

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 13 October 2020** at **9.30 am**

Present:

Councillor J Clark (Chair)

Members of the Committee:

Councillors J Blakey (substitute for I Cochrane), D Brown, K Corrigan, B Coult, M Davinson, D Freeman, K Hawley, S Iveson, A Laing (Vice-Chair), R Manchester, J Robinson and P Taylor

Also Present:

Councillors E Huntington, I McLean and R Ormerod.

1 Apologies for Absence

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

2 Substitute Members

Councillor J Blakey substituted for Councillor I Cochrane.

3 Minutes

The minutes of the meeting held on 8 September 2020 were confirmed as a correct record by the Committee and would be signed by the Chair.

4 Declarations of Interest

Councillor D Freeman noted in respect of Item 5a - DM/19/02199/FPA and DM/19/02200/LB - 21 Market Place, Durham, he was the Local Member and a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the applications.

The Chair, Councillor J Clark declared an interest in Item 5d - DM/20/01710/FPA - Garage block to the west of 12 Severn Close, Peterlee as a member of the Values Board of believe housing (the Applicant) and noted that she would leave the meeting during the consideration of that item.

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

a DM/19/02199/FPA and DM/19/02200/LB - 21 Market Place, Durham, DH1 3NJ

The Planning Officer, Leigh Dalby, gave a detailed presentation on the report relating to the abovementioned planning applications, 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 applications were for planning permission and listed building consent for the erection of part two storey, part single storey extension to rear to form 1no. self-contained 5-bed house in multiple occupation (C4) to 1st and 2nd Floor and additional retail office, storage and welfare facilities to ground floor and were recommended for approval subject to conditions.

The Planning Officer, LD noted the application site was located within the market place in the centre of Durham and referred to aerial photographs and plan of the area. He noted there would be no alterations to the existing frontage or access points and that there were already a number of existing residential units within the building, with the application seeking to add additional units. He explained that there was an existing rear, 20th Century extension and derelict garage block, with redevelopment taking place under permission from a previous scheme to redevelop the rear and that development would serve to screen the application site. Members noted the view of the roofline as viewed from Millburngate Bridge and were referred to proposed layout plans.

In reference to statutory responses, the Planning Officer, LD noted that the City of Durham Parish Council had submitted objections to the applications, and while had been included within the public responses section of the report in error, rather than within the statutory responses, that error had not prejudiced their submission. He explained the City of Durham Parish Council submitted further objections to the application following the publication of the Committee report, with further detailed comments in relation to the County Durham Plan (CDP) and student accommodation policies.

The Planning Officer, LD noted no objections to the application from technical consultees, subject to appropriate conditions. In terms of public responses, he noted objections from the Durham World Heritage Centre Coordinator and the City of Durham Trust. He explained they related to the impact on the World Heritage Site (WHS) and the poor appearance of the design. It was added that a further submission had been received from the City of Durham Trust prior to the meeting, adding further details to their objections to the application, albeit not new grounds for objection, and they were not considered to have altered the Officer recommendation.

In relation to the principle of the design, it was noted the Council was in a transitional period in terms of the emerging CDP, with significant weight being able to be afforded to it, however, the saved Local Plans were noted as still being the starting point for consideration of planning applications. The Planning Officer, LD noted that City of Durham Local Plan policies H8 and H9 were relevant to the principle of whether student accommodation was acceptable in the proposed location, with policy H8 permitting the use of upper floors of commercial units, provided they do not have a detrimental impact on the function, use, character and appearance of an area, and with the extension being commensurate with the host building. He added it was felt that the proposed development was in line with this policy. It was noted that policy H9 related to houses in multiply occupation (HMOs) in the context of sub-division or conversion existing dwellings and permitted the use as HMO provided the use does not impact the amenity and character of the area. As the upper floors were already in use as an HMO it was not considered that policy H9 was wholly relevant, although it was not considered that the proposal would have a detrimental impact upon amenity or character as such have been acceptable in terms of policy H9.

The Planning Officer, LD noted the Interim Policy on Student Accommodation was relevant, however, carried less weight than the saved policies within the City of Durham Local Plan, and had been given similar weight to supplementary planning documents in the past by Planning Inspectors. He added that records showed that 66.7 percent of properties within 100 metres of the application were student lets, greater than the 10 percent set out within the Interim Policy on Student Accommodation, however, as this was within the commercial heart of the city and was on the upper floor of a commercial unit, it was not felt that there would be fundamental or unacceptable impact from the proposals on the character of the surrounding area. He noted that, in light of various planning appeal decisions, Planning Inspectors had noted concentrations of 61.8 percent or above was deemed to be the level whereby an area was already imbalanced and therefore these figure was adopted by the Local Planning Authority as the upper threshold by which further student accommodation would not create further detrimental harm in line with point e) of the Interim Policy.

The Planning Officer, LD noted Officers were aware of the recent appeal decision where and Inspector dismissed an appeal where there was a figure of 68.9 percent student properties within 100 metres, however, the 61.8 percent threshold was accepted following numerous appeals decisions.

He added that the CDP was at an advanced stage and policies could therefore be afforded significant weight, with policy 16 being relevant in terms of student accommodation. He noted it was similar to the Interim Policy in terms of the 10 percent threshold, however, it had an upper threshold of 90 percent, together with situational based exemptions for proposals where commercial uses were prominent. The Planning Officer, LD noted that while figure was above the 10 percent threshold and lower than the 90 percent upper threshold, the property was in the commercial heart of the city and therefore policy 16 would support student accommodation proposals within the city centre where non-residential uses were dominant. He added that the proposals to upper floors above retail would not impact the amenity or character of the area and therefore was acceptable in line with policy 16.

