

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

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 8 March 2022** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors S Deinali (Vice-Chair), D Brown, J Cosslett, J Elmer, C Hood, N Jones, C Kay, D McKenna, R Manchester, C Marshall, K Robson, K Shaw, D Oliver (substitute for LA Holmes), M Simmons (substitute for E Mavin) and I McLean (substitute for A Surtees)

**Also Present:**

Councillors R Crute, C Fletcher, R Ormerod and M Wilson

**1 Apologies for Absence**

There were apologies for absence from Councillors LA Holmes, E Mavin and A Surtees.

**2 Substitute Members**

Councillor D Oliver substituted for Councillor LA Holmes, Councillor M Simmons substituted for Councillor E Mavin and Councillor I McLean substituted for Councillor A Surtees.

**3 Minutes**

The minutes of the meeting held on 8 February 2022 were confirmed as a correct record by the Committee and signed by the Chair.

#### **4 Declarations of Interest**

The Chair, Councillor D Freeman noted in respect of Item 5a, that he was 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 application. He noted in respect of Items 5a and 5e that he was also a Member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to the applications.

The Vice-Chair, Councillor S Deinali noted in respect of Item 5d, she was a Local Member and Member of the Monk Hesleden Parish Council, however, she was not a member of their Planning Committee and had not had any input in respect of applications.

Councillor J Elmer noted he had submitted objections to Item 5a and accordingly he would withdraw from the Chamber during the consideration of the application.

Councillor C Kay noted, in respect of the Item 5c, that he knew the applicant and had previously stored a vehicle at premises owned by the applicant. He asked the Solicitor for advice. The Lawyer (Planning and Highways), Neil Carter advised that it would be best for Councillor C Kay to withdraw during the consideration of the item. Councillor C Kay noted he would withdraw from the meeting during that item.

Councillor C Marshall noted, in respect of Items 5c and 5e, that he was familiar with the applications through his previous role as a Cabinet Member, however, he had no preconceived opinion and would have an open mind in respect of the decision making.

*Councillor J Elmer left the meeting at 9.35am*

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

##### **a DM/21/01611/FPA - Apollo Bingo, Front Street, New Durham, Durham**

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

The Senior Planning Officer noted the application had previously been considered by the Committee at its January meeting, however, further representation had been received and it had been advised that the application come back to Committee for a decision. The application was for the demolition of existing bingo hall and erection of 1no. Part 3, Part 4 Storey Purpose Built Student Accommodation with associated parking, and servicing facilities and was recommended for approval, subject to conditions and a Section 106 Legal Agreement.

The Senior Planning Officer noted that since the last meeting of the Committee Durham University had noted no objection in principle, however, raised reservations in relation to the size and quality of the communal facilities, noting they would not consider the proposal to be suitable to form part of the University's accommodation offer. He added the University had also commented that the 3,000 student relocation stated in the housing need assessment was incorrect and the relocation of students had already occurred. He explained that the applicant had submitted a new needs assessment, based upon the new figures from the University. The Senior Planning Officer noted representations from Mary Foy MP, County Councillor J Elmer, Belmont Parish Council and the City of Durham in objection to the application, summarised within the report.

The Chair thanked the Senior Planning Officer and asked Parish Councillor Patrick Conway, representing Belmont Parish Council, to speak in relation to the application.

Parish Councillor P Conway noted that he would focus on two main areas, the need/data and reference to the building being abandoned and being an eyesore. He noted that the University had stated the applicant was incorrect in terms of the 3,000 relocated students and in terms of need, the application failed Policy 16 in not demonstrating the need for a Purpose Build Student Accommodation (PBSA). He noted paragraph 67 of the report acknowledged some conflict in terms of the University's figures and those of the applicant and added that stating a PBSA would increase choice for the student population was not logical as there was already many PBSAs and the Article 4 Direction had limited Houses in Multiple Occupation (HMOs). Parish Councillor P Conway noted that a search on the website 'StuRents' had shown over 50 rooms available in Durham, with nine of those being at Gilesgate. He added that there were voids within some the PBSAs and other sites also showed vacancies. He noted the University had retained concerns relating to the size and quality of the communal facilities, lack of an external area and its relative remoteness from campus.

Parish Councillor P Conway noted that, in reference to the current building being described as an 'eyesore', National Planning Policy Framework (NPPF) Paragraph 130 stated that any development should add to the overall quality of an area, be visually attractive and maintain a strong sense of place. He noted that it was clear from local residents that they felt the application did not meet any of those criteria. He noted that the applicant suggested that allowing the PBSA would help save the Hippodrome at Bishop Auckland and added that while he had been Chair of the Durham Area Action Partnership (AAP) they had conducted a review of the housing need in the city and housing was seen as an overwhelming priority for residents expressed through surveys and public meetings. Councillor P Conway concluded by noting that the Parish Council felt that the application was contrary to County Durham Plan (CDP) Policies 16, 28 and 44 and Paragraph 130 of the NPPF.

The Chair thanked Parish Councillor P Conway and asked Local Member, Councillor C Fletcher to speak in relation to the application.

Councillor C Fletcher thanked the Committee in reconsidering the application and noted that her comments, as read out at the January meeting, stood and explained that the application was roundly rejected by the residents of the Belmont Division. She explained that it was felt it was development for the sake of development and that it was not needed and was not suitable. She noted that the University had stated that the proposals did not meet their size and quality requirements. She added that three was already enough accommodation and there was already a large PBSA in the area.

Councillor C Fletcher noted that the Majestic Bingo was still open and operating and was valued as a community site. She added it was felt that the proposed design failed to meet CDP Policies 16, 28 and 44. She noted she supported the statement from Mary Foy MP. She explained that it did not follow that offering PBSA accommodation in the area would leave houses for local residents, adding that she would prefer that the Majestic was not demolished, and that more suitable development would be looked at in the future.

