

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held **remotely via Microsoft Teams** on **Tuesday 8 September 2020** at **9.30 am**

Present:

Councillor J Clark (Chair)

Members of the Committee:

Councillors D Brown, B Coult, M Davinson, D Freeman, K Hawley, S Iveson, R Manchester, L Pounder (substitute for A Laing), J Robinson, P Taylor, L Brown, S Dunn and E Scott

Also Present:

Councillors L Brown, S Dunn and E Scott

1 Apologies for Absence

Apologies for absence were received from Councillors G Bleasdale, I Cochrane, K Corrigan, A Gardner, A Laing and J Shuttleworth.

2 Substitute Members

Councillor L Pounder substituted for Councillor A Laing.

3 Minutes

The minutes of the meeting held on 21 July 2020 were confirmed as a correct record by the Committee and would be signed by the Chair.

4 Declarations of Interest

There were no Declarations of Interest submitted.

Councillor D Brown noted he was not the Councillor Brown referred to within the report relating to Item 5c - DM/20/01107/FPA - Land To The West Of The White House.

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

a DM/20/00165/FPA - Durham School, Quarryheads Lane, Durham, DH1 4SZ

The Chair noted the item was no longer being considered by Committee.

b DM/20/01518/FPA - Rear of 90 Ashbourne Drive, Coxhoe, Durham, DH6 4SP

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 erection of detached garage to the rear of 90 Ashbourne Drive, Coxhoe and was recommended for approval subject to conditions.

The Planning Officer, MH noted the proposed garage would be in place of an existing detached shed with access to be taken from the rear lane, between Ashbourne Drive and Cornforth Lane. She explained that, as set out within the report, permission was only required for the detached garage, not the proposed access as the access was on to an unclassified road and therefore fell under the scope of permitted development. She noted the Applicant would need to contact Neighbourhoods Services as regards the dropped kerb. In reference to photographs of the location, the Planning Officer, MH noted garages located nearby on the opposite side of the back lane. She noted the proposed elevations and layout of the garage, it to be sited two metres back from the road, with an existing fence to be removed and a dropped kerb installed.

The Planning Officer, MH noted no objections from the Highways Authority.

In terms of representations, the Committee were asked to note there had been objections received from Coxhoe Parish Council, with concerns including traffic, highway safety, parking problems in the area and setting a precedence for others in Ashbourne Drive. The Planning Officer, MH noted comments from the Parish Council relating to the planning permission for the residential estate, FPA/P/4/95/0713, which had conditions attached relating to no access to be permitted from Cornforth Lane, except for emergency vehicles.

She added the Parish Council had also noted that a planning application was refused for a house within the rear garden of a property on Cornforth Lane due to adverse impacts on residential and visual amenity and, in their view, the amenity of local residents would be affected by the garage application. She noted one letter of support and 11 letters of objection had been received from seven properties in the area, with the Objectors' main points being summarised within the report.

The Planning Officer, MH noted in terms of the principle of development, the design was acceptable and reiterated that the access on to School Avenue did not require planning permission as it was not a classified road. She added that if the design of the garage had been such that the height had been under 2.5 metres, it would have been allowed under permitted development. She added that it was considered that the proposed garage would not adversely impact upon the current levels of residential and visual amenity enjoyed at the site, nor would it have a detrimental impact upon highway safety. She concluded by noting that on balance, after taking all relevant planning matters into account, including both national and local policies and the objections and concerns raised, the application was acceptable and was therefore recommended for approval, subject to the conditions as set out within the report.

The Chair thanked the Planning Officer, MH and noted several speakers were in attendance to speak in relation to the application. She asked the Clerk to Coxhoe Parish Council, Claire Llewelyn to put forward the representations on behalf of the Parish Council.

The Clerk to Coxhoe Parish Council explained she had been asked to attend the Committee by the Coxhoe Parish Councillors and added that the Parish Council had received representations from residents who were strongly opposed to the application, and raised concerns about the traffic, highway safety and parking problems in the area and the amount of traffic incidents and near misses that had already taken place. She noted the area had a high volume of traffic and this was regularly reported to the Parish Council as a problem.

The Clerk to Coxhoe Parish Council explained that Cornforth Lane was a bus route and additionally, with the primary school at the end of Cornforth Lane, that would mean that twice a day vehicles parked on the front, and even the back, of the lane in order to drop off or pick up children. She explained there was an access point at the end of Cornforth Lane onto the A177 which residents reported was abused frequently. She noted it was used by buses and by emergency vehicles, which obviously needed the length of the lane to be passable. She noted that this all meant that residents had difficulties safely using and parking in their front street, and now felt their back lane was also being made more dangerous.

The Clerk to Coxhoe Parish Council informed the Committee that local residents used the back lane for parking and for children to exercise and residents felt there would be an increased risk of accidents and damage if more vehicles were legitimately allowed to use the space. She added residents were worried that providing vehicle access to the development would mean they could not park in the area available behind their homes, and that if they had to move their cars to the front street, that would further worsen the issues there. She noted the Parish Council supported residents in their view that, as the application would, by adding further vehicular access to properties to the rear of Cornforth Lane, raise the risk of accidents further to completely unacceptable levels.

The Clerk to Coxhoe Parish Council added that the Parish Council was aware that the Planning Permission Approval from 1996 for the former site of Lansdowne Comprehensive School at Condition 10 stated that *'there shall be no means of vehicular access to the development hereby permitted from Cornforth Lane'*. She added that further conditions stated that there was to be no construction traffic access. The Clerk to Coxhoe Parish Council noted the reasons given for those conditions were *'the interests of the amenity of the area and of highway safety'*. She explained that those issues had not gone away and if anything, the issues had become worse.

The Clerk to Coxhoe Parish Council noted that the County Council rejected an application for a house in the back garden of a Cornforth Lane house citing the *'adverse impacts of the development with regards to residential and visual amenity [which] are considered to significantly and demonstrably outweigh the limited benefits of the development'* and Coxhoe Parish Council supported the residents in their view that the amenity of local residents would be affected by the current application. She concluded by noting that Coxhoe Parish Council therefore objected to the application and respectfully requested that the County Council uphold its prior planning approval conditions and did not set any precedent for developments which would further affect the safety and amenity of residents of Cornforth Lane.

The Chair thanked the Clerk to Coxhoe Parish Council and asked Councillor S Dunn, Local Member to speak in relation to the application.

Councillor S Dunn thanked the Chair and Committee for the opportunity to speak and referred to slides that were shown to the Committee. He noted he lived at Ashbourne Drive; however, his property did not abut the back lane and therefore he was not directly affected. He added he was Chair of Coxhoe Parish Council; however, he had not been involved in the Parish Council's representations to Committee and had not predetermined his view in that respect.

Councillor S Dunn referred to photographs within his presentation and noted that, whilst his photographs were taken on a different day to those shown by the Planning Officer, the same two cars were seen to be parked in the same locations. He explained that 90 Ashbourne Drive used to have a garage, but a previous owner had converted it into a useable room.

