Members would be aware of as Corporate Parents, of which he was sure one would be to not plaster the outside of a children's home with advertising stating it was a children's home. He added that a sign remained referring people to the rear entrance of the property. He noted that it was an offence in terms of commercial or enterprise signage and it also demonstrated a lack of understanding in terms of making a home as much like a regular home for the children in care, not with such signage being in place, adding there was a moral duty in terms of looking after those children.

Councillor M Wilkes noted a six-foot fence to the front of the property had been erected without permission, ignoring the planning system, however, the panelling had been subsequently removed, with the posts remaining, with the result having been described as 'looking like a prison'. In reference to the external office within the garden, he noted he failed to see why a children's home for only up to three children required a separate office outside the main property, unless perhaps being used for commercial purposes. He added that national guidelines relating to children's homes stated it was not permitted to operate in such a manner and therefore brought into question whether the applicants were fit and proper to run a children's home.

Councillor M Wilkes noted that CDP Policy 18(b) set out that the children's home should be a positive and safe environment for the occupants, 18(e) set out that the application be unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion, and 18(g) noted that satisfactory outside space, highway access, parking and servicing be achieved. Councillor M Wilkes noted the reduction in parking spaces from six to four, the retrospective element in terms of the outbuildings, and that the application failed to meet the requirements of Policy 18 and national minimum standards.

He added that the applicant had noted that two staff travelled to the home currently and asked, if the property was not yet operating as a children's home, then why was this, were they using the office space? He noted that there were yellow lines in place and therefore if there was additional parking required, then this would not be possible on Paxton Mews and would spill out on to Abbey Road, impacting the safety of residents, and would be opposite a children's play area and park.

Councillor M Wilkes noted the staffing as set out by the Officer, three staff during the day, with two on an evening, however, that did not take into account visitors from education, health services, social workers, family and other visitors that may be required, as well as the issues associated with staff change over, asking where would they all park? He questioned as regards the use of the Office for the proposed children's home staff, or the wider company, given the company's address was listed as the application property's address. He reiterated that there would be an impact upon residents, especially those from Paxton Mews that would be unacceptable. He reiterated that the application would not meet the minimum standards in terms of a children's home and did not meet requirements in terms of residential amenity. He noted that CDP Policy 18 required a management plan, however, he had only been able to find a statement of purpose within the documents on the planning portal, and that document was not sufficient as it did not explain as regards staffing arrangements, again not acceptable.

Councillors M Wilkes asked the Committee to refuse the application as it was contrary to Policy 18 in terms of the impact upon highway safety, parking, residential amenity, and not providing a suitable environment for the safety of the children or a staff management plan. He concluded by asking that a review of children's home applications be carried out to ensure the rights of both children and residents were respected.

*Councillor M Wilkes left the meeting at 1.54pm*

The Chair thanked Councillor M Wilkes and asked the Senior Planning Officer to comment on the points raised.

The Senior Planning Officer noted that while the application was part retrospective, there had been no children placed at the property, with the retrospective element being the office and sensory room. In respect of the fencing to the front of the property, the Senior Planning Officer noted that advice had been given to the applicant in terms of submitting a separate application subsequent to the children's home application.

He noted that the original fence had been 1.8 metre high, and the applicant was advised that Officers would not be supportive of this height, and the fence panels had subsequently been removed, with the posts to be addressed in due course. He noted that Officers felt a suitable solution would be possible, reiterating that this would be via a future planning application.

In relation to the signage referred to by Councillor M Wilkes, the larger signs had been removed following advice from Officers, with some smaller signs remaining that did not likely require consent, however, if Ofsted were to require that the signs were removed, that would be via their standards and separate to the planning process.

The Senior Planning Officer explained that the external office space would be for the registered manager of the children's home and noted that there would be three members of staff during the day, in addition to the manager. He added that if Members were minded, they could restrict the use of the office to the manager and day staff. He added that the applicant currently rented office space nearby, and the 'walk into work' reference was to those arrangements, not necessarily future arrangements. The Senior Planning Officer noted that in any event, the parking provision as set out was considered satisfactory. He added that in terms of change over of staffing, there was felt to be sufficient parking, and the management plan could also offer solutions in terms of staggered times.

The Senior Planning Officer noted that while there had not been a management plan upfront, there was a number of supporting documents and policies that led Officers to believe that a management plan to be supplied would be sufficient and reiterated that both CYPS and the Police had requested a management plan be conditioned, and that registration with Ofsted was a requirement of a children's home.