The Chair thanked Councillor C Fletcher and asked the Committee Services Officer to read out a statement on behalf of Local Members, Councillors E Mavin and L Mavin who were unable to attend the Committee.

*"Following the decision by Durham County Council to scrutinise this application again we continue to oppose this scheme. Our previous objection outlined the grounds to which we objected, but in the light of new documentation (Demand for purpose built student accommodation in Durham) we continue to oppose this application, particularly as it continues to contravene Policy 16 of the County Durham Plan.*

*We also refer to evidence submitted by the University dated 6th January 2022 which had not been drawn to the Central and East Planning Committee's attention. The new documentation – Demand for purpose built student accommodation in Durham – gives a forecast of 18,288 HMO and PBSA bed spaces in the city if all developers currently approved are delivered. It then identifies a shortfall of approximately 3,000 bed spaces. However, University data indicates there are now 22,200 students at Durham University, a figure which exceeds the planned numbers for 2026 / 27, therefore there is sufficient accommodation for this number without additional development. The letter from the University dated 6th January also states that the University does retain concern regarding the size and quality of communal facilities for student residents, the lack of an external area and its relative remoteness from campus, as such we don't consider that this PBSA would be suitable to form part of the University's accommodation offer to our students. Given this clear view from the University we consider the application does not meet the requirements of Policy 16".*

The Chair thanked the Committee Services Officer and asked Mr John Ashby, representing the City of Durham Trust, to speak in objection to the application.

Mr J Ashby explained that it had been mentioned at the January meeting that new PBSAs would release housing from HMOs, however, 12 new PBSAs had been built and there were even more HMOs. He noted the University had stated that as it had reached its target in terms of student numbers, would revert to 21,500, and there was no case for a new PBSA.

The Chair thanked Mr J Ashby and asked Mr Richard Hornby, representing the Gilesgate Residents' Association (GRA), to speak in relation to the application.

Mr R Hornby explained that in reference to need there was around 250 vacant rooms at this point in Durham across the Colleges, PBSAs and HMOs. He explained that there already 1,132 PBSA spaces approved not on the market, 20 HMOs of 3-5 bedrooms with permission and allocation within the CDP of around 3,200 rooms without permission. He noted around 4,662 voids within the city, and he noted the University would grow over the next few years, however, they were already above their masterplan target. He noted that an argument being made in support of the application was about choice of accommodation and suggested there was already 4,662 spaces to chose from, adding there would be spaces each year.

Mr R Hornby explained that the current use was for a thriving bingo hall, regularly used and employing staff in the local community, one of the poorest areas of the city.

He noted that if the application was approved the site would be sold, the bingo hall would close with jobs being lost, especially hard in current times. He reiterated the comments made by Parish Councillor P Conway in respect of the University noting that the proposals were not suitable in size or quality and added that the Durham County Council (DCC) Design and Conservation stated that the proposals were not suitable for a range of reasons.

Mr R Hornby concluded by noting the mix up in data and reiterating that the proposals were contrary to CDP Policy 16 and urged the Committee to carefully consider the application.

The Chair thanked Mr R Hornby and asked Mr Daniel Puttick, Agent for the applicant, to speak in support of the application.

Mr D Puttick thanked the Chair and Committee and noted he would not repeat the comments made at the January meeting by his colleague, Mark Ketley, rather he would reaffirm four key points: need; scale and impact; regeneration; and the comments relating to alternative use for the site.

Mr D Puttick explained that Durham University needed over 3,000 PBSA bed spaces by 2027, as confirmed by four independent reports for the applicant. He added that the more recent information had been taken into account and there was still a shortfall in places. He noted, in reference to CDP allocations, there was no certainty that those allocations would be delivered. He explained that the scheme would deliver four percent, 128 bed spaces, a meaningful amount.

In relation to scale, Mr D Puttick noted that the original proposals were for 180 bed spaces over five storeys however, following work with Council Officers, the application was changed to a part three, part four storey design with 128 bed spaces. He added that the regeneration benefits of the redevelopment of the site should be afforded significant weight. He noted that objectors had stated that the bingo hall was well used, however, pre-pandemic there were poor attendances and now the business was unviable as a going concern. He reiterated that the application represented an opportunity to develop the site, adding that the reference by objectors to affordable housing was not a material planning concern. He noted that options as regards affordable housing had been looked at with Karbon Homes and Believe Housing noting the site was not viable for affordable housing.

Mr D Puttick concluded by reiterating that the application was compliant with relevant policies and noted that the Committee had already once resolved to approve the application and he asked Members for their support once again in approving the proposals.

The Chair thanked Mr D Puttick and asked the Senior Planning Officer if he had any points he wished to raise in response to the speakers.

The Senior Planning Officer noted that Parish Councillor P Conway had stated that the University had said there was no need for development, however, the University had not made such an assertion, referring to no objection in principle in their letter date 6 January 2022. In reference to the comments from the University noting that the accommodation was not suitable, they had stated it was not suitable for them as a commercial landlord, and the University would not be used as a benchmark. In reference to family houses being freed up and made available as a consequence of the development of PBSAs, he noted that was not an assertion put forward by the applicant or Officers. The Senior Planning Officer noted that in relation to the figures and data, paragraph 67 of the report did note some conflict with the figures, however, paragraph 72 of the report noted while the proposal was unlikely to meet a quantitative demand, it would comply with policy in offering a qualitative choice.

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

Councillor C Marshall asked for clarification on why the application was back before Members. The Area Team Leader (Central and East), Sarah Eldridge explained that representations from the University had been received on time and unfortunately had not made their way to Committee. She noted that the representations had reflected the information that Mr J Ashby had given to the Committee at the January meeting as well as containing more information in terms of the University's concerns and, as material considerations, it was felt best the application come back before Committee.