Councillor S Dunn noted he, on behalf of the residents of Cornforth Lane, objected to the application, because of the adverse impacts on those residents. He explained that an application for a garage entering on to a back street looked quite reasonable on the face of it, however, there were a lot of history with the location, and building of the estate going back to 1990. He added that to obtain planning approval for the estate, the then Applicant (Hassall Homes) had to agree to give up land to residents on Cornforth Lane, provide off street parking, and a new back street for their use to remove residential traffic from Cornforth Lane due to it being congested for bus and school traffic.

Councillor S Dunn explained that at a public meeting held on 28 November 1995 between the residents of Cornforth Lane and the then County Councillor Alan Thompson and the 3 City Councillors, assurances were given to residents of the street, many of whom still live there:

Councillor A Thompson - land boundaries around the whole site should be tidied up, and vehicular access should not be allowed onto Cornforth Lane from the new development via the existing 'school' entrance.

Councillors A Thompson and M Crathorne - told the meeting that it was in the hands of the County and District Councils to agree, part of which would involve consideration of the points raised, but would expect a decision sometime in January.

Councillor A Thompson - saw no way that they could be stopped from using this entrance unless written into the planning consent.

Councillor S Dunn noted that on 28 January 1997, Durham County Council conveyed the estate, the former Lansdowne Comprehensive School site, to Hassall Homes with a covenant:

“(vi) ...to fence with a 1.85m high close boarded fence and thereafter maintain and repair such fence along the boundary between the land and the Transferors Retained Land.”

Councillor S Dunn added that on 18 January 2001, Hassall Homes conveyed the extended gardens on to the residents of Cornforth Lane up to the newly constructed back road.

He explained they also conveyed the estate with the planning approval for the new estate on to Miller Homes, however, they did not include covenants to reinforce the intent that there should be no vehicular access from the estate on to Cornforth Lane. He added that Miller Homes erected 1.85m fencing all the way along the new back road, preventing access on to Cornforth Lane.

Councillor S Dunn explained that the Hassall Homes Planning application 95/0713 was approved by Durham City Council 13 February 1996, the then Planning Authority with the following conditions:

“10. There shall be no vehicular entrance to the development hereby permitted from Cornforth Lane.

14. ...the existing vehicular access to the site from Cornforth Lane shall be closed in a manner to be agreed with the Planning Authority.

16. The access road to the rear of Cornforth Lane shall be constructed to an adoptable standard to the satisfaction of the Planning Authority.”

Councillor S Dunn noted that from these conditions the intention appeared to be very clear. He added that Cornforth Lane was a very busy bus route, which was parked upon both sides making travelling along it difficult and busses often got blocked. He noted that Coxhoe Primary School, at the end of the lane, had been extended twice to increase capacity as the village had grown from 215 pupils in 1995 to 320 currently, with a further extension planned. He added that sadly 43 percent of parents did not walk their children to school despite considerable efforts by the school, Durham County Council and Durham Constabulary and referred to a photograph showing vehicles spilling on to the back lane.

Councillor S Dunn noted that the back lane was introduced because of traffic problems on Cornforth Lane which had only got worse. He added that the application could set an unhelpful precedent for other properties which was never intended to allow vehicular traffic for the estate to use Cornforth Lane and the back lane instead. He noted that whilst he understood the Applicant's desire for a secure garage, the property was purchased in the knowledge that the garage had been converted into living accommodation.

Councillor S Dunn noted that approving the application, in his view, would increase congestion and potentially encourage even more residents to break out into the back street and use it for additional parking and access, contrary to NPPF Part 9. He added that the estate was well designed to enhance the built environment and the current application undermined and eroded that, contrary to NPPF Part 12.

He concluded by noting that for the last 25-30 years it had been recognised that vehicles accessing Cornforth Lane from the estate would have an adverse effect on Cornforth Lane's residential amenity and lead to further increases in congestion and he therefore requested that the application was rejected by Members.

The Chair thanked Councillor S Dunn and asked Ms Ellie Cutter, local resident, to speak in objection to the application.

Ms Ellie Cutter noted she would start by talking about the unsuitability of the road for access to the proposed garage, adding that the road was used all day, every day by residents for parking. She added that residents could not park at the front of their houses for a couple of reasons, one being that the row of houses was situated opposite a bus stop and has a bus stop on our side of the road and thus Arriva buses coming from opposite directions often cross each other at that point in the road. She noted that she often watched those buses trying to pull off tricky reversing manoeuvres in order to get up and down the road, and to do so they regularly needed to mount the pavement, something they could only do because residents were not parked there. She explained occurrences such as that only increased during the school term as numerous school buses dropped off and picked up at those points on the road. She added that there had also been numerous documented cases of cars being swiped or hit by Arriva buses and she had witnessed that happening twice on her area of the road. She explained that residents with small children also did not park on the road at the front as the standard traffic, such as cars and vans, speed up the road making it riskier for toddlers and kids potentially running into the road.

Ms Ellie Cutter explained that therefore the road being proposed as access to the garage was regularly filled with residents' cars, those who use the area at the top of the road as a turning head. She noted the road could only be used for parking on one side and regularly that side was completely lined with cars. She noted the physical practicalities therefore of a van, or vans, being able to turn into and out of a garage were unrealistic. She added that it was often a squeeze for a large car, let alone a van, to get turned around in the turning area because of the cars parked down the road.

Ms Ellie Cutter explained that the road was also increasingly busy during school time as parents used the entrance road and the back road to park to drop off and pick up their kids. She noted residents regularly have to squeeze past those additional cars and do joint manoeuvres with them to access their properties. She added that therefore, it was also unrealistic to set a precedent for those on Ashbourne Drive and the other adjoining roads to be able to request to build garages.

She noted that should the other residents of the opposite estate start making requests for garages the road would become completely unusable for existing residents as it was just not wide enough. She noted she believed it would be inevitable that such requests would be made as the parking provision on newer housing estates was insufficient and parking was an issue in those areas too. She added that it was arrogant to assume that the problem could be resolved by encroaching on another estate that also faced the same issues.

Ms Ellie Cutter explained another point was the additional risk the increase in traffic would make to the children who used the back lane. She noted children from across the houses on the lane use the road to play on a regular basis and while residents were aware of this, and acted accordingly in terms of their speed, adding more traffic to the road in the form of larger vehicles increases the risk of there being an accident. She explained that, in a wider context, the additional traffic being added to Cornforth Lane was also not acceptable, with the issues on Cornforth Lane being documented, namely: buses clogging up the road which was unsuitable as a bus route; the road being used as a cut through by cars, taxis and vans which speed; those issues being exacerbated due to residents without back lanes having to use Cornforth Lane as their parking area; and the issues being exacerbated during school term time. She reiterated that adding more traffic to Cornforth Lane was only going to make those even greater issues, especially considering again the setting of a precedent.

Ms Ellie Cutter thanked the Parish Council and Councillor S Dunn for their contributions.

The Chair thanked Ms Ellie Cutter and asked the Principal Planning Officer, Aland Dobie to respond to the points raised by the speakers.