The Principal DM Engineer, David Battensby noted many of the potential problems that had been highlighted were hypothetical, and the Council's Parking and Accessibility Standards Supplementary Planning Document (SPD) requirements were exceeded for the C2 use, as well as for any C3 use. He noted the SPD required one space per three bedrooms, so for four bedrooms in this case, two parking spaces. He added if the proposals had been for four to five bedrooms, the four spaces proposed would still exceed the requirement within the SPD. He noted that one of the spaces proposed was a disabled parking space, which was larger in size, and when not in use for disabled access, could possibly be used for two cars, giving a total of five spaces, plus the potential additional space referenced within the report.

In terms of occasional displacement to Abbey Road, he noted that would not be different to other residential properties which received visitors of deliveries, and concluded by noting that NPPF 115 set out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, and that was not considered to be the case in this instance.

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

Councillor J Elmer noted there seemed to be a reoccurring problem with children's home applications and while he accepted the comments from the Highways Officer, he felt the SPD did not specifically cover children's homes. He noted that Members were aware, with children's homes in their areas, that they generated a large number of vehicles, noting a home in his Electoral Division with one child that often had five or six cars at the property. He noted that therefore he felt that the SPD standards were not sufficient to consider the number of cars a children's home generated. He noted that CDP Policy 18(g) stated that '*satisfactory outside space, highway access, parking and servicing can be achieved*', however he did not feel it was in this case.

Councillor L Brown noted a recent children's home application that had been approved in her Electoral Division, and parking had subsequently become a major issue, with up to ten cars including staff and visitors. She added that she felt that there should be a travel plan included along with the management plan. She added she felt that it would not be possible to fit all the cars that would attend this site within the in-curtilage parking provision, and any displaced on to Abbey Road would be a concern, being a very busy road. She would therefore ask, should the application be approved, that there would be conditions referring to the office being for the children's home manager's use only, and condition requiring a travel plan.

She added that the fence was also an issue, noting that CYPS may suggest an impenetrable fence, what would happen in terms of a refusal on safety grounds.

The Senior Planning Officer noted that the parking standards, while not specifying children's home use directly, did refer to the use class, namely C2, and as the SPD was only adopted in 2023, he noted that Members should be wary in disregarding the standards set out with the document. In terms of the property, it was quite large and as the Principal DM Engineer had noted, there was a potential for up to six spaces when taking all available space into account. Accordingly, the Senior Planning Officer noted that he would caution against any refusal based upon parking provision.

The Senior Planning Officer noted that the C2 office use was associated with the use class, and if there was a separate use of the office for commercial use, that would require a separate permission for that use, and therefore it was not necessary for a specific condition. In respect of the fence, he added it need not be an impenetrable fence, with the Police having commented in terms of the rear garden fence with the applicant having carried out those works, and with the fence at the front to be reduced from the 1.8 metre height in terms of visual amenity.

The Chair asked how the Council would know that the office was being used for business use and not that associated with the children's home. The Senior Planning Officer noted that residents would likely be aware due to the potential number of people and vehicles and make the Planning Department aware who would then investigate the matter.

Councillor A Surtees noted the retrospective aspect referred to the two outbuildings and asked, if that element had been received as a standalone application, would it have been approved, or would it have met permitted development standards. The Senior Planning Officer noted that if applied for separately as part of a C3 use the outbuildings would have received a positive recommendation as they would not represent a significant impact on residential or visual amenity.

Councillor S Deinali noted she had heard from the Local Member, Officers and Committee and she did not feel there were material considerations that would lead to refusal and therefore move that the application be approved. Councillor J Elmer noted he would second the motion for approval, subject to a work-based travel plan as per Councillor L Brown's suggestion. He noted he reticently seconded the application, as he still felt the SPD was not sufficiently covered under the generic C2 use.

The Chair asked as regards the upcoming review of the CDP and whether the Parking and Accessibility SPD could be looked at as suggested.



The Senior Planning Officer noted that as the SPD was adopted in 2023, it would be considered too soon for review, though the comments from Members would be fed back to the Policy Team. He added that Planning Officers would produce a form of wording relating to a travel plan and seek agreement from the Chair and Vice-Chair in that regard. Councillor S Deinali noted she was happy for the additional condition as described.

Councillor K Shaw noted that paragraph 56 of the report noted that '*children who would reside at the property would have emotional behavioural problems and learning disabilities that may result in more noise being generated than a typical family home*' and that management plan was required. He asked what the position was in terms of children's homes that were already agreed, in respect of where and how we could challenge if a management plan was not being adhered to, would it be possible to condition for a review after one year for example.

The Senior Planning Officer noted that the applicant could offer a review after one year, however, it was not felt as something that could be conditioned. Councillor K Shaw asked as regards if the application was approved, could Members be assured that the management plan submitted would be robust. The Lawyer (Planning and Highways) noted that as the management plan was required via condition and was for Officers' approval, then it would need to be sufficiently robust and to the satisfaction of Officers. He noted that in terms of temporary use or otherwise, the application before Members was for permanent use, and Officers did not see any reason to restrict the use to a temporary period.