In terms of the impact on designated and non-designated heritage assets, the Planning Officer, LD explained that these related to the WHS and listed building and were detailed within the Committee report, with policies E21, E22 and E23 of the draft City of Durham Local Plan, policy H2 of the City of Durham Neighbourhood Plan and policy 45 of the emerging CDP all noting that new developments require the proposals to reserve, sustain or enhance the heritage assets. He added that the Council's Design and Conservation Team had carefully considered the proposals and concluded the extension would not have a detrimental impact on the significance of the listed building nor harm the character, appearance or significance of the Conservation Area or the setting of the WHS and the adjacent assets.

The Planning Officer, LD noted the variation in design within the area and added that the proposals were not felt to be appear incongruent with the existing setting. He added that when viewed from Millburngate Bridge, the extension would not be visible due to the existing built environment and therefore would not have an impact upon the view towards the WHS.

In respect of the impact on residential development, the Planning Officer, LD explained it was not felt the proposals represented any detrimental impact due to separation distances and additionally there were no highway safety concerns. He noted that Ecology noted no objections subject to a condition relating to bats and all other issues could also be mitigated through condition. He concluded by noting that the proposals were felt to be in line the saved, interim and emerging policies, did not have a detrimental impact upon the WHS, Conservation Area or Listed Building and protected residential amenity of existing and future occupiers and therefore were recommended for approval, subject to the conditions set out within the report.

The Chair thanked the Planning Officer, LD and noted that Parish Councillor Roger Cornwell, representing the City of Durham Parish Council, was in attendance to speak in objection to the applications.

Parish Councillor R Cornwell thanked the Chair and Committee and explained that it was a time of transition, with the CDP being considered by Cabinet tomorrow and noted that, barring something extraordinary, the CDP would be recommended for adoption to the full Council a week later. He noted that adoption would happen immediately and that from 21 October the CDP would be “the only game in town”. He added that the new Plan therefore had very considerable weight and Committee had to decide how much weight to give to it, and how much weight to give to the Saved Policies of the City of Durham Local Plan, which we would soon be bidding farewell to. He noted that fortunately both plans should, in the view of the Parish Council, lead Committee to the same conclusion, to refuse the two linked Planning Applications.

Parish Councillor R Cornwell noted there were two grounds for the Parish’s opposition: the level of student accommodation; and the impact on the WHS. He added that both the Interim Policy on Student Accommodation and CDP policy 16.3 agree in that a change of use to a student HMO would not be permitted if the percentage of properties benefiting from student exemption was more than 10 percent. He noted in this case the figure was 66.7 percent, almost spot on two-thirds. He added that both policies had an escape clause if the level of student properties was so high that the conversion of further properties would not cause any further harm, with the difference being that the Interim Policy did not put a figure on this and it had been left to a series of appeals where different Inspectors had allowed or disallowed various figures; with the new CDP setting it at 90 percent.

Parish Councillor R Cornwell noted surprise in reading the Officer’s report, with the sentence “*Inspectors have indicated that a concentration of 61.8 percent or above is deemed to be the point at which an area is already imbalanced*”. He noted Committee may well recall that it had considered that argument back in January in a case at 29 Lawson Terrace. In that instance the HMO percentage was 68.9 percent, slightly above that applying to the application before Members, and Committee refused that previous application. He added that Committee’s decision was upheld at appeal and in the current case, the HMO percentage was 66.7%, one-third of the relevant properties not let to students. He explained that the 29 properties at Clements Wharf, Back Silver Street, were between 50 and 75 metres from the application site and would be affected by the development. He noted the view of the Parish Council was you could not say that a site where one-third of the properties were not let to students was beyond saving.

Parish Councillor R Cornwell explained that Inspectors' decisions would vary according to the circumstances of individual cases and it was to counter that uncertainty that clause (h) of CDP policy quantifies the level at 90 percent. The reason for the modification required by the Inspector was "*To make the policy effective, by quantifying the point at which an exception to the 10 percent threshold can be considered alongside other factors in the policy*".

He noted that the Interim Policy had a standing less than that of the outgoing Local Plan and Planning Inspectors had said that its weight was akin to that of a Supplementary Planning Document. He added that the view of the Parish Council was that the certainty of the CDP, and the fact that its full adoption was only eight days away, outweighed the Interim Policy. He noted that the Committee's reason for refusal would be Policy 16.3 of the CDP, with two alternative approaches but with both leading to refusal.

In reference to the impact that the development would have on the WHS, Parish Councillor R Cornwell noted Mr Michael Hurlow would be speaking in objection and was a qualified Landscape Architect, a specialist in historic buildings and could speak better as regards those matters than he could. He concluded by noting the City of Durham Neighbourhood Plan had relevant policies to consider, including H1, H2, H4 and D6 adding as it had a decision notice issued it carried almost as much weight as if it had been to referendum.

The Chair thanked Parish Councillor R Cornwell and asked Councillor R Ormerod, Local Member, to speak in relation to the application.

Councillor R Ormerod thanked the Chair and Committee for the opportunity to speak and noted he had requested the application be considered by Committee some time ago. He added that he was glad that he had made the request as he felt it was right the issues were aired in public and that the issues that Parish Councillor R Cornwell had mentioned were heard. He noted his main concern related to the views of the WHS from Riverside Walk, noting he was very concerned as regards an adverse impact, having only recently got the riverside back for use by the people of Durham, providing a splendid place from which to view the WHS. He reiterated his concern that the applications would not improve that view and could quite possibly be detrimental to that view.

The Chair thanked Councillor R Ormerod and asked Mr Michael Hurlow, representing the City of Durham Trust to speak in objection to the application.

Mr M Hurlow thanked the Chair and Committee and noted he was a Trustee with the City of Durham Trust and was speaking in relation to the Trust's objection based on negative impact on the panoramic view of the WHS and Conservation Area and setting of a listed building. He added the Trust supported the Parish Council's objection relating to student accommodation.

Mr M Hurlow explained that the frontage and rear of the building already showed signs of poor maintenance, as evidenced from the photographs within the Officer's presentation, and had one of the worst shopfronts within the Market Place, being very discordant. He added the maintenance and painting of the rear and upper floors was not very good with two different sorts of discordant windows and therefore it was not showing very well at the present time. He explained that the condition of the rear area was an eyesore, and the approval for the lower development was granted in 2015 and the partial demolition of the garage had made the situation a lot worse and therefore there may be a long time with a clear view of the proposed development. He noted that the trees that currently soften the view were at threat due to their proximity to the series of retaining walls and terraces.