Councillor C Marshall noted he was not going to have the same debate as at the last Committee as the details of the application had not changed. He asked if the information in terms of the numbers, and growth regarding the University were correct. The Senior Planning Officer noted the figures provided were correct. Councillor C Marshall referred to potential for increase in student numbers in the city with a new business school and reiterated his previous comments that there was a need for a proper strategy in respect of how students lived, integrated and contributed in a positive manner. He noted that it was important to manage student accommodation and choice and if PBSAs were stopped then there needed to be an alternative to provide quality, affordable accommodation. He noted that, based on the information provided, nothing had changed, and on the balance of probabilities there would be additional students in the city centre and the direction of travel suggested that there was a need for more accommodation in the right place.

He noted he felt the application did comply with policy and therefore he would propose that the application be approved as per the recommendation within the report.

Councillor C Hood thanked the Chair and all those that had made representations on the application. He noted concern relating to the comments relating to the commercial competition, adding the University wished to thrive and have the best deal for students. He noted he had listened to the comments from the three Local Members, Parish Council, Residents' Association, and the submissions from others and noted a ratio of 22 to one against the application. He noted that while the application was not in his Electoral Division, he felt Members were elected to listen and he felt, from the representations from the three Local Members, that those Local Members had listened to their residents. Councillor C Hood noted that he could not support the application and asked that all Members reject the proposals.

Councillor K Shaw noted his concern that there was no material planning reasons to move away from the previous decision and therefore he would second Councillor C Marshall's motion for approval. Councillor C Kay noted no material considerations to reject the application, adding he felt it was an open and shut case and supported the recommendation for approval.

The Chair noted he felt there were grounds for refusal, and that the figures from the University showed there was no demand. He added the University had also noted in their representations the accommodation proposed would not be good enough for their estate and asked why it would be good enough for others. He noted he felt he would vote against the proposals and noted that the figures presented by the City of Durham Trust at the January meeting had now been confirmed by the University, with no unmet demand. He noted that Government was looking again at university targets and were perhaps moving away from a free market system. He added he supported Councillor C Hood in refusing the application.

Councillor C Marshall noted the previous comments made by the Chair at a previous meeting in relation to student accommodation and asked the Solicitor as regards the position of the Chair in respect of his ability to take part. He also asked as regards no material considerations having been put forward for refusal. The Lawyer (Planning and Highways) noted that the comments made by the Chair at the last Committee had related to an HMO at Framwellgate Moor and the University's expansion programme. He noted the Chair had been given advice and it was for the Chair to decide whether to take part in the decision making for the application.



In respect of material grounds for refusal, the Lawyer (Planning and Highways), noted there was a motion for approval that had been seconded and he would probe as regards reasons for refusal, as necessary, after that vote.

Councillor C Marshall asked if the Chair would wish to comment on how he came to his decision. The Chair noted the application was not being made by Durham University and the numbers presented were fact, there being no demand with the University hitting its 2027 target five years ahead of schedule. He noted he did not feel anything he had said previously prevented him from taking a view on the application, similar to Councillor C Marshall in terms of his previous role as a Cabinet Member.

Councillor C Kay noted that it was not possible to have it both ways and noted the motion for approval had been made and seconded.

Councillor D Oliver noted he had not been at the January meeting of the Committee and noted the difference of opinion in relation to the growth of the University. He noted that if the application was to be rejected then there needed to be a clearer view on the reasons and material grounds.

Upon a vote being taken it was:

## **RESOLVED**

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

*Councillor J Elmer entered the meeting at 10.45am*

### **b DM/21/01900/FPA - Biggin Farm, New Brancepeth, Durham, DH7 7HQ**

The Senior Planning Officer, Leigh Dalby, 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 retrospective application for alterations to 2 no. existing agricultural buildings and was recommended for approval, subject to conditions.

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

Councillor M Wilson noted the application had raised great concerns from the residents of New Brancepeth and the Deerness Valley. She noted that it was stated that the building works would not facilitate the use by livestock, however as shown by photographs within the presentation, there was livestock in the buildings. She noted that there were residential properties within close proximity to the development and that residents' living conditions were being made intolerable from the noise and odour from the pigs. Councillor M Wilson explained that she felt it was clear that if the application was approved that there would be an increase in the number of pigs adding further detriment to the quality of life of residents. She added that an increase in the number of animals would create more pollution and nitrates impacting upon the soil.

The Chair thanked Councillor M Wilson and asked the Committee Services Officer to read out a statement on behalf of Local Member, Councillor D Nicholls, who was unable to attend the Committee.

*"I firmly object to the Retrospective Planning Application for Biggin Farm on numerous material planning grounds. The changes that have been made retrospectively to the two barns completely change the appearance of the barns from open 'Dutch Style Barns' to effectively two concrete Warehouses which are in total contrast to the surroundings as indicated in Point 24 of the committee report being described as "utilitarian and stark in appearance". This is in clear contrast to point 38 of the report that states that "the alternation will improve the appearance and character of the buildings". The retrospective changes to the building are in violation of Policy 29 (Sustainable Design) of the County Durham Plan. On these grounds alone I request that this retrospective planning application be refused. There is however far more to this application than first appears. The committee report presented to members by Durham County Council makes no mention that there is a significant dispute between the Planners at Durham County Council and a leading figure in Agricultural Planning Law. Durham County Council have ruled prior to the retrospective planning application being looked at by the Central and East Planning Committee that the use of the building has nothing to do with this application. This is however strongly contested. One of the Country's leading Agricultural Planning Lawyers, Mr Tim Axe, wrote to Durham County Council on the 9 September 2021 saying that the council had made a fundamental error in not taking the use of the building into account in this planning application. This letter which members can find on the planning portal entitled 'LCF Law' is extremely important in this case.*