The Principal Planning Officer noted that Officers did acknowledge there was a large volume of traffic at the pick up and drop off points for the schools, however, there was a fair distance between the application site and the school, around 340 metres, and therefore it was not felt what happened at the application site would directly affect what happened at the school. He added that in respect of people legitimately using the lane, it was adopted highway and therefore anyone had a right to use it and the access, as referred to within the report and presentation, did not require planning permission. He noted the garage itself only required planning permission as the height was greater than permitted development rights and therefore the Planning Authority's control in respect of the development was quite limited.

In respect of the reference to the 1996 planning approval, the Principal Planning Officer explained that there was one condition that related to construction vehicles not accessing the site from Cornforth Lane during the construction phase and added that clearly that had now been completed. He added that another condition related to the creation of an emergency access further down the lane, approximately 140 metres away from the application site, adjacent to the access from Cornforth Lane and noted that neither of the conditions intended to restrict future vehicle movements to or around the estate. The Principal Planning Officer noted that refusal of a permission relating to a development of a house was mentioned. He added that it was clearly a different type of development and would have had different planning considerations taken into account and was not directly relevant to the application being considered by the Committee. He noted that he would defer to the Highway Development Manager and Solicitor – Planning and Development on the issues raised by the Local Member and Parish Council on behalf of residents. He concluded by explaining that in respect of the parking issues raised, the Planning Authority recognised those issues and indeed understood those types of issue were experienced across the county, and he reiterated that the controls the Planning Authority had in this particular instance were quite limited.

The Highway Development Manager, John McGargill clarified that the lane in question was publicly adopted highway, maintained at the public expense and there were no restrictions in terms of passing or repassing over the road. He added the lane carried no private road status for the residents of Cornforth Lane.

With reference to Condition 10 of the estate planning permission, the Highway Development Manager noted it read: “*There should be no means of vehicular access to the development from Cornforth Lane*” and therefore was referring to the development, not individual properties. He noted that his interpretation of the condition was that the development highway should not connect with Cornforth Lane and allow the full development to discharge traffic on to Cornforth Lane. The Highway Development Manager noted that Committee report referred to the former school access being amended to allow “local residents” access to the rear of their properties, it did not refer to just the residents of Cornforth Lane. In terms of precedent being set, the Highway Development Manager understood the concerns of residents if every resident were to build a garage and access the rear of their property from the lane, however, there was nothing preventing them from doing that at the moment. He concluded by noting that from a Highways perspective the proposed access in the current application would not contravene Condition 10 of the previous estate permission.

The Chair noted Councillor S Dunn wished to clarify a point as regards Condition 10 from the estate permission. Councillor S Dunn noted he felt contrary to the Highway Development Manager in respect of the condition and he read from the letter granting planning approval and quoted Condition 10 from that letter it stating: "*That there shall be no means of vehicular access to the development hereby permitted from Cornforth Lane*". He added that there were retrospective interpretations as regards what the condition actually said and reiterated what he quoted was what the approval letter to the estate development Applicant said and there was no mention of construction traffic. Councillor S Dunn noted he felt the intentions of the County Councillors and City Councillors at that time were absolutely clear, as was the approval letter to the Applicant at the time.

The Chair asked the Solicitor – Planning and Development, Neil Carter to respond to the issues raised.

The Solicitor – Planning and Development noted that it was important to understand the scope of the application being considered by the Committee. He added that the application under consideration by Members was for the construction of a garage, the creation of a means of access from the highway to that garage was not part of the application and therefore while the Committee had heard a lot of debate about what Condition 10 from the estate permission meant, it was not part of the application that was before Members for consideration. In terms of Condition 10, the Solicitor – Planning and Development noted that it was not entirely clear what it was seeking to achieve, and that further context could be put on that by looking at the previous permission granted in 1996, however, to his mind it was clear that Condition 10 could not prevent members of the public driving along the lane because, as the Highways Development Manager had stated, it was publicly adopted highway and therefore from a legal perspective Condition 10 could not take away those rights. The Solicitor – Planning and Development noted a second point, that any suggestion that the creation of access to the proposed garage was not permitted development because of Condition 10 of the estate permission was not correct, and that the wording of Condition 10 was not sufficient to remove permitted development rights. He explained that in order to remove permitted development rights for the creation of a vehicular access there needed to be very clear wording and to his mind Condition 10 did not have such wording. He reiterated that while it was not entirely clear as regards the intention of Condition 10, it did not remove the rights of members of the public to travel along that road in vehicles and would not remove permitted development rights in terms of creating an access. The Solicitor – Planning and Development reiterated that the access did not form part of the application being considered and any issues in terms of the access would be for discussion outside of the context of the Committee.

The Chair thanked the Solicitor – Planning and Development and asked the Committee for their comments and questions.

Councillor P Taylor noted he felt for the local resident who had spoken in objection and Councillor S Dunn in terms of the problems that would be caused for residents if the application was to go ahead. However, he noted the main thrust of the objections seemed to be outside of the scope of the Committee. He noted that the Solicitor – Planning and Development had it absolutely correct in that the means of access was not the responsibility of the Committee, rather the building of a garage for the issue to be determined. He added that he felt that Condition 10 of the estate permission had been poorly drafted and that the condition was vague, open to interpretation, and as stated was an issue “for another day”. He reiterated that the application was for the construction of a garage and the other matters raised were not relevant to the Committee.

Councillor M Davinson asked for clarification in terms of if the size of the garage was reduced, whether it would require planning permission and if it was known why such a large height was required. He noted that the issues raised by objectors were issues experienced in all of the colliery villages across the county and noted the advice of the Solicitor – Planning and Development in respect of only considering the permission for the garage. He noted that if the height was below 2.5 metres then the Applicant could erect a garage under permitted development and asked if there was any further background information as regards the application being for that particular design. The Principal Planning Officer noted that the design was such that the only aspect that fell outside of permitted development rights was the height of the proposed garage, being greater than 2.5 metres. He explained that the height to the eaves of the garage was 2.5 metres and therefore if a flat roof was specified it would fall under permitted development, however, the design included a pitched roof that took the height beyond the 2.5 metres.

The Chair asked if there were any further comments or if any Member would wish to make a proposal in relation to the application.

Councillor M Davinson noted he felt that while there could be an adverse impact upon residents, the Committee could not explore the issues in relation to the access and rather only look at erection of the garage, and it being one that was only slightly larger than one that would be allowed under permitted development. He added he felt that the Authority would have a difficult time at an appeal justifying a refusal on the basis of such a small additional height and noted that the setting was a typical colliery village location, not an area with a “chocolate box effect”, with properties varying in terms of the types of extensions and garages. Accordingly, he proposed that the application be approved, subject to the conditions outlined within the Officer’s report.

Councillor P Taylor seconded the proposal for approval, noting that the issues that may or may not be caused were outside of the scope of the Committee and the Members were only looking at the issue of the build.