Mr M Hurlow explained that the buildings on historic streets often were double frontage with care taken of rear facades facing river, adding the two adjacent buildings show care in design with new extensions to Lloyds and WH Smiths being appropriate and well detailed, contrasting with the existing extension on the application building. He noted the existing extensions were very basic, with the Council's Design and Conservation Officer describing it as "*of limited interest that does not contribute in a particularly positive fashion*". He added that the Trust considered the extensions as being negative and felt that the Officer was struggling to justify something that was already poor.

Mr M Hurlow referred to the importance of the building, where it sat on the skyline, with the context of adjacent buildings within the panoramic views along the riverbanks and up to the WHS. He noted it was not yet apparent how that would be obscured or not from Back Silver Street, it already having a negative impact and with the relevant sections through and views not yet known. He added there were concerns as regards the WHS Statement of Outstanding Universal Value (SOUV) which dealt with integrity, authenticity and protection. He noted concerns from ICOMOS, advisers to UNESCO the organisation that looks after World Heritage Sites, in terms of the potential impact of development on the WHS in Durham and that the cumulative impact of smaller developments did add up and registered with other negative impacts.

Mr M Hurlow noted the proposed extension followed the same design style as the existing extension, which itself was considered to be poor.

He added this would be in an uncomfortable relationship in the skyline with the two adjacent, slightly better extensions. increasing its current negative impact. He noted the Trust felt it had no option other than to object and that objections were supported by failures against new CDP, Neighbourhood Plan policies, as well as previous Local Plan saved policies: CDP 45 and 46; Neighbourhood Plan S1, H1 and H2; and saved Local Plan policies E3, E6 and E21, E22 and E23. Mr M Hurlow concluded by noting that it was possible to imagine extensions adding positively, however it would need to be of considerable better design than the current proposals which were more typical of an extension to a smaller terrace property for student accommodation use.

The Chair thanked Mr Michael Hurlow and asked the Senior Committee Services Officer, Ian Croft to read out a statement on behalf of the applicant, Mr Terry Palmer, who was unable to attend Committee.

“The proposed extension provides more useable retail space for storage and welfare facilities, compared to the awkward series of small spaces contained within the upper floors of the building. The additional student accommodation is simply an extension to the current accommodation which covers all upper floors of the building.

With regards to the objections raised regarding the negative impact on the World Heritage Site, we would point out that the site to the rear of Numbers 19-23 Market Place is the subject of a Planning Permission for a 53 bed, 5 storey Student accommodation block, which will completely obstruct any views to the rear extension to Number 21 Market Place”.

The Chair thanked the Senior Committee Services Officer and asked the Planning Officer, LD to respond to the points raised by the speakers.

The Planning Officer, LD noted Councillor R Ormerod had referred to the time taken for the matter to come before Committee and explained that the requisite bat surveys had to be carried out over spring/summer period. He added that in response to points raised by Parish Councillor R Cornwell, paragraph 65 of the report set out the exemptions in terms of student accommodation, namely paragraph 5.170 of the support text to policy 16 of the CDP in respect of upper floors above retail properties. In respect of the comments from Mr M Hurlow, he noted works to the rear relating to the previously approved scheme had commenced and were being monitored in terms of compliance.

The Design and Conservation Officer, Lee Hall referred Members to the photograph of the rear of the property as viewed from Riverside Walk, as shown within the Case Officer’s presentation.

He explained that having attended the area the view within the Officer's presentation was the only one in which the site could be viewed in relation to the WHS with a distance of around 115 metres between the application site and the WHS. He noted trees in between and a lot of existing built development. He added the application was within a dense area of back land development, mainly twentieth century, that cascaded down to the riverside. It was explained that the developments were fragmented and varied in terms of scale, massing, design and materials, albeit with some cohesive elements. The Design and Conservation Officer noted Mr M Hurlow's statement that some of the extensions were better than others. He added that within his original comments on the applications, while he had not stated that the existing extension was positive, he noted that did not mean it was particularly negative, rather he felt it sat more neutrally within the view. He added that therefore the proposals would increase the scale and massing, however, would not be an excessive increase and would not automatically draw undue attention or prominence to the extension within that view. He noted that, as Mr M Hurlow had stated, the form and design followed the existing design and therefore Officers' view was that it would have a neutral impact, conserving and maintaining significance and setting. The Design and Conservation Officer noted the photograph showed that even if the proposals represented an increase in scale they would not challenge or compete for attention with the cathedral or castle and would not look unsightly or detract from the public's visual experience of the WHS and therefore while the development would impact within its setting, it would not necessarily be a harmful impact. He concluded by noting that outstanding universal value was a key consideration, with the main one being the visual drama of the cathedral and castle and their relationship with the Framwelgate Bridge and the riverside, and that Officers did not feel that the proposal would harm that aspect of the outstanding universal value of the WHS.

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

Councillor D Freeman noted he has some concerns in terms of the applications and agreed with comments in respect an existing poor quality extension with the proposals appearing to be adding to the poor quality, not seemingly being fit for Durham City and the WHS, which itself was more visible as a consequence of the now completed works at Riverside Walk. He added he felt the proposals would not enhance the conservation area and in many ways they were detrimental. He noted concerns as regards the trees to the rear of the property which were beneficial in screening the site, and their potential loss.