*The last four paragraphs state in italics: In accordance with s 38(6) of the Planning and Compulsory Purchase Act 2004 any application must be determined in accordance with the development plan unless material considerations indicate otherwise.*

*In this case the material considerations are not confined to the visual appearance of the works but also to the use which the altered building is to be put and its impact. If the buildings are not to be used for the keeping of livestock then a condition should be imposed to prevent such use. If it is intended to keep livestock in the altered buildings then the impact of such use must be considered. Failure to do so will mean that all relevant material considerations will not have been taken into account (as required by s38(6) above and the decision will be unlawful and subject to challenge by way of Judicial Review, Yours Sincerely, Tim Axe.*

*Despite this, Durham County Council Planners have maintained that the use of the buildings is not relevant to this application which means that myself as a ward member representing almost 10,000 people living in the ward of Deerness have no ability to even raise these material planning considerations, matters which I raised when calling this into the committee as can be seen in my e-mail dated 29 July 2021 on the planning portal. I ask strongly that this application is refused. As set out above this retrospective application viewed on the material changes alone fails to meet planning laws and regulations. By turning the once traditional open barns into concrete warehouses they facilitate their use for industrial pig farming at an enormous scale which would have devastating consequences for the communities I represent, with material considerations such as smell, odour, noise, and loss of privacy. In specific reference to odour, members may refer to the document on the planning portal entitled 'Eshwood & Hareholm Residents Group' dated 13 January 2022. This includes a report by Mr Michael Bull a leading expert in odour control who concludes that, "the modelling shows that the resulting odours to be at levels that would be considered unacceptable as defined by the Environment Agency guidance". Mr Bull states that, "the assessments provided show that there is clear potential for adverse odour impacts should the proposed development be allowed". Across our ward we are already exposed to horrendous odours from the farm even in winter with freezing temperatures.*

*As Maria Ferguson highlights in her letter dated 16 September 2021 if approved by Committee this may set a "dangerous precedent whereby buildings which are structurally inadequate for the keeping of livestock could be adapted to enable them to house livestock without any consideration in the planning system whatsoever".*

*I ask that if the committee fail to refuse this retrospective planning application that conditions are placed namely.*

*1) The buildings in question are not used to keep livestock*

*If this is not possible that:*

*2) The keeping of livestock in buildings in question is halted until the committee are satisfied that such measures are implemented so as to minimize any odours, noise loss of privacy.*

*I wish to thank all members of the committee for allowing me the opportunity to talk on this, especially as I am unfortunately prevented from doing so in person”.*

The Chair thanked the Committee Services Officer and asked Helen Heward representing the Eshwood and Hareholm Residential Group, to speak in relation to the application.

H Heward thanked the Committee for the opportunity to speak and noted she represented ten families impacted by the application. She noted that she strongly disputed the Officers assertion that the application referred only to the erection of walls and noted that she felt it was a material change of use. She referred Members to an example of a decision an Inspector dismissing an appeal where there had been 30 bulls within 100 metres of residential properties. She added that in the case of the application before Members that the buildings were located closer to residential properties and housed around 650 pigs. H Heward noted the application was retrospective and explained as regards there being one residential property being within 40 metres and a further nine properties being within 400 metres. She noted that the lives of residents were blighted by the use of the barns to house pigs, adding that residents were unable to use their gardens due to the smell and the squeal of pigs, noting that the sound had been likened to that of children crying. She explained that one resident had workmen refuse to carry out work on their house due to the smell. H Heward explained that an independent Odour Assessment had been conducted and that it had noted the levels were in excess of Environment Agency thresholds. She added that residents were not being NIMBY (not in my back yard), as when the buildings were used to store grain there had been no issues. She concluded by respectfully requesting that the Committee refuse the application, or should Members be minded to approve the application, include a condition in relation to the use of the buildings.

The Chair thanked H Heward and asked Officers if they had any comments in relation to the points raised by the speakers.

The Lawyer (Planning and Highways) noted the points made by the objectors, however, he noted Members should be clear as regards the application. He explained the application was not looking at agricultural use per se, rather it was for alterations to two barns. He noted that use was a material consideration however the weight was limited as the impact of the unaltered building was not different to that of the altered building, with the same agricultural use prior to the alterations and after. He added that in those circumstances it was not felt there was a sustainable refusal reason. In respect of imposing a condition relating to use, the Lawyer (Planning and Highways) noted this was not felt to be reasonable as the use could take place in an unaltered building, outside of planning control.

The Chair thanked the Lawyer (Planning and Highways) and asked the Committee for their comments and questions.

Councillor J Elmer noted he felt it was a very serious matter for local residents and noted the Officer's response in terms of only considering the alterations to the buildings, not their use. He added he felt that the impacts of the use should be considered. He noted the independent odour appraisal, completed by Michael Bull and Associates, who had been Chair of the Institute of Air Quality Management, who produced the guidance that Planning Officers use. He added the appraisal noted a population explosion of flies following the spraying of slurry, preventing residents from going outside. He noted there were various ecological impacts, with washing polluting the water course, leading to algae blooms. He referred to the large brown mass on the picture and noting that spray of slurry on uncultivated soil, which could be quite compacted, if coinciding with a storm could lead to pollution of the Deerness, Browney and Wear. Councillor J Elmer noted the impact of ammonia of nearby woodland, as set out by the Woodland Trust, and added there was no mention of the ecological impact of large heavy goods vehicles (HGVs) using Broadgate Road on a Victorian culvert, used by Brown Long Eared Bats as a winter hibernaculum. He added that the congestion of HGVs on unsuitable roads was an unassessed problem. He noted that there was also the issue of the considerable amount of greenhouse gases associated, however, it had not been looked at as the issue of pigs was not being considered.