Councillor M Davinson asked if Officers could look into the issue of Condition 10 of the estate approval in order to make it clear what was meant by the condition. The Chair noted that she understood the sentiment of Councillor M Davinson, however, it could not form part of the vote on the application in front of Members. The Highway Development Manager reiterated he did not feel there was any dispute as regards the wording of Condition 10, however it was acknowledged that there was a difference in the interpretation of the condition.

Councillor M Davinson proposed the application be approved, he was seconded by Councillor P Taylor.

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the Officer's report.

c DM/20/01107/FPA - Land To The West Of The White House, Newcastle Road, Crossgate Moor, Durham, DH1 4HZ

The 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 application was a resubmission of DM/20/00387/FPA for the erection of a single house in multiple occupation (use class C4) and was recommended for approval subject to conditions.

The Planning Officer, GS noted the application was for the erection of a single dwelling in the garden of The White House and that permission for the erection of two C4 houses in multiple occupation (HMOs) had been refused earlier in the year. However, as the current application related to a single dwelling, the potentially different impacts needed to be carefully considered. He noted the application had been tabled for consideration by Committee at the request of Councillor L Brown.

The Planning Officer, GS referred Members to the site location plan and aerial photograph noting open countryside and greenbelt to the west. He added that a lot of the properties along Newcastle Road benefited from an elongated garden shape and the garden shape of The White House was considerably wider than garden of other properties nearby.

He explained that an issue often associated with backland development was access to the site and noted access to the site from the A167 ran along the north of The White House and Abbey Vets and to the south of the neighbouring property, Langdale. He noted that the Highways Section had previously raised reservations as regards the access, in particular in terms of the potential for collisions between vehicles heading south on the A167 and turning right into the access road to the application site and vehicles travelling north along the A167 turning right into St. Monica Grove, almost opposite the access road that served the application site.

The Planning Officer, GS noted the unlit narrow access road, the hedge running along the boundary between the application site and Langdale, and the various views looking into and out from the site. He noted that as the hedge varied in thickness a condition was included for appropriate fencing to be erected in order to protect the privacy and security of the neighbouring property. He noted a hardstanding used for vehicles to turn and a grassed area that was large enough to accommodate parking for three vehicles. The Committee were referred to a final slide of photographs showing the remaining boundaries to the application site, with hedgerows and trees.

The Planning Officer, GS referred to a proposed site layout plan and noted five trees to the south-west boundary of the site, he explained the Council's Arborist had attended the site and confirmed there were in fact only three trees at that location, two of which were in poor condition and not worth retaining. He added the Arborist had noted only one Ash tree location within the rear hedgerow was recommended to be retained. He noted two of the trees must have been removed at some point in the past, however, none of the trees had a Tree Preservation Order (TPO) in place and the site did not fall within a Conservation Area and therefore no consent would have been required to remove those trees.

The Planning Officer, GS noted the proposed location of the dwelling within the site, along the northern edge, in keeping with the relationship to the access road and would be 27.5 metres away from the rear elevation of The White House in accordance with the relevant separation distances. He noted four parking areas, one in front of a garage and three to the west, bound by fencing. In reference to the previously mentioned reservations from the Highways Section in terms of the access, the Planning Officer, GS noted that to mitigate the risks, no additional parking was proposed to serve the new dwelling, in order to limit the number of vehicle trips, and this was achieved via a number of conditions recommended within the report, including: a condition preventing the application site being used for parking at any time; the removal of permitted development rights for new areas of hardstanding; and the erection of a fence around existing parking areas. He noted that to the north of the site there was a bin enclosure proposed along the footpath leading from the access road to the proposed property.

The Planning Officer, GS noted varying site levels, with the building to be situated such it would appear as a single storey bungalow from the east, but a two storey dwelling from the west, helping to minimise the impact from the east. He noted the only habitable room of the proposed dwelling that faced The White House was the kitchen and the elevations showed a built in cycle storage area to the front of the proposed dwelling.

In respect of representation from consultees, the Planning Officer, GS noted it had been confirmed that the proportion of student properties within 100 metres of the application site was 5.9 percent and there had been no objections from Environmental Health as it was unlikely to cause a statutory nuisance. He noted the Landscaping Section had noted no objections subject to a landscaping scheme and reiterated that the Council's Arborist had noted the Ash tree should be retained and protected during works. He added that, as no additional parking was proposed limiting the vehicular movements associated with the proposed dwelling, there were no objections from Highways Authority. He explained there were two conditions proposed by the Council's Archaeologist, the Contaminated Land section require no further information, and there were no objections from Northumbrian Water Limited.

In terms of representations, the Planning Officer, GS noted letters of objection from 47 individuals or groups had been received, including those from Councillor L Brown, Councillor E Scott, the City of Durham Parish Council, the Neville's Cross Community Association and the Quarry House Lane Environmental Association. He noted a full summary was included within the Committee report and issues raised included: the city already unbalanced by a high proportion of students; concerns raised over whether there is demand for accommodation of this type; increase in noise and disturbance; concerns that the communal garden area could be used to hold large parties; increase in vehicular movement, such as delivery and maintenance vans, taxis; lack of parking could lead to an increase in on-street parking elsewhere; bins are not returned and overflow, which adversely affects visual amenity and blocks the footpath; out of character with the area which is typified by long rear gardens; security of dwelling when it is empty; light pollution; overshadowing and loss of outlook; and loss of privacy.

In looking at the planning considerations, the Planning Officer, GS noted that as new build student HMO, the density within the area was 5.9 percent, less than the 10 percent threshold set out in the Interim Policy on Student Accommodation. He added that while Policy 17 of the County Durham Plan (CDP) referred to HMOs, in terms of consistency, it would not be afforded weight until the Inspector had responded in terms of the major modifications, therefore the Interim Policy would apply.

The Planning Officer, GS noted the impacts in terms of residential amenity, character, landscaping and the comments from the Highways and Archaeology sections and noted that, on balance, while the application was contentious and the objections received had been taken into account, it was felt that the application was in accordance with Local Plan Policies and the National Planning Policy Framework (NPPF) and therefore it was recommended for approval, subject to conditions.

The Chair thanked the Planning Officer, GS and noted several speakers were in attendance to speak in relation to the application. She asked the Parish Councillor G Holland, representing the City of Durham Parish Council to speak in objection to the application.

Parish Councillor G Holland thanked the Chair and Committee and noted that the application raised further concerns about the use of a backland site in Neville's Cross in order to add yet another HMO to the many HMOs that already abound in Durham City. He added that the Committee had "been here before", with some Members being able to recall an application that was considered in 2016 for the construction of a large family house in the back garden behind the existing White House. He noted that although recommended for approval by the then Officer, Committee disagreed and refused planning permission and that decision was upheld at Appeal by the Planning Inspector. It was added that the Inspector had concluded that the proposed development would have a significant and detrimental impact on the living conditions of neighbouring residents, with particular reference to outlook. The Inspector added that the proposal was also contrary to several Local Plan Policies and aspects of the NPPF.