Councillor D Freeman explained he had not seen evidence that the new 55-bed student development, previously approved, was going to be build and noted it was possible the whole market for purpose-built student accommodation could collapse with the failure to attract foreign students in years to come to Durham University. He noted that the 10 percent threshold was clearly breached by the application and while the Council had a view of the 61.8 percent figure, a Government Inspector had decided that figure was not suitable for Durham as that figure was now replaced with 90 percent within the new CDP and therefore it was not sustainable for the Council to hide behind the 61.8 percent figure. He noted the recently upheld appeal as mentioned by speakers with a figure of 68.9 percent and therefore felt the Committee did have grounds to refuse the applications in terms of the Interim Policy on Student Accommodation. He added that in claiming the area was commercial did not imply that it did not matter in terms of residents and noted that there was a block of flats to the rear of the applications, Clements Wharf, and people did live there all year round, the area was not just all students. He explained that therefore it was as residential an area as anywhere else within the city and asked for comments from Planning Officers in terms of the weight that could be given to the Neighbourhood Plan in decision making for the Committee at today's meeting.

Councillor M Davinson asked for clarification as regards the trees mentioned by the speakers. He noted he had visited the site previously in connection with the other application mentioned and asked if the Officer could explain if there were any Tree Preservation Orders (TPOs) in place, where the trees were in relation to the application site and noted a more recent site visit may have been of some benefit to Committee, however, understandable in the current climate.

Councillor P Taylor noted he agreed with the comments from speakers as regards the application, adding he was disappointed to see the application and use of the phrase "*not necessarily of detrimental impact*" and added he wanted no detrimental impact and would want to see the city enhanced and improved by applications. He noted the quality of the view of the WHS and Conservation Area and felt it was not acceptable to permit anything that did not improve or enhance this.

The Planning Officer, LD noted that there were not TPOs in place, however, the trees were protected by virtue of being within the Conservation Area. He added that in granting permission, permission would be granted in terms of the removal of trees as identified to be removed on the plans. Councillor M Davinson asked whether the impact of the development on the roots of the trees had been taken into account.

The Planning Officer, LD noted the relevant parties had been consulted in terms of trees, however, as the trees would be removed a root protection area would not be required. He added colleagues from Ecology had not objected to the removal. The Area Team Leader (Central and East), Sarah Eldridge noted that the plans did not show trees and upon checking the application file, there were no trees identified within the application boundary and therefore no trees that would be influenced or affected by the proposed development. Councillor M Davinson noted some confusion as if there were no trees within the application site, why had speakers mentioned trees as being an issue.

Councillor J Blakey noted upon looking at the application she felt there would be a visual impact and she agreed with the comments of the City of Durham Trust that it would be of a poor quality and development should be highlighting what was within the city, not bringing it down.

The Chair asked if any Member wished to make a proposal in relation to the applications.

Councillor D Freeman moved that the applications be refused as they were contrary to the Interim Policy on Student Accommodation, being above the 10 percent threshold and also taking into account CDP policy 16 in terms of a 90 percent upper threshold. He added he felt the applications were also contrary to saved Local Plan policies E3, E6 and those relating to the Conservation Area, policies 16, 44 and 45 of the CDP and policies H1, H2, H4 and D6 of the city of Durham Neighbourhood Plan.

Councillor P Taylor noted he would second the refusal of the applications adding he felt they were also contrary to saved Local Plan policy H8, character and appearance of the city, noting we should be looking to improve and enhance and make the city look better, not detract with the same old bland facades which he felt would have a detrimental effect.

The Solicitor – Planning and Development noted he would ask the Senior Policy Officer – Spatial Policy, Zoe Lewin to speak as regards clarification in terms of policy, however, he would first note the differences in respect of the Interim Policy on Student Accommodation and policy 16 within the CDP. He explained the main difference brought to Members' attention was the 90 percent upper threshold within CDP policy 16, and with no specific percentage within the Interim Policy it was therefore a matter of judgement. He added that further to the 90 percent upper threshold, policy 16 of the CDP set out a separate exception in terms commercial use at the ground floor and use for student HMO on the above floors.

He noted that Officers felt that exception was in play and required consideration, rather than just the narrow consideration of whether the saturation point in terms of HMOs had been reached. The Solicitor – Planning and Development noted there was clearly an issue in terms of preserving the character of the heritage asset or not, this being subjective, however, it was the view of the Design and Conservation Officer that it was of neutral impact, though Members were free to take a different view. He added that he had noted the refusal reasons in relation to saved policies, however, he was not comfortable in terms of reliance upon policy 16 of the CDP, specifically criteria (h) as criteria (i) of the same policy would support the applications.

The Senior Policy Officer explained that criteria (i) of policy 16 of the CDP did have supporting text that further explained how that criteria would be applied: *“there are some instances where a high proportion of residential properties are exempt from Council Tax charges in a given area because there is a low proportional of other residential uses, and example of this would be in town centre location where other uses are dominant and a small number of Class N exemptions equate to a large proportion. In such circumstances an HMO use may be appropriate, for instance in an upstairs flat above a retail unit. Such an approach would not impact upon the character of residential areas or the amenity of residents”*. She noted that explained the relevance of criteria (i) in terms of determining the applications before Committee.

With reference to weight to be afforded to the City of Durham Neighbourhood Plan, the Senior Policy Officer noted that a Decision Statement was issued on 17 August 2020 confirming that the Plan could move to referendum, subject to the plan incorporating recommendations changes set down within the Examiner’s report, and once restrictions relating to COVID 19 were lifted, currently no referendum could take place until May 2021. She added that Planning Policy Guidance had been recently adapted to take into account these restrictions where Local Planning Authorities had issued a Decision Statement detailing its intention to send a Neighbourhood Plan to referendum, noting significant weight could be given to a Neighbourhood Plan, in so far as material to the application. She added that the individual weight given to a part of a Neighbourhood Plan policy depended upon any changes required by the Examiner’s recommendations, in accordance with paragraph 48 of the National Planning Policy Framework (NPPF) as explained within the Officer’s report. The Senior Policy Officer noted that of the Neighbourhood Plan policies quoted, H4 and D2 could be given no weight at this point as the Inspector had requested that those policies be deleted from the Neighbourhood Plan. She reiterated that those issues had been set out within the Officer’s report as part of the decision making.