Councillor J Elmer summarised the numerous objections that had been received from residents in relation to the application. He posed the question did the works that had been carried out enable the use of the buildings to keep pigs. He referred to the photos shown during the presentation and noted that the photographs taken prior to the development showed that pigs would have been able to stroll out from the buildings, with no dividing walls. He added that it had been noted that hay bales could have been used, however, he noted they were not permanent. He noted that the views of a Planning Lawyer, Mr Tim Axe, had been sought by residents and was set out on the planning portal. He read out the letter from Mr Tim Axe, noting that the conclusion was that the use of the buildings should be considered and to not do so would be unlawful and subject to challenge by way of Judicial Review. He noted there had not been a response to the letter from Mr Tim Axe from the Council's Solicitor and noted a third silo that was referenced to be at the site.

Councillor J Elmer noted that if the works have been carried out via permitted development, then a condition could have been applied in terms of livestock being within 400 metres of residential properties, reiterating that there was one within 40 metres, with 10 within 400 metres.

He noted there were two contradictory legal opinions, one from the DCC Solicitor and one from an established Planning Lawyer specialising in the area. He noted that the impacts would go unmitigated, and he felt that a precautionary approach should be taken, and to overturn the recommendation and have a decision made at a likely appeal by an impartial body at a high level.

Councillor J Elmer proposed that the application be refused as consideration had not been given to material planning issues and that the application was contrary to CDP Policies 21, 31, 40 and 41. Councillor K Robson seconded the motion for refusal.

The Senior Planning Officer noted that upon investigation by Planning Enforcement, there was no evidence as regards a third silo, and the matter was closed in November 2021.

The Lawyer (Planning and Highways) noted that it was not the case that the Council had not responded to Mr Tim Axe. He explained his manager had responded to the letter, however, no detail was provided as to the advice given as that was for internal Officers only and not for external parties. He added that the issue was not with permitted development rights, noting neither the applicant nor Officers had asserted that this was permitted development, rather the work required planning permission. He reiterated that the application was not looking at the wider agricultural use of the site, only considering the alterations to the two existing buildings. He noted that pig rearing was an agricultural activity. The Lawyer (Planning and Highways) reiterated that the issue was there was no planning control as regards the existing buildings' agricultural use. He noted that with or without the works, in planning terms the buildings could be used for the keeping of pigs without restrictions. He noted that there was not sufficient impact to justify refusal as the use could take place in planning terms. He added that also it would not be reasonable to restrict agricultural use as the buildings could be used as such without planning control. The Lawyer (Planning and Highways) noted that therefore a condition to restrict such use would not pass the test in relation to the imposition of conditions. He added that therefore the buildings could be used in their unaltered state for agricultural use, as set out by Officers, with objectors and Councillor J Elmer stating the contrary. The Lawyer (Planning and Highways) asked Councillor J Elmer for some further information in terms of policies he would rely on to refuse the application, especially those other than relating to amenity.

Councillor D Brown noted that Members were often dubious of retrospective applications, however, he felt the application before Committee was an exception. He noted the applicant was a successful large-scale business and noted similar applications and operations within his Electoral Division that operated with no complaints, even being within proximity to a hotel.

He noted he had heard a great deal of comments from people as regards odour and waste and explained, as someone with 200 dairy cows, he dealt with waste on a regular basis. He noted regulations in terms of the closed period for the spreading of slurry and processes such as injecting slurry into soil. He added that the use of sewage sludge, from human waste, as used on arable farms had a far worse odour in his opinion. He concluded by noting he fully supported the proposals and proposed the application be approved.

Councillor C Marshall noted difficulty in terms of the proposals and use of the building, as stated by Councillor J Elmer, with the enclosure of the barns seemingly enabling use for keeping pigs. He noted if the application had been a change of use, then perhaps the impacts such as loss of amenity would have had to have been assessed. He noted he could not support the application and asked for comment in terms of whether rejecting the application on loss of amenity would be sufficient to make a case at any appeal of the decision.

The Chair asked if the proposals had represented new development whether the application would have been looked at differently.

The Senior Planning Officer noted that the applicant had stated that they would keep livestock regardless, and would enclose using temporary fencing or hay bales, which would not require planning permission.

Councillor C Marshall asked, if the Committee were minded to refuse the application, whether the Authority still be able to respond to issues of noise or odour. The Senior Planning Officer noted that other mechanisms, such as a statutory nuisance, could be engaged, however Environmental Health had queried as regards the number of pigs and noted the numbers meant it would not be a statutory nuisance. In response to the Chair he noted that if the buildings had been new then it would have been a different scenario and the use could have been looked at.

In response to a question from Councillor C Kay, the Lawyer (Planning and Highways) noted that existing agricultural buildings could be used for agricultural use without the need for planning permission. He added that the application referred to operational development in respect of the side panels and were not within the permitted development regime.

Councillor J Elmer reiterated he felt there were two divergent legal opinions, and noting that while he was no legal expert, he felt that it appeared that approval could be unlawful and expose the potential of a Judicial Review. He added, in that case, he felt it was sensible to allow a potential appeal and allow the Planning Inspectorate to determine.

The Lawyer (Planning and Highways) noted Officers had not stated that determining the application in accordance with their recommendation would be unlawful. He reiterated that it would be difficult to uphold a refusal reason where the buildings could be used for such agricultural use. He noted his advice to Members, should they wish to refuse the application, would be that it would be very difficult to sustain in respect of amenity impact as there was no difference in the use of the building.