Parish Councillor G Holland explained that, in 2019, the Applicant converted The White House into an HMO, a decision which, unlike today, was difficult to resist. He added that at the beginning of this year, however, the Applicant proposed further development of HMOs on the backland site but, in his report published on the 23rd April, the Officer recommended that it be refused because:

"the proposal is considered to be contrary to Policy H10, H13 and Q8 of the City of Durham Local Plan and Paragraphs 70, 122 and 127 of the NPPF". In further justification the officer added that this proposed development: "would significantly alter the character of the area to its detriment through the loss of the elongated rear garden area that is typical of the area and [represents an] overdevelopment of the site".

Parish Councillor G Holland noted the Officer also added that:

“these two dwellings would be occupied by students, who are likely to act as separate households and who are associated with comings and goings at anti-social hours which is considered to worsen the impact” and “would intensify the residential use of the site to a level that would likely cause adverse harm to the amenity of surrounding residents”.

He noted that was a pretty damning conclusion to justify his decision to refuse planning permission on this backland site, however, only days later, and clearly confident of success, the Applicant submitted yet another proposal for a backland HMO behind The White House which, of course, was already an HMO.

Parish Councillor G Holland asked what has changed, noting the purpose was the same; the principle was the same; the policies were the same and therefore he felt the judgement should be the same. He added that whichever way one would choose to dress it up, the application was still a backland development contrary to Local Plan policy H10 and still failed the test of Local Plan Policies H13 and Q8. He noted it still did not meet the demands of NPPF Paragraphs 70, 122, and 127. Parish Councillor G Holland noted that furthermore, it now also failed the constraints of the County Durham Plan which, with the Examination in Public having ended and the Plan about to be published, must be taken into account. He added that the relevant section of the Plan, CDP 16.3, stated that new build HMOs would not be permitted if:

“Including the proposed development, more than 10 percent of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);”

He added that, using the County Council’s own figures, one additional HMO on the site would tip the balance to over 10 percent and, following the guidance of NPPF Paragraph 48, the County Plan policy must now be given weight. Parish Councillor G Holland reminded all that it was the Members of the Committee who were the decision makers and it was they who determine that weight. He noted that with the present application there would be two HMOs out of 17 residential properties in the 100-metre ring at that locality, bringing the percentage to 11.8 percent, consequently, the application should be refused on those grounds alone.

Parish Councillor G Holland added that, however, the application also failed the tests of Saved Local Plan Policies H10, H13, E14 and Q8, NPPF Paragraphs 70, 122 and 127, and the new and relevant Neighbourhood Plan Policies H2 sections c, f, and I. He noted those wide-ranging policies could not just be arbitrarily set aside.

Parish Councillor G Holland concluded by noting that, in the final analysis, the application was a bad scheme in the wrong place, for the wrong reason and noted the Parish Council strongly urged Members of the Committee to refuse planning permission using both saved and emerging local and national plan policies.

The Chair thanked Parish Councillor G Holland and asked Local Member, Councillor L Brown to speak in relation to the application.

Councillor L Brown thanked the Chair and Committee and apologised in advance for any repetition of the grounds for objection put by her learned friend Parish Councillor G Holland, adding they did bear repetition because of the strong local feeling against this application, with 47 objections received. She noted that, in her experience, very rarely did a planning application provoke that sort of response and added that this was why her address may be longer than usual, for which she also apologised, however, she had several crucial, points to make.

She explained that given that the area was characterised by large gardens and family houses, the planned HMO would change the whole dynamic of the area. She added a resident's statement, from Ms Helen Clark, would tell the Committee about the problems associated with just one HMO. She noted it was highly likely that with two the problems would be doubled. Unfortunately, unlike in licensing, there was not the privilege of calling in HMOs for review; a problem HMO was there forever. She explained all residents could do was pray for the end of term and hope for more community minded tenants the following year.

Councillor L Brown explained there was a complicated planning history attached to the site, as briefly outlined in the Committee report and Parish Councillor G Holland, however, she would give a little more detail because it would be important in the Committee's later determination. She noted that an application in 2016 by the Applicant to demolish and rebuild the property was refused and an Appeal dismissed, with the Inspector citing City of Durham Saved Policies H10, H13 and Q8. She noted an application in 2019 to turn The White House into a five-bed HMO with four parking spaces was approved. She added that in early 2020 there was a new application to build two five-bed HMOs on the garden and this was refused in April, again citing policies H10, H13 and Q8 and NPPF paragraphs 70, 122 and 127. It was noted that very shortly afterwards, the current application was submitted for one HMO with no change to the positioning of the one house within the curtilage of the garden.

Councillor L Brown noted the positioning of the house was still in breach of saved policy H10 which stated:

“Development of backland and tandem sites will not be permitted unless there is: 1. A safe and satisfactory access and adequate parking; and 2. The amenities of both the new and existing dwellings are not adversely affected; and 3. It is in keeping with the character, density, and scale of surrounding or adjacent development”.

She added that moving on to consider saved policy H13, which stated:

“Planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them”.

Councillor L Brown noted that saved policy Q8 also protected residents' amenity in part 2 and the character of the area in part 7. She added that if the development went ahead it would have a permanent negative effect on both the area and residents' amenity. It was added that the saved policies mentioned were supported by NPPF paragraph 70, which urged that we *“resist inappropriate development of residential gardens”*; paragraph 122 which stated that *“an area's character and setting”* must be maintained; and paragraph 127 which stated that a development must be *“sympathetic to local character”*.

Members were reminded that paragraph 45 of the report referred to the application as a no car development with only the four parking spaces associated with The White House and Councillor L Brown noted this was why Highways had withdrawn their previous objections. She reminded the Committee that times had now changed with Covid now meaning people were unhappy with using public transport and she explained there were steep hills between the application site and the University, approximately one and a half miles away. She noted that residents were very worried that 10 occupants may well bring with them 10 cars, leading to overspill parking within nearby streets, which already had parking problems. It was noted that if you add to that visitors' cars and delivery vehicles turning to and from the busy A167 then there was a safety issue. Councillor L Brown noted Saved Policy T1 stated that permission would not be granted for development which would have a significant effect on the owners of nearby properties and a detrimental effect on highway safety.

Councillor L Brown noted that while she found it awkward to disagree with Planning Officers, however, she thought that paragraphs 24 and 25 and 112 of the Committee report were based on an erroneous premise.

She noted that Paragraph 48 of the NPPF stated that the degree of weight that could be given to emerging plans depended upon the extent to which they met three criteria: firstly, the plan must be in an advanced stage of preparation; secondly there must be few, insignificant or no objections; and thirdly the policies must be consistent with the framework.

Councillor L Brown explained that the Neighbourhood Plan 100 percent met all three criteria and decision statement has been issued and the Plan was going to Referendum.

She noted the County Plan already met criteria one and three and when the Inspector agreed the main modifications, which would happen before the end of the year, it too would carry considerable weight. It was explained that it did now carry some weight where there were no unresolved objections, and therefore Parish Councillor G Holland's citing of policy 16.3 regarding student percentages, which had no outstanding objections against it, was a valid point. She noted that the Neighbourhood Plan policies which were relevant to the application had already been cited within the report, with the most important being Policy H3 which stated that development must enhance the character and the distinctiveness of the area and must be appropriate in scale, density, massing and layout appropriate to the area. She noted that again that policy was supported by the appropriate paragraphs of the NPPF and added that a building on the site would breach the terms of that policy.