Councillor L Brown noted that children's home applications were becoming the new flashpoint in terms of planning applications and noted it may be that temporary permission for three years for all such applications could be preferable. The Lawyer (Planning and Highways) noted that each application would be looked at on an individual basis when received.

The Chair noted that an application recently considered by the Committee for a children's home had been for three years, however, that could have been for a number of reasons, including a temporary lease.

The application had been moved for approval by Councillor S Deinali, seconded by Councillor J Elmer and upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report, with an additional condition relating to a travel plan, with suitable wording to be agreed in conjunction with the Chair and Vice-Chair.

**b DM/21/01141/FPA - Land to the Rear of Rock Terrace, New Brancepeth, DH7 7EP**

The Senior Planning Officer, Lisa Morina gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

The application was for the erection of 11 bungalows (amended plans and red line boundary received) and was recommended for approval, subject to the conditions and Section 106 Legal Agreement as set out in the report.

The Senior Planning Officer noted a correction in respect of the Section 106 amount set out within the report, it was correct at paragraph 62 of the report, with the correct amount being £19,130.10. She added that Condition 4 had been referred to as pre-commencement, however, it would now be 'no development above the damp proof course level of any dwelling'.

The Committee noted the land in question had previously been used as garden land and explained that a Section 215 Notice had been served in respect of untidy land. It was explained that outline permission had been granted in 2019 for mixed-use development, and also an application had previously been approved at Committee in July 2022, however, the Section 106 Legal Agreement was not signed at that time. The Senior Planning Officer noted that the current application was amended from the 2022 application in terms of only land within the applicant's ownership being included, and having a Registered Provider, Places for People being interested in developing the site.

The Senior Planning Officer noted no objections from the Highways Team, Northumbrian Water, Coal Authority, NHS and Drainage Team, subject to conditions and Section 106 Legal Agreement. She added that in relation to a right of passage, that would be retained in-situ and therefore stopping up would no longer be required. It was noted that the Environmental Health, Contaminated Land, Archaeology, Ecology and Public Rights of Way Sections had no objections, subject to conditions. The Committee were asked to note that 100 percent of the properties would be affordable housing.

The Senior Planning Officer noted there had been four letters of objections to the application, with the main reasons being parking, access and other uses for the land to be considered. She added that one letter in support of the application had been received, noting bungalows for the elderly would be welcomed. It was explained that two car parking spaces were being provided per bungalow, however, there was no visitor parking.

While this meant provision was fewer than specified within the Parking and Accessibility SPD, it was greater than the previous application and Officers felt that the slight discrepancy was not sufficient to warrant refusal.

The Senior Planning Officer concluded by noting that the application was in line with CDP Policy 6, and while there was limited conflict with the Parking and Accessibility SPD, Officers recommended the application for approval, subject to the conditions, amended conditions referred to and Section 106 Legal Agreement.

The Chair thanked the Senior Planning Officer and asked Councillor M Wilson, Local Member, to speak in relation to the application.

Councillor M Wilson thanked the Chair and Committee, and noted Councillor D Nichols would have also been in attendance to speak at the meeting, however, he had received the same legal advice as Councillor M Wilkes in relation to speaking at Committee.

Councillor M Wilson noted that the application before Committee was the best solution for the area of derelict land, and the redevelopment was welcomed by all. She explained that issues with fly-tipping required frequent attendance by Neighbourhood Wardens at the site. She noted that 11 bungalows were welcomed and were well sought after by the community and would help release family homes elsewhere. She concluded by noting there were no downsides to the solution being proposed and therefore would ask for the Committee's support for the application as it solved a drawn-out problem in the area.

The Chair thanked Councillor M Wilson and asked the Committee for their comments and questions.

Councillor J Elmer noted he agreed with the comments from Councillor M Wilson, adding it was a shame Councillor D Nicholls had not been in attendance to speak, and disagreed in terms of him being advised not to speak. He added that there was a clear need for bungalows and the scheme matched that need, as well as helping tackle the problems with fly-tipping and therefore he would move approval, subject to the amendments as referred to by the Senior Planning Officer. Councillor S Deinali seconded the motion for approval.

Upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions set out within the report, amended Condition 4, and correct Section 106 Legal Agreement amount, £19,130.10, as referred to by the Senior Planning Officer within her presentation.

*Councillor C Kay left the meeting at 2.30pm*

## **5 Appeal Update**

The Principal Planning Officer, Paul Hopper referred Members to the update relating to recent appeals decisions and asked Members to note the report.

### **RESOLVED:**

That the report be noted.