Councillor J Elmer noted the wider policies, 20, 21, 30 and 44, relating to sustainable transport, amenity, impact of woodland and hedgerows, biodiversity, impact upon the culvert with Brown Eared Bats, and added there would also be a difference in appearance.

Councillor C Marshall moved that the application be refused on the grounds of loss of amenity for residents. He added that he would hope there would be strict enforcement action as appropriate, if required. Councillor K Shaw seconded Councillor C Marshall.

The Lawyer (Planning and Highways) noted there were two rival motions for refusal, the first be Councillor J Elmer, the second by Councillor C Marshall. He added that of the two, he would feel more comfortable in defending that put by Councillor C Marshall at appeal and asked Councillor J Elmer if he would be willing to support that motion or amend his. Councillor J Elmer noted he would be happy to support Councillor C Marshall's motion.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **REFUSED** the following reason:

The development is contrary to Policy 31 of the County Durham Plan and paragraphs 130 and 185 of the NPPF as it has resulted in adverse residential amenity impacts in terms of noise and odour emanating from the use of the buildings to house pigs/livestock, such use being facilitated by the development.

*Councillors C Kay, D McKenna, R Manchester and  
M Simmons left the meeting at 12.10pm*



**c DM/20/01084/FPA - Brancepeth Manor Farm, Brandon Lane, West Brandon, Crook, DL15 9AS**

The Principal Planning Officer, Paul Hopper, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for an extension to Chalet Park and two residential dwelling houses (amended description) and was recommended for approval, subject to conditions and a Section 106 Legal Agreement.

The Chair thanked the Principal Planning Officer and asked Parish Councillor Jimmy Jamieson representing Brandon and Byshottles Parish Council to speak in respect of the application.

Parish Councillor J Jamieson thanked the Chair and Committee for the opportunity to speak on behalf of Brandon and Byshottles Parish Council.

He asked what was being applied for, noting there had been no mention of applying to vary a consented planning application, adding that planning statement had not been changed other than removal of the farm shop. He explained it was also concerning that the planning report was suggesting a fundamental change to the planning application that was previously accepted. He added that should have been included within the current application to ensure that all parties were clear that the intention was to bring traffic for all lodges and properties along Wolsingham Road. He added that the use of Wolsingham Road was seen as being fundamentally not allowed during the prior application and asked how had that changed? In reference to the comment from the Highways Section on the application that stated they "*understand that the application is now for the construction of eight additional holiday lodges only*" he noted that was totally incorrect and they needed to be aware that traffic for all 30 lodges, plus the residential buildings, would be using Wolsingham Road. He explained that additionally one would need to account for bin trucks, shopping deliveries and construction traffic. He noted the road was simply unsuitable for that.

Parish Councillor J Jamieson noted there was mention that the developer would put in two passing places and improve others. He added that before occupation of lodges was too late and did not mitigate traffic impact on the whole length of the unclassified road.

Members were reminded that the application came when DCC had already declared a Climate Emergency (2019) and was currently evidencing whether or not to declare an Ecological Emergency. Parish Councillor J Jamieson explained there would be a significant light, noise and environmental impact by quadrupling the numbers of properties. He added the Parish had examples of a vast amount of wildlife in the area, and they would all be negatively affected by the construction works and the installation of the lodges.

Parish Councillor J Jamieson explained that the site was not a sustainable location, adding it was not realistic to say visitors could walk and cycle rather than use a vehicle. He explained he did not think many would carry groceries that way, so there would be delivery services, take away vehicles. Additionally, he asked where those bikes were to be stored. He noted that access to the eight lodges was to be by the residents' private road and then with a gate or gates, it not being clear which from drawings. Parish Councillor J Jamieson informed Members that a new gateway with a Brancepeth Manor Park sign had been constructed on the lakeside road, directly in front of the five homes closest to the lake, with no indication of why. He noted that there had been pre-planning advice, but no community engagement, adding that the application was a surprise to all residents, after they had bought their properties.

Parish Councillor J Jamieson noted that the advice of consultees was being side-lined or ignored by the recommendation to pass/accept the application, namely:

- The Landscape Section say the Manager's house would have an unacceptable impact on the Area of High Landscape Value (AHLV).
- The Nuisance Action Team wanted more information as there was insufficient to allow full consideration, with that further information having not been received or included in the Planning Report.
- Design and Conservation observe that the lodges appear further into the southern area of pasture, that was a landscape concern previously.
- Environmental Health point out that the report did not cover the whole red line boundary of the site and that a Screening Assessment Form and photos should be completed and submitted in writing prior to the decision.

Parish Councillor J Jamieson noted that the financial viability was based on unsustainable fuel for the properties, namely gas which was not supplied on site. He added it was not sufficient safeguard to rely on putting in conditions for aspects of the development, not fulfilling recommendations prior to determination or occupation of the lodges. He explained that, as with the previous consented application, variations of conditions were possible resulting in less than optimal outcomes.

He noted an example being, the proposed lodge drainage scheme was unachievable, varied to a less than best practice option and was now extended to include proposals which were non-compliant with Department for Environment, Food and Rural Affairs (DEFRA) legislation. He explained the Developer had several times changed the drainage plan and emphasised that now it was non-complaint by discharging into a dry ditch, not on the Developer's land. He asked whether field drainage rights extended to 32 properties in any case?

Parish Councillor J Jamieson reiterated that no regard had been given to residents, and that could be demonstrated by the planting plan which showed no attempt to shield them from the view of the lodges. He explained that there had been no attempt to reassure the residents that they would not have an ever-changing range of guests roaming around the residential area. He concluded by noting that residents were being failed by the planning policies that existed to protect communities like theirs and their rights.