Councillor L Brown noted that it was possible for Officers to make mistakes, the withdrawal of the first item on the agenda being proof of that. She added that given the depth of opposition against it, and the policies it breaches, the application comprehensively failed the balance test of NPPF paragraph 11. She noted she found it difficult to see how Officers could recommend the application for approval and she urged the Committee to refuse it on the grounds that the application was in breach of saved policies H10, H13, T1 and Q8, NPPF paragraphs 70, 122 and 127, Neighbourhood Plan policy H3 and CDP policy 16.3.

The Chair thanked Councillor L Brown and asked Councillor E Scott, Local Member to read out a statement on behalf of a local resident, Ms Helen Clark, who was unable to attend the Committee.

Councillor E Scott thanked the Committee and read the statement from Ms H Clark:

“Our family home, Langdale, is next door to the White House and we will be badly affected if this proposed HMO is allowed. I am also speaking for all our neighbours. There have been 47 objections and no support whatsoever for this application. Last year, the developer converted The White House from a family home with good neighbours into a five student HMO.

The students have lacked consideration. Bins have been left out for days on the frontage to the main A167 and, although fully aware, the applicant has done nothing to control this. During lockdown the students hosted a garden party for others across Durham, with complete disregard for the elderly and vulnerable who were shielding around them, and keyworkers either side. This thoughtless behaviour continued even after the University Vice-Chancellor became involved and warnings were given, but they just turned up with suitcases during the travel ban and persistently entertained non-household members. From the outset, there's been no effective management plan at all. The burden for this has fallen to the community.

The developer cleared the garden of beautiful mature trees and, this year, applied for two further HMOs. This was rightly refused, for, amongst other things, being backland development. This Committee and the Inspectorate also refused a previous application for the same reason. This, essentially identical, application is for the same backland and carries with it all the same problems.

Concentrating at least 10 students, and their inevitable guests, in a quiet residential back garden, with families and young children on three sides and elderly residents trying to enjoy a peaceful retirement in Neville Dene, is detrimental to our community. There is no need for HMOs to further encroach this area, especially as it is not even near the university. It brings no benefit to Neville's Cross.

This residential area has long rear gardens, stretching to the Durham Green Belt. It is on the Neville's Cross Battlefield area and is much valued by us all for its beautiful, unobscured outlook over rolling countryside, its sense of space, and its natural, historic environment. This proposed HMO would spoil all of this. Not only is this HMO off the build line in the garden, it is much closer to our boundary than The White House.

At Appeal in 2017 the Inspector said:

"In comparison with The White House, Langdale occupies a relatively narrow plot and consequently the outlook benefits considerably from the sense of space afforded by the lack of development to the rear of The White House".

That sense of space, that outlook would be lost if you grant permission for this building. We would look out on bricks and tiles rather than attractive open countryside. My family would also suffer from a significant loss of light and privacy by overlooking of our garden and overshadowing of our garden seating area, with smells from the bin enclosure right next to it.

Add to this the noise from the increased comings and goings of so many households, all forced to pass the pinch point between our house and the White House; the late-night taxis and takeaway deliveries; disturbances outside our back-bedroom windows, which disrupt our children's sleep; and the increase in antisocial behaviour. The applicant is aware of all of these problems but has ignored them. Indeed, the applicant breached planning conditions last year which had to be enforced.

Furthermore, the plans are wrong. No part of the 300 year old hedge has yet been replaced by a fence. To allow this historically important hedge, shown on ancient maps, to be destroyed, with so many trees and hedges already removed, would further harm our environment. Planning conditions 1 and 5 in the Officer's report are therefore contradictory. Quarry House Lane would also suffer detriment to their amenity and outlook, as would the western public viewpoint.

To create 5 additional households, with no parking provision, contrary to Policies H10 and T10, would displace cars to the surrounding streets or the verges, to the disadvantage of residents. There would certainly be more traffic to the site from the busy A167. It is terrifying, turning into St Monica opposite, to see a car coming headlong in the same space to turn into The White House. The inability to see if parking spaces are full would force cars to reverse up the long, narrow, access onto the fast-moving A167, over the National Cycle Path and pavement used by hundreds of children a day. Pedestrians on the unlit access also could not escape. These are accidents waiting to happen and the odds would be doubled.

Finally, we hope that you will use the relevant and available policies to protect our home, our amenities and our neighbours, and prevent the unnecessary loss of one of the few remaining areas with characteristic long rear gardens from being built over purely for financial gain. We ask Committee to refuse this application”.

Councillor J Robinson left the meeting at 11.02 am

The Chair thanked Councillor E Scott and asked Mr Frank Stephenson, the Applicant to speak in support of his application.

Mr F Stephenson noted he had listened to all that had been said and understood that it was an emotive application, however, he wished to give some background to the application. He explained that arriving at the current proposal had taken almost five years, with a lot of consultation and consideration. He noted that Council Officers recommended the application for approval and he was confident that he was applying for development that should be approved by the Council.

He explained that in 2015, prior to purchasing The White House, he met with Senior Planners to discuss permission to build a second house of similar proportions to The White House, to the west of The White House in line with nearby Neville Dene. He reiterated that this was back in 2015, with another option being to demolish the existing house and build a large family home, with both options being considered feasible. Mr F Stephenson noted that upon purchase he opted to build a family home on the large, almost half acre site with a design such to accommodate his family of five as well as his wife's mother and disabled father who sought to relocate due to ill health.

Mr F Stephenson noted that, as Councillors had already stated, in 2016 neighbours vehemently objected to the proposal and the plan was subsequently rejected. He added that in 2017/18 he sought tenants for the house, and he had meetings with various families, some as large as seven or eight person families, and eventually it was decided to help a single mother with two children. He noted that one of the objections was that he was purely in the matter for financial gain, however, he provided the house at a significantly reduced rent over the long term, a 75 percent reduced rate compared to prices today. Mr F Stephenson explained that sadly the tenant left after less than two years, giving reasons including intimidation by neighbours. He added it was upsetting that some neighbours had engaged in that, with one that had trespassed having been given a Police warning for criminal damage.

Mr F Stephenson noted that in 2018 an application was made for change of use for The White House from C3 to C4 HMO use, as the family had moved out and that was thought to be the best option. He added that despite the neighbours' objections permission was granted and the house had since been occupied by studious, quiet and law-abiding tenants. He noted he had not received any objections directly or through the managing agent for the property and added a professional gardener maintained the gardens and the house was kept in good order. He added that there was ample parking and turning space and with no need to reverse up the road, noting there was only one previous tenant that had a car, with his belief being that currently none of the students had a car. He added in contrast he noted neighbours had their cars parked on their lawns, on grass verges and elsewhere around, noting his property was not like that.

Mr F Stephenson noted in 2019 he returned to the initial option of building another house, which had been discussed with Planning in 2015. He added that he consulted with Planning and Highways on site in Autumn 2019, with Highways saying they would not object to two houses on the site, based upon them being non-car houses, HMOs.