The Chair asked if Councillors D Freeman and P Taylor wished to make any further comments in terms of their proposal for refusal of the applications.

Councillor P Taylor noted he felt it was an issue of interpretation of policy, and he felt that the application was in a city centre, not a village or hamlet, and residents of a city tended to move around and therefore residents of a city used the whole area of the city and therefore having more students with the area would be detrimental to residents' amenity. Councillor D Freeman agreed with the comments of Councillor P Taylor and noted residents at Clements Wharf were only metres away from the application site and he felt those residents would be detrimentally affected by the proposed development.

Councillor J Blakey noted she was going to second the proposal for refusal; however, Councillor P Taylor had spoken in support first. She added that in some cases it was good to have a mix of residents and students, though sometimes there was a need for residents to have some space.

The Chair asked the Solicitor – Planning and Development to take the vote. The Solicitor – Planning and Development noted that the proposal was for refusal of the applications, planning permission and listed building consent, noting the reason relating to the impact of HMO would be difficult to sustain in relation to the listed building consent and therefore asked if Committee agreed that would not be a reason to be included on the decision notice relating to the listed building application.

RESOLVED

That the applications be **REFUSED** as it was considered that the proposed extension would by virtue of its design, scale, and location appear as an incongruous feature that would detract from the setting of a listed building and have a significant detrimental impact on the nearby Heritage Assets resulting in less than substantial harm to a designated heritage asset with no public benefit to outweigh this harm. The proposals were therefore in conflict with Policies E3, E6, E22 and E23 of the City of Durham Local Plan, Emerging County Durham Plan policies 44 and 45, and draft City of Durham Neighbourhood Plan Policies H1 & H2 , Part 16 of the NPPF and sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

And in relation to DM/19/02199/FPA it was considered that the proposed development to create a further C4 HMO unit for student accommodation in an area which does not meet the community balance thresholds as set out in the emerging County Durham Plan and the Interim Policy on Student Accommodation; would therefore result in further imbalance in the community and have a detrimental impact on surrounding residential and visual amenity and character of the area in contravention of Policy H9 and H13 of the City of Durham Local Plan, the Interim Policy on Student Accommodation, emerging Policy 16 of the County Durham Plan and paragraph 127 (f) of the National Planning Policy Framework.

Councillor J Robinson left the meeting at 10.45am

The Chair noted technical difficulties and would therefore suspend the meeting at 10.50am. The Meeting resumed at 11.08am with the Chair noting, as a consequence of the difficulties, application 5c would be taken as the next item.

c DM/20/02018/FPA - Saanen Lodge, Haswell, DH6 2EE

The Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the conversion of existing garage buildings (or demolished and replaced with) to a single dwelling covering the existing footprint and an extension to the east and was recommended for refusal.

The Planning Officer, JJ noted the applicant had agreed that the windows on the existing dwelling, Saanen Lodge, which would have been affected by the development could be obscure glazed and it was added that Officers agreed that could be achieved through condition.

Members were referred to site plan and aerial photographs and were asked to note the application site being separate and in poor relationship with the settlement, being within the countryside. The Committee were asked to note as regards tree cover that would be retained, the track to be used for access, and existing garage buildings on the site. Proposed elevations and site layout plans were shown, noting a two storey dwelling.

In respect of statutory responses, the Planning Officer, JJ noted no objections from Northumbrian Water Limited and the Council's Highway Section, with the latter noting conditions relating to improved surfacing, access widening and a bin collection area storage. She added that Spatial Policy had objected as the development was within the countryside and noted the application should be determined in line with the policies within the emerging CDP. She noted the Tree Officer had noted no objections, with the arboricultural report being considered satisfactory, though tree protection measures were proposed and would be conditioned. It was added there were no objections from the Contaminated Land section, Nuisance Action Team or County Archaeologist.

The Planning Officer, JJ noted the Public rights of Way (PROW) Team had noted that one access was also used as a PROW and supported the requirement for surface improvements requested by highways. She added that the Ecology section required that the recommendations within the Ecology and the Bat Reports were conditioned, with a Bat Licence being required to be secured before development proceeded.

The Committee were informed that there had been four letters of support received, noting supporting comments that included that the development: was well planned and well designed and would add to the small community of dwellings in the area; would support businesses in the village; would bring much needed investment in the village; was in close proximity to public transport and community centre and other services.

The Planning Officer, JJ noted the application would be considered under Paragraph 11 of the NPPF, with the emerging policies in the CDP carrying significant weight and therefore must be considered as part of the planning balance. She added the area had some sustainability merits, with a reasonable amount of services available, however, the proposal would not accord with emerging policy 10 relating to development in the countryside. She explained that the proposal would represent adverse harm to the character of that part of the countryside, through substantial and disproportionate works to the garage building to create the dwelling. She noted that benefits of the development included: limited boost to housing supply; limited uplift in economic expenditure resulting from development; and some sustainability merits due to a small range of services and a regular bus service. The Planning Officer, JJ noted the adverse impacts were considered to be: adverse harm to the character of that part of the countryside through substantial and disproportionate works to the garage building to create the dwelling; and the extent of works proposed would be contrary to emerging policy 10 of the CDP. She concluded by explaining that therefore, on balance, it was determined that the adverse effects resulting from policy conflict outweighed the benefits and refusal was recommended.

The Chair thanked the Planning Officer, JJ and asked Councillor E Huntington, Local Member, to speak in relation to the Application.

Councillor E Huntington thanked the Chair and Committee and noted she strongly supported the application which she believed would have a positive effect in terms of the economy of the county whilst also providing a new, high quality, accessible bungalow in a sustainable location. She added that she was glad to see that the Authority had agreed that the proposed development was within a sustainable location, given the range of services and facilities available within Haswell that would meet the needs of future occupants.

She noted the main housing area of Haswell was only a short distance away from the site and convenient access could be achieved by foot or bicycle and local bus services provided access to nearby large towns. Councillor E Huntington noted that several residential schemes had received planning approval within Haswell over the last few years, within vicinity of the site. She added that the four letters of support, three from immediate neighbours, stated the positive benefits of the proposal in terms of supporting local services and improving the character and appearance of the site.