The Chair thanked Parish Councillor J Jamieson and asked Councillor M Wilson, Local Members to speak in relation to the application.

Councillor M Wilson explained that spoke in support of the application, noting that it was clear that more people were staying in the UK for their holidays and would likely increase post COVID-19, with the cost of international travel increasing. She noted that Visit County Durham (VCD) had spelt out the benefits of scheme and while she had heard the comments from objectors, it was a clear opportunity. Councillor M Wilson explained the work that had been undertaken in relation to the road, noting that the passing places would help in terms of access. She reiterated a lot of hard work had been put in to the application, she felt the report was balanced and added she had been impressed by the early landscaping. She added she was encouraged as regards the sustainable energy and cycle storage provision.

Councillor M Wilson concluded by noting that a number of welcome changes had been to the application and noted the proposals would help showcase the County and therefore she wholeheartedly supported the application.

The Chair thanked Councillor M Wilson and asked Mr Kevin Ayrton, speaking on behalf of several residents, to put forward their representations in objection to the application.

Mr K Ayrton explained that the site was unsuitable and, in respect of Highways, stated that the application site was at capacity. He noted that the Local Plan set out the application site was within an AHLV, and he reminded Members that there were eight additional lodges over and above the 22 granted in 2016, none of which had been constructed.

He added that the proposed houses were large in scale and the proposals would result in the removal of all the trees at the site. He noted there would be significant harm in respect of the landscape and habitat, and in respect of the amenity of the residents of Brancepeth Manor Farm. With reference to the two private dwellings, DCC Landscape Section had noted one would replace an existing pole barn and had raised "*concerns that the dwelling would appear as an incongruent addition to the landscape, to the detriment of landscape and visual amenity*". He added that the two dwellings were presented as enabling development, however it was noted that they did not support the function, and it was felt it failed to demonstrate significant public benefit. He concluded by noting that the issues were finely balanced and that it was requested that the application be refused.

The Chair thanked Mr K Ayrton and invited Mrs Janet Heseltine, Local Resident, to speak in relation to the application.

Mrs J Heseltine explained that there had been no regard to residents in respect of the application, noting that the proposed planting would not shield local residents from the development. She added that there would be guests wandering around and noted that a Management Plan had been referred to when residents were sold their properties. She noted that now all proposed traffic would be via their existing access and reminded Members that the residents numbered 20, including young children, and that with 30 holiday lodges this meant there could be around 120 unknown people and animals in the area. She explained that if residents had wished to live in a holiday park, they would not have bought a property in such an isolated farmstead offering peace and tranquillity. She noted residents had not been given accurate information as regards stewardship and also as regards potential development, with third parties also being led to believe residents were ok with the development. She stressed that with the additional lodges and properties and management offices, local residents would only represent one quarter of the total number of people in the area. She added that residents had been failed by planning policy and while residents had believed they were buying a dream, they acquired a nightmare. She concluded by noting there would be an unacceptable impact upon the landscape.

The Chair thanked Mrs J Heseltine and asked Mr Alastair Willis, Agent for the Applicant, to speak in support of the application.

Mr A Willis noted he endorsed the balanced report of the Officer, as set out within the agenda papers. He explained the application had been worked on for a long time, including working with Council Officers, with the scheme having alterations and improvements following comments received. He explained the application sought only an additional eight lodges and two dwellings, 22 lodges already having permission.

He noted the benefits to tourism that would result from the scheme and added it was felt those benefits to tourism and the economy would not be at the expense of the scheme's green credentials. He explained that County Durham had only 40 percent of the tourism bed spaces when compared with Northumberland, and only 20 percent when compared to Cumbria. He noted the significant investments that had been made to the County Durham tourism offer, including Beamish and at Bishop Auckland, and how it was important to encourage their use and for those visiting to holiday and stay locally. He added that site sustainability was promoted in terms of encouraging "staycation", with features such as ground/air source heat pumps, electric vehicle (EV) charging stations, secure cycling storage and use of high-efficiency materials.

Mr A Willis noted that the development was supported by VCD and there would be links to local suppliers and producers. In respect of biodiversity, he referred to the structural landscaping and area of meadow grassland and added that Condition 25 required compliance with Section H of the Ecological Appraisal. He noted two for one replacement in respect of trees and of the biodiversity benefits from the scheme. He explained as regards the details within the design including low level lighting, as set out at Condition 21.

Mr A Willis referred to the 21 passing places and noted that traffic would not pass residents properties, rather would be diverted before that point. He concluded by noting the application was considered acceptable by Highways Officers, suitable in terms of scale and design, provided benefits to the economy and was sustainable, and therefore he would respectfully request Members follow their Officer's recommendation for approval.

The Chair thanked Mr A Willis and asked the Principal Planning Officer to respond to the points raised by the speakers.

The Principal Planning Officer noted that access for the previous approval had been for all vehicular traffic to be taken via a byway, however, within the original report Highways had not raised any issues in terms of traffic via Brandon Lane or Wolsingham Road. He noted that within the assessment it was not stated that access via Wolsingham Road was unacceptable. He added that looking at the current application on its own merits, with the Highways Section considered that the 22 lodges, together with an additional eight was acceptable. He added that the recent comments referring to the eight noted all vehicular access being via Wolsingham Road.

The Principal Planning Officer noted that the Ecological Assessment submitted was considered and the proposals were considered acceptable by the Council's Ecologist, subject to conditions. In reference to the removal of trees, he explained that had been noted and mitigation was secured via condition.

He noted that the Council's Contaminated Land Section had asked for a screening assessment and conditions were included to the satisfaction of the Contaminated Land Section. In reference to the two dwellings and enabling development, the Principal Planning Officer noted it was established material planning concern and used in reference to other non-designated heritage assets.