He noted that Planners agreed support for one house, in line with the current proposal and, taking on board the comments from Planners and the Inspector from the previous application for a large family home, the current proposal was for a much smaller house. He explained the previous proposals represented around 17 percent of the site, the current proposal being only around 4 percent of the site and was located much further away from neighbours' properties and was cleverly designed using the natural slope of the land to make it relatively inconspicuous, and it did not overshadow.

Mr F Stephenson noted he had worked very hard to be accommodating with the proposal and explained that the plot was around 35 metres wide, almost double that of the neighbouring property, Langdale. He added that the Officer's report stated that the remaining garden after the proposed house was built would still be around 40 metres long and 20 metres wide, still wider than the neighbouring Langdale which was 18 metres wide. He added the proposed property would be 30 metres away from Langdale, 27.5 metres away from The White House, with the bin store being 20 metres away from neighbours and would be surrounded by a hedge and fencing. He explained that the site density was around 12 percent, compared to an average of around 23 percent for neighbouring properties and added that the site was screened by trees, hedging and fencing and he would put more landscaping in place if required and the property would have better parking and turning facilities, yet would have fewer cars.

Mr F Stephenson noted that he had done an awful lot and whilst other houses he owned were rented to families and professionals the previous tenants at The White House were studious, quiet and law-abiding and he believed the same of the current tenants. He noted in conclusion that the proposals were recommended for approval by the Council's Officers and he was confident that he was applying for a development that should be approved by the Council and he hoped with the detail and background provided that Members would give their approval.

The Chair thanked Mr F Stephenson and asked the Planning Officer, GS to respond to the points raised by the speakers.

The Planning Officer, GS noted he would answer some aspects and he would defer to the Highway Development Manager to respond to highway and parking issues and to Graeme Smith, Policy Team Leader from the Spatial Policy Team to respond in terms of the emerging CDP. In response to the comments from Councillor L Brown relating to the NPPF Paragraph 11 balance test that was used in some circumstances, he noted that this would take place where Local Plan policies were considered out of date and were not consistent with the NPPF.

He added that in this case, while the Local Plan was out of date, the policies were consistent with the NPPF and therefore Paragraph 11 was not engaged and therefore there was no requirement to weigh the benefits of the proposal against any adverse impacts.

The Planning Officer, GS noted that in terms of weight afforded to the Neighbourhood Plan, he noted that Councillor L Brown was correct that significant weight could be afforded to the Plan and the Committee report did indicate that weight could be given to the Plan. He added that as he Inspector's report had been received and a decision statement had been issued by the Council confirming that Plan could proceed to referendum, and therefore significant weight could be afforded to policies S1, H3, T1 and T3 of the Durham City Neighbourhood Plan.

The Planning Officer, GS noted that in respect of the 2016 application referred to by speakers it was a significantly different application to that before Committee, the 2016 application being for the demolition of The White House and the erection of a replacement dwelling which was of considerably larger scale to the current application. He noted the proposed dwelling in the current proposal was single storey when viewed from the east, with the 2016 proposals being for a nine-bedroom property, two storey, if not higher, and sited much closer to the rear elevation of Langdale so when objectors have cited loss of outlook and the sense of space, then the impact of the 2016 proposals would have been very different as it was much closer to the rear elevation. Accordingly, the Planning Officer, GS noted that he felt the two applications were not comparable.

The Planning Officer, GS noted the hedgerow between the application site and Langdale was mentioned and he explained that plans showed the existing fence, as also shown in the site photographs alongside the existing vehicle turning area, and no changes to that hedge or removal of the hedge were proposed, and while plans may suggest the hedge may be impacted, it was not the case, with existing and proposed plans being the same in that respect.

The Planning Officer, GS noted the difference between the current application and the one previously refused was that the previous application was for two houses, not one. He noted as it had been mentioned by objectors and he would clarify in terms of backland development and the impact upon the character of the area, with two houses being such they would have resulted in the complete loss of the elongated shape of the garden. He added that the current proposal for one property would still have an impact upon the openness of the garden, however, the elongated shape would still be legible and the majority of the garden would remain underdeveloped, therefore it was not felt that the application should be rejected on those grounds.

In respect of residential amenity, the Planning Officer, GS noted there was a relatively low proportion of student properties in the area currently and while there was some impact in terms of an individual student property, the more significant impacts tended to occur when there were lots of student properties within an area, where the proportion was quite high. He noted that it was not the case in terms of the application before Committee, the proportion of student properties was relatively low and the restrictions on parking, although with no guarantee that there would not be any vehicle movements associated with the new dwelling, meant that those would be limited and therefore the noise generated would also be limited.

The Highway Development Manager reiterated that the proposed development would not provide any parking and that was contrary to Durham County Council's Parking and Accessibility Standards. He added, however, that the provision of parking and the location of the site were weighed and given the location of the site, on the A167, it was a sustainable location in terms of public transport, with bus stops close to the site. He noted that his original concerns as regards the development of the site were that vehicles travelling south on the A167 that needed to turn right into the site needed to utilise the opposing right turn lane into St. Monica Grove. He added that therefore any increase in traffic movement would increase the risk of a head on collision, although he noted there had not been any accidents of that type at the location thus far and those types of vehicle movements did occur at the moment. The Highway Development Manager explained that if there was an increase in vehicle movements, that would result in an increased risk. However, he noted in order to restrict the traffic movement, the Applicant had come forward with a development where there was no parking so it was hoped there would not be a significant increase in those right turn movements. He noted it was a judgement call and that he held the view that there was enough space within the site to meet the current demand and that any increase in demand, should there be an increase in demand, would not affect the A167 as, generally speaking, residents did not park on the A167. He noted the issue of parking on the footways along the A167 close to the property had been raised, and he added there was a legal process that could address that issue. He noted that if there were any additional parking demands arising from the proposal, which he did not think would be significant, there was a potential that would arise in adjacent streets. The Highway Development Manager concluded by noting, on balance, that was not totally unacceptable and therefore he had no objections to the application.

The Policy Team Leader noted he would provide confirmation of the current status of the CDP and also a view on what that would mean in attributing weight to the policies within the CDP at the current time.