Councillor E Huntington explained that there had been no objections from local people as they saw the proposal as benefit. She noted while the Officer noted the scale of the development was not appropriate, the garage that it would be replacing was substantial in size, two double garages with high pitched roofs, being two-storey in height and having been used for the storage of waste before the current owner purchased the property.

Councillor E Huntington noted the dwelling proposed provided much needed additional bungalow provision within the County and would be comparable in size to the existing bungalow, Saanen Lodge. She explained that the design was of high quality, with access for those with mobility issues and the development would add to the housing supply at a time where the economy had been plunged into depression. She noted that the local area needed jobs and such small scale developments provided opportunities for local trades people and while the report stated only minor economic uplift in this regard, many minor uplifts across many such small developments would build up. She implored the Committee to support the development, noting the site was within a sustainable location and with an Inspector's decision and other successful applications supporting this, the building not being isolated, rather located within a cluster of buildings. She reiterated the boost to the housing supply, the guaranteed additional spend in the area and opportunities for local trades people to work and asked Members to approve the application.

The Planning Officer, JJ noted the proposals represented a two storey dwelling, not a bungalow.

The Chair thanked Councillor E Huntington and asked Ms Claire Hattam, agent for the applicant, to speak in support of the application.

Ms C Hattam thanked the Chair and Committee and noted that the location of the proposed development had been agreed as being at a sustainable location by the Officer's report and independent Inspectors at comparable sites through appeals decisions as well as by other residential development in and around Haswell that had been approved in recent years.

She noted that the Officer's report highlighted the level of services available within Haswell and local bus services and acceptability in terms of sustainability and highlighted that there were no objections from several statutory consultees, subject to conditions, conditions the applicant was willing to accept.

Ms C Hattam noted the primary reason for refusal was the scale of the proposed dormer bungalow in comparison to the existing redundant garage structures on site, and she added that the Officer had considered that to be harmful to the character and appearance of the area.

She explained that the applicant believed this assessment to be inaccurate as it did not take into account the size of the existing structures being substantial in size, two double garages with steep pitched roofs with a first floor mezzanine level for additional storage space. She noted the existing buildings were not single storey structures as noted in paragraph 70 of the Officer's report. Ms C Hattam noted the photograph in the Case Officer's presentation did not show the scale of the host dwelling by comparison and added that as such, while the proposed alterations were substantial, that did not mean the new dormer bungalow would have an adverse impact as a direct consequence. She added that the new dwelling would be comparable in terms of mass and height to the host dwelling, Saanen Lodge, and it was the applicant's intention to create a harmonious and high quality designed accessible home, the Authority conceding within its presentation that it would be a high quality designed property.

Ms C Hattam noted the area was designated as a landscape improvement priority area by the Council demonstrating the quality of the surrounding landscape was not currently as high as other parts of the county and was in need of enhancement. She explained that the proposed development supported that policy approach by removing unused structures and surrounding overgrown scrub vegetation on site. She added it was understood that policy 10 of the emerging CDP would allow for conversion of existing buildings within the countryside, however, it was felt the current proposals presented a greater opportunity to create a better quality accessible home for future occupants. She noted that conversion of the existing garages would not present such an opportunity, however, the applicant noted that could provide a legitimate fallback position, as acknowledged by the Case Officer.

Ms C Hattam noted that the second refusal reason as set out within the Officer's report noted residential amenity of the occupants of Saanen Lodge given the proximity of its windows on the eastern elevation to the blank elevation of the proposed bungalow. She reiterated that prior to Committee, the applicant had confirmed that the window closest to the proposed bungalow served an office and already comprised of obscure glazing.

She noted the furthest window on the eastern elevation of Saanen Lodge served a living room, which also benefited from bi-fold doors on the southern elevation. She added that given the location and orientation of the proposed bungalow, it was also unlikely that this window would face the blank side elevation of the proposed bungalow. In terms of the remaining window on that elevation of Saanen Lodge, Ms C Hattam noted this served a utility room and as the applicant was the owner of Saanen Lodge, they had the scope to frost the window, replace with a high level window or remove the window if deemed necessary. She noted the verbal update from the Case Officer confirming that if Committee were willing to approve the application, they would be willing to accept the condition.

Ms C Hattam reiterated that the proposal for a detached dormer bungalow would not result in adverse impact on residential amenity, surrounding landscape, protected species or character and appearance of the area and represented a sustainable development with good access to services and facilities, with a scale comparable to the adjacent property and smaller in mass than several of the surrounding properties. She concluded by sincerely asking Committee to approve the proposed development.

The Chair thanked Ms C Hattam and asked the Planning Officer, JJ to speak in response to the points raised by the speakers.

The Planning Officer, JJ noted the main contention was conflict with CDP policy 10, with the existing garage representing a footprint of 220 square metres, with the proposals having a ground floor of 264 square metres and a first floor of 144 square metres, the total being approximately double that existing and therefore disproportionate and significant addition to the building currently on site.

The Chair thanked the Planning Officer, JJ and asked the Committee for their comments and questions on the application.

Councillor P Taylor noted he was always intrigued how each side of an argument would frame their comments and thanked the Local Member for her very good presentation, a credit to her community. He added that, however, he must look at planning policy and he was quite shocked by the scale and massing of the proposed dwelling and agreed with the Officer that it was inappropriate and did not comply with policy 10 of the emerging CDP and saved policy 35 of the Easington Local Plan and therefore he would propose refusal in line with the Officer's recommendation.

Councillor A Laing noted she agreed with the Local Member, Councillor E Huntington, and felt very strongly in supporting these types of small, high quality developments that supported local communities, as well as contributing to the Council's housing supply.

She added that she felt the proposal was of an extremely high quality design with the added bonus of being accessible for those with disabilities or mobility issues. She noted that there had been no opposition from members of the public and she felt it was a good development, especially in the uncertain economic times, had to be seen as a huge contribution to local communities and the county housing supply and therefore she proposed the application be approved.