He noted that currently, the consultation on the proposed modifications ended on 21 July 2020 and all the representations received as part of that consultation had been sent to the Inspector along with the Council's responses to those comments received. He explained that the next step within the examination of the CDP was for the Inspector to consider all of the representations, and the Council's responses to the main issues, before then publishing and issuing a final report on the CDP. The Policy Team Leader emphasised that the final report on the CDP from the Inspector had not yet been published. He noted that although the CDP was at an advanced stage of its preparation, it was considered at this time that no weight should be attributed to the policies within the CDP. He also noted there had been some mention of NPPF Paragraph 48 and agreed this was the relevant policy to inform the position. The Policy Team Leader explained that Paragraph had three considerations, firstly the stage of the emerging plan, which was noted to be at an advanced stage, however, the view was that it should only be given weight once we knew what the sound plan looked like after comments from the Inspector on the CDP and its policies. He noted it was within the Inspector's gift to make further modifications to the CDP at this stage and those would come out through the final report. The Policy Team Leader noted the second consideration related to any unresolved on policies within the CDP and he added that, as part of the consultation on the main modifications which closed in July, a number of comments were received as part of that consultation, some in support, some in objection, some wanting further modifications. He noted that in particular there were a number of comments relating to the student policy that wanted changes to that policy. Accordingly, the Policy Team Leader noted there were unresolved objections to that policy, and he would expect the Inspector to take a few on that issue and arbitrate within his final report. He noted that the final point of Paragraph 48 was the degree of consistency of the emerging CDP with the NPPF and he again noted that this would be ultimately something the Inspector would determine in his final report. The Policy Team Leader concluded by noting that for those reasons no weight should be attributed to the emerging CDP policies at the current time, and therefore the relevant policies for use in determining the application would be the relevant saved policies within the City of Durham Local Plan as identified by the Officer in his report, those relevant policies within the NPPF, and the Council's Interim Policy on Student Accommodation.

The Chair thanked the Officers for their responses to the points raised by the speakers and asked the Committee for their comments and questions.

Councillor P Taylor asked if it could be confirmed as regards whether the Council could control vehicles at the site, noting five bedrooms, therefore potentially five vehicles if each person had a vehicle.

The Highway Development Manager noted there were no parking controls in that location, it was outside of the City's parking control zone and therefore if there were five vehicles arising from the development, they would need to seek legal parking elsewhere within the locality. Councillor P Taylor asked if students took up occupancy and were intent upon having a vehicle and parking on site, did the Council have any powers to stop them. The Highway Development Manager noted there was a condition to prevent additional parking space being created within the development. Councillor P Taylor asked, if the Council approved the development, what was stopping the students bringing their vehicles and parking somewhere within the site. The Highway Development Manager noted that the layout of the site was such that the applicant could not create any further parking spaces in addition to the condition to secure that. The Chair noted she felt the point Councillor P Taylor was making was not as regards what was permitted on the site, rather what could be done if students chose to park on land at the site that was not designated for parking and asked whether the issue would then be passed on to other Council sections, such as the Neighbourhood Wardens. The Highways Development Manager noted that as part of the development there was fencing to prevent parking outside of the designated areas on the site. The Planning Officer, GS noted that there were three conditions within the report that looked to address the issues as raised by Councillor P Taylor. He noted they were conditions: 7 - fencing around the parking area to prevent cars carrying on to the lawn; 8 - removal of permitted development rights for new hardstanding; and 15 - no vehicles shall be parked within the curtilage of the dwelling hereby approved at any time. Councillor P Taylor noted the position of the Council and noted it would be seen how the situation would turn out.

Councillor M Davinson noted condition 4 referred to information to be brought forward relating to the bin store, however, it appeared from comments from the Officer and Applicant that the location and information was known. He also noted condition 14 referred to the hours of construction and he added that an issue he often raised at Committee, along with Councillor L Brown, was that of a Construction Management Plan (CMP) to be included within recommendations. He noted there did not appear to be much of a CMP within the recommendations and, given the levels of objections by residents and the impact upon the numbers of people driving along the A167, he asked if there were further conditions required, for example to instruct that all construction traffic turn left into the site.

The Planning Officer, GS noted that in relation to the bins, the site plan showed the location of the bin store, however, it did not give details in terms of the height of the store or the materials to be used for the enclosure and therefore that information would be required.

He added that should Members feel a CMP was required in terms of parking and materials on site that could be added and noted he would defer to the Highways Development Manager as regards any requirement for a left turn as mentioned by Councillor M Davinson. The Highways Development Manager noted that he would be happy to see a CMP if Members wished, however, he did not feel it was absolutely necessary given the scale of the development and the number of deliveries to the site. He added that there were a number heavy good vehicles (HGVs) turning across the A167 at various points in any place and therefore during the construction period they may be a few more.

Councillor B Coult echoed the comments of Councillor M Davinson in terms of a CMP, noting that section of the A167 was extremely busy, was near to Durham Johnson School and was utilised heavily. She noted she had serious concerns that if there was not a CMP in place that there could be issues with HGV deliveries potential putting people at risk on the highway and she felt it was imperative to have a CMP in place.

Councillor P Taylor noted his thanks to Councillor L Brown, E Scott and Parish Councillor G Holland for their local knowledge and all the information they gave the Committee, while also noting he was well aware of the history of the site and the various applications. He added that the type of application before Committee disappointed him greatly, noting that he felt the beautiful residential area, overlooking the Deerness Valley would be vandalised and he felt sympathy for the local community. He added he felt the building would be inappropriate and was a business opportunity in an area that should remain as a residential area. He asked if the application was approved what the percentage of HMOs would be and noted there were 400 student beds nearby at Duresme House. He reiterated he regretted the application and added he felt the Council could not enforce or put rules against who could and could not park and even if students did adhere to the conditions, they could park on the public highway. He concluded by noting he felt it was the wrong scheme in the wrong place and that if approved it would change the whole dynamic of the area, with the proposal being a business opportunity that would result in two student properties right in the middle of a residential area.

The Planning Officer, GS noted the current proportion of HMOs was one in seventeen, equating to 5.9 percent, a new property increasing that to two in eighteen, equating to 11.1 percent. Councillor P Taylor noted that was above the 10 percent.

Councillor D Freeman noted he was also a Member of the City of Durham Parish Council; however, he was not on their Planning Committee and had no part in the objections put forward on the application.

Councillor D Freeman noted that felt, like Councillor P Taylor, that it was a very disappointing application and had no doubt that there would be parking problems, and clearly there would be issues for neighbours with one HMO there at the moment which the owner says is not causing any problems at the moment, with the neighbours saying it was causing massive problems. He noted the proposals were such that there would be two HMOs right next to each other which he felt would be more than twice the problem. He added he disliked backland development and agreed with Councillor P Taylor in that it would destroy the environment in that location by building a house. Councillor D Freeman noted that needed to be balanced against the fact there did not appear to be the policies in place that he would like to be able to reject the application. He noted he was no fan of HMOs, however the existing policy only allowed for rejection if there were more than 10 percent and Members had been told the current proportion was less than 10 percent. He reiterated he felt it was a disappointing development and that it would damage the local area.

The Chair noted no further questions and asked if any Member wished to propose a motion in relation to the application.

Councillor M Davinson proposed, with the inclusion of a CMP to try and ensure residents were not adversely impacted by the construction, that the application be approved, subject to conditions as per the Officer's report. Councillor D Brown noted the report was a comprehensive one and on balance he would support the approval of the application.

Councillor M Davinson proposed the application be approved, he was seconded by Councillor D Brown.

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the Officer's report together with an additional condition relating to a Construction Management Plan.

Councillor P Taylor wished for his concerns to be noted in respect of the application being presented to Members without a construction / traffic management plan being included within the conditions, especially given the location of the site and for all the reasons as raised within the debate.