The Chair noted proposals for refusal and approval and asked for further comments and any support for those proposals from Members.

Councillor D Freeman noted the proposals looked very nice from the plans, however, as Councillor P Taylor had stated it was disproportionate in size to the site and while he was generally in support of such conversion applications, the proposal did not represent a conversion, being approximately twice the size and was way beyond redevelopment and therefore he seconded the refusal of the application.

Councillor D Brown noted he had listened to the debate and looked at the site photographs and noted he did not think the existing buildings looked particularly tidy and while the proposals were not small, he felt they enhanced the area and he would support approval of the application.

The Chair noted that approval reasons would need to be cited at the appropriate juncture, however, the proposal for refusal had been moved and seconded first and therefore this would be voted upon first by Members of the Committee. Upon a vote being taken it was:

RESOLVED

That the application be **REFUSED** as:

1. In applying the requirements of paragraph 11 of the NPPF the adverse impacts of the proposal to erect a dwelling at the site would significantly and demonstrably outweigh the benefits. In particular, the development, by reason of its position detached and separate from the existing form of development, would detract from the form and character of the existing settlement, whilst also eroding the open countryside area and wider landscape setting, to the detriment of visual amenity contrary to policies 3 and 35 of the Easington District Local Plan and paragraph 127 of the NPPF and emerging policies 6 and 10 of the County Durham Plan.

2. The adverse impacts of the development with regards to residential amenity were considered to significantly and demonstrably outweigh the benefits of the development when considered in the context of paragraph 11 of the NPPF. Specifically, the proposal would fail to achieve adequate distancing standards with the existing adjacent dwelling, resulting in unsatisfactory levels of amenity for existing occupiers, contrary to the aims of policy 35 of the Easington Local Plan, Residential Amenities Standards SPD (2020) and paragraphs 124 and 127 of the NPPF.

Councillor M Davinson left the meeting at 11.40am

The Chair noted as the technical difficulties had been resolved, application 5b would be the next item for consideration.

b DM/20/01580/FPA - Land to the south of Culloden Terrace, Grants Houses

The Planning Officer, JJ, 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 one detached 3-bed bungalow (resubmission) and was recommended for refusal.

The Planning Officer, JJ noted the location plan and aerial photographs, setting out the extent of the application area and referred to adjacent land owned by the applicant which contained a number of agricultural buildings and a mobile caravan providing day facilities, which had permission approved in February this year. She noted the proposed location for development clearly read as undeveloped land and was outside of the settlement limits of Grants Houses and was within a countryside setting. She referred Members to a number of site photos, proposed access for bins and proposed elevations for the new bungalow and explained as regards a revised north elevation to remove a bedroom window and the inclusion of obscured glazing to a bathroom window.

In terms of consultation, the Planning Officer, JJ explained there had been no objections from Northumbrian Water Limited subject to a surface water drainage plan and the Highways Section offered no objections. She added that Spatial Policy objected as the proposal represented development outside of the settlement boundary and in the open countryside. She added a condition would be required in terms of contaminated land and there had been no objections from the Nuisance Action Team.

Members were asked to note that the Archaeology section required a condition relating to a watching brief in relation to remains of a World War II Camp and the Ecology section confirmed that a financial contribution was required due to the location of the development close to protected coastal habitats. The Planning Officer, JJ explained this would be a sum of £756.61 to be secured through a Section 106 Agreement. She added that mitigation would need to be provided against habitat loss as a result of the development and the Ecology section had noted a condition was required to confirm the programme of works to be undertaken.

The Planning Officer, JJ six letters of support received with points raised including: the proposals make good use of land; residents were pleased with the efforts the applicant had made with the land and agree with the addition of a bungalow on it; and that the development would be a nice addition to a barren field and would add security at this part of Grants Houses.

The Planning Officer, JJ noted the application would be considered under Paragraph 11 of the NPPF, with the emerging policies in the CDP carrying significant weight and therefore must be considered as part of the planning balance. She added the site was in the countryside, with no local services, the nearest being 1.3 kilometres away, albeit with a regular bus service that passed the site, therefore offering some minor sustainability merits. She added the proposal would not accord with emerging policies 6 and 10 relating to development on unallocated site and sites within the countryside. She explained that the proposal would represent adverse visual and landscape impact.

She noted that benefits of the development included: limited boost to housing supply; limited uplift in economic expenditure resulting from development; and some very minor sustainability merits due to the regular bus service. The Planning Officer, JJ noted the adverse impacts were considered to be: the development would detract from the existing form and character of the settlement; it would allow the urban form to intrude into, and erode, the open space at the edge of the settlement, having a suburbanising effect and resulting in an unacceptable encroachment into the open countryside; and that the works proposed would be contrary to emerging policies 6 and 10 of the CDP. She concluded by explaining that therefore, on balance, it was determined that the adverse effects outweighed the benefits and the application was recommended for refusal.

The Chair thanked the Planning Officer, JJ and asked Councillor I McLean, Local Member to speak in relation to the application.

Councillor I McLean thanked the Chair and noted he was Local Member for the Horden Division, which included Grants Houses. He explained that the applicant was a very respected member of the village, a businessman with all of his businesses operating to the highest standards. He added that the photographs within the Officer's presentation were not particularly flattering of the applicant's development at the adjacent location and noted that those developments had been carried out to a very high standard, attested by all those that had visited the site. He added the access track was more like a road, being constructed of concrete. He explained he supported the application and noted there was no opposition to the application, in fact there were several letters of support from residents. He noted he has spoken to some residents and they were very supportive of the application.

Councillor I McLean noted the applicant had developed the area over a number of years, the adjacent site containing several greenhouses that were used by the local Mencap as a community garden, and he felt it appeared the applicant was moving in the right direction in terms of developing the site.

He added that proposed bungalow was three bedroom, was modest in scale and in terms of the proposal eroding the open countryside he noted that he disagreed with Officers as the development was within 15 metres of the nearest residential property so was not encroaching into open countryside in his opinion. Councillor I McLean explained that it was alluded to by the Officer that there was some sustainability merits and he agreed, and he reiterated that there was a large number of people from the village that supported the application and therefore he would support the application.

The Chair thanked Councillor I McLean and asked Mr Barry Milburn, speaking as agent on behalf of the applicant, to address the Committee.

Mr B Milburn noted that the reasons for refusal appeared to be two-fold, with the first being set out in the report as "*the development would detract from the form and character of the existing settlement, by reason of its position, detached and separate from the existing form of development*". He noted that it was originally intended to position the bungalow closer to the existing buildings, however, power lines, as visible within the Officer's presentation, meant that had not been possible with a requirement to maintain a 6 metre safe working distance from the power lines. Mr B Milburn noted he felt a precedent had been established several years ago by the approval of detached three-bed dormer bungalow and double garage on 500 square metre plot, just off the northern tip of Angus Terrace, a location only one or two streets away from the application site separate from the existing terraced properties.

He added that in terms of the second reason for refusal, that the proposals would erode the open countryside and wider landscape setting, he felt that while the proposals were 11 metres south of the current settlement boundary as set out in the current Easington Local Plan, the NPPF adopted a more permissive approach. Mr B Milburn explained that this had been taken into account for other applications that had been recommended for approval where an application was considered to be sustainable. He added that he felt that the application site was sustainable by virtue of the availability of good local amenities at Easington Colliery and Horden, a walk or short bus journey away with links to larger towns such as Sunderland, Hartlepool or Durham. He reminded Members of the recently opened train station at Horden and added that it was felt the proposed dwelling would be part of the existing settlement by virtue of its location, close to existing housing.

The Chair thanked Mr B Milburn and asked the Committee for their comments and questions.

Councillor A Laing noted that the application was for a bungalow that was not very big and represented a high quality development that would benefit the local community and wider housing supply. She noted the site was sustainable and had good accessibility, with a regular bus service and shops and facilities available at two neighbouring locations. Councillor A Laing noted the amendments made by the applicant to meet residential amenity standards and as the site was sustainable and received local support from residents, she proposed that the application be approved.

Councillor J Blakey seconded the proposal for approval.

Councillor D Freeman noted he supported the Officer's recommendation for refusal as the site was outside of the settlement boundary and would adversely impact the area and set a precedent in terms of such development and proposed the application be refused.

Councillor B Coult seconded the proposal for refusal, noting it was in line with the policies within the emerging CDP.

The Chair noted the proposal for approval had been moved and seconded first and therefore this would be voted upon first by Members of the Committee. The Solicitor – Planning and Development noted that in terms of the vote for approval, it would need to be subject to the usual suite of conditions and Section 106 Agreement in relation to Ecology, to be drafted by the Officer and agreed by the Chair and Vice-Chair. Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to a suite of conditions and suitable Section 106 Legal Agreement, the details of which to be delegated to the Planning Officer, in consultation with the Chair and Vice-Chair of the Committee.

Councillor J Clark left the meeting at 12.07am

Councillor A Laing in the Chair

d DM/20/01710/FPA - Garage block to the west of 12 Severn Close, Peterlee, SR8 1JU

The Planning Officer, JJ, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the conversion of existing garages to form 2 no. bungalows and was recommended for approval subject to conditions and a Section 106 Legal Agreement.

The Planning Officer, JJ referred to the site plans and photographs and explained the two proposed bungalows would be for affordable rent. In terms of consultation responses, she noted that Northumbrian Water Limited had confirmed a public sewer crossed the site, however, they would work with developer to establish location and ensure any necessary diversion or relocation was undertaken as required. She noted that the Highway Section had confirmed the three parking spaces for use by the development and improvements to the turning head were acceptable. She added Highways had identified that the works would displace on street parking that currently took place at the application site, however, sufficient capacity was available just beyond the site and therefore they offered no objections to the application.

The Planning Officer, JJ noted there was support from the Council's Housing Development Team for additional affordable housing units and in reference to paragraph 87 of the Committee report and noted that the Contaminated Land section did not require a condition to be attached in relation to the application. She explained that the Nuisance Action Team raised no objections to the proposals and the Ecology Team had confirmed that a financial contribution was required due to the location of the development close to protected coastal habitats, in the sum of £756.61 per dwelling to be secured through a Section 106 agreement should permission be granted.

The Planning Officer, JJ referred to six letters of objection to the application citing reasons including: detrimental impact on parking in the area which was already hugely problematic for local residents; concerns over loss of garages; concerns over the construction phase and impact on parking and neighbouring residents; and concern over appearance of the buildings not being in keeping with existing buildings. She added one letter of support had been received stating the garages were not well used, were an eyesore and encouraged anti-social behaviour and that the proposals would bring much needed housing to the area.

The Planning Officer, JJ noted the application would be considered under Paragraph 11 of the NPPF, with the emerging policies in the CDP carrying significant weight and therefore must be considered as part of the planning balance. She noted the benefits were the site was highly sustainable, and the development would improve the character and design of the area. She added that there were issues in terms of separation distances in respect of the internal courtyard, however, it was felt that it was acceptable and would offer passive security for elderly residents. She reiterated the issues in terms of displacement of parking and explained that providing substitute parking would be cost prohibitive and would not be in scale with the development. She concluded by noting Officers felt the benefits of the scheme outweighed the adverse impacts and therefore the application was recommended for approval.

The Chair noted no registered speakers and asked the Committee for their comments and questions.

Councillor J Blakey proposed the scheme be approved as per the recommendations within the report, adding there was a desperate need for more bungalows of this type adding such conversion of garages would be welcomed in her Electoral Division.

Councillor P Taylor seconded the proposal for approval, noting the scheme was very good and would make the site look considerably better and while there would be a loss of parking, the proposed development greatly outweighed that loss.

RESOLVED

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