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

Councillor J Elmer noted he absolutely encouraged people to visit County Durham but stressed the need to protect the heritage assets that we had, as they were the reason came to visit. He noted the proposal site was within an AHLV and explained that during the site visit it was apparent how 'out in the open' the property that would replace an existing barn would be. He noted while there were concerns with that property, the other was more to the rear of the site. He noted that he felt they did not comply in terms of residential development and added he struggled regarding approval for two dwellings being necessary for the delivery of lodge development. He added enabling development should be to protect heritage assets, where as the proposals appeared to be provide more profit and income for the applicant. He noted he was nervous that no lodges had yet been built, and also nervous as regards the increase in footfall. Councillor J Elmer noted he noticed a Brown Hare during the site visit, a protected species, and also noted Peewits, also known as Lapwings, were also on the site explaining they were a species in decline. He added that additional footfall would mean those species would be disturbed. He noted the loss of trees and the 20-30 years in terms of the time to replace them, and the lack of screening during that time. He also noted reports of another protected species at the site, namely Great Crested Newts. He explained that was a statutorily protected species and that it was an offence to disturb their habitat. He added it was worried as regards the ecological survey having seen a protected species, a Brown Hare, on site.

The Chair noted the original approval and acknowledged the need for visitors to come to the County.

Councillor C Marshall explained he concurred with the comments made by Local Member, Councillor M Wilson. He acknowledged the benefits in terms of tourism and the economy and thanked the applicant in terms of their willingness to take on board consultation and make changes to the scheme. He added that it was really important to invest in the County's tourism offer, helping to improve on the lack of accommodation, in turn helping to support the excellent visitor attractions in the County. He noted it was a local developer, from within County Durham, and not a speculative investor.

He reiterated there were clear benefits to the economy, as supported by VCD and the North East Chamber of Commerce in their supporting representations. He added he was not aware of any other such lodge developments within the North East with such green credentials. Councillor C Marshall noted that Officers had noted the evidence provided in terms of the enabling development, and it had been accepted by Officers. In reference to the comments from Councillor J Elmer relating to the ecological report, Councillor C Marshall suggested additional ecological work be conditioned prior to works commencing, and on that basis proposed that the application be approved.

The Principal Planning Officer noted the Brown Hare, and reference within the ecological survey in terms of the mitigation/avoidance mentioned. He noted that such could not be discharged if there were doubt as regards protected species. Councillor J Elmer noted the issues in terms of nesting birds and noted permission could not be approved without relevant information, for example as regards Great Crested Newts. The Lawyer (Planning and Highways) noted that he had not seen the ecological assessment, however, the report relating to the pond had stated it was not suitable for Great Crested Newts. He noted that the DCC Ecologist and the Applicant's Ecologist stated there were no newts. He explained that Members either had sufficient information to make a decision, or they did not, and should not look to condition or retrofit in that regard. The Lawyer (Planning and Highways) explained that ultimately Officers were satisfied there was no need for further survey work. The Principal Planning Officer noted that reference to ground nesting birds had related to the original application that had included an area for a farm shop and café, however, that no longer formed part of the application. He reiterated that Officers were satisfied in terms of the information provided and the mitigations set out.

Councillor C Marshall noted he would therefore propose the application be approved, as per the recommendation set out in the report, without any additional conditions. He was seconded by Councillor K Shaw.

Upon a vote being taken it was:

## **RESOLVED**

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

*Councillor C Kay entered the meeting at 1.21pm*

**d DM/21/01526/FPA - Land to the North of 22 Coronation Avenue, Blackhall Colliery, TS27 4HR**

The Principal Planning Officer 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 5 No. 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted) and was recommended for refusal.

The Chair thanked the Principal Planning Officer and asked Local Member, Councillor R Crute to speak in relation to the application.

Councillor R Crute thanked the Chair and Committee and noted his support of the application as a Local Member. He emphasised that there had been no objections from local residents and assured Members that if there had been any significant level of objection, he would not have been able to support the application. He noted that two previously approved applications had not been able to be taken forward and explained that the application met the tests within the NPPF including those relating to unallocated sites and housing type and mix. He noted there would be no significant harm and that statutory responses had shown no objections from the Drainage Section, Network Rail, the Highways Section or Northumbrian Water.

Councillor R Crute noted he had asked for the application to be referred to Committee as there had been some potential issues, however, the Highways Section noted no material concerns. He added that while some internal consultees had raised issues, they offered no objection subject to conditions. He noted the principle of development was well established. He acknowledged the issues raised in terms of Ecology and the regulated habitat, however, he referred Members to paragraph 58 of the report which noted the site was "*generally outside the 0.4km buffer zone and separated from this by a mainline railway and dense tree line*". He reiterated the two previous applications that had been approved and added he would accept the concerns if the site had been a greenfield site, however it was in a built up area, now lying barren. He noted there was housing to one side of the site, with the busy rail line also nearby. He reiterated that the land was currently unused and attracted anti-social behaviour and fly-tipping, therefore the area and neighbours would benefit from the redevelopment of the site. He reminded Members that despite widespread notification as regards the application, there had been no objections from residents. He noted the report referred to the site as "*highly sustainable*" and added it was felt the application did not have adverse impact on residential amenity, highway safety or drainage.



Councillor R Crute concluded by reiterating that two previous applications had been approved for the site and asked Members to approve the application to help bring a derelict site back into use, in turn helping to mitigate anti-social behaviour in the area.

The Chair thanked Councillor R Crute and asked Mr Geoff Robson, the Applicant, to speak in relation to his application.

Mr G Robson explained Councillor R Crute had explained the situation exactly and explained if he felt the proposals were wrong, he would not have sought planning permission. He explained he felt the development would benefit the whole area and he just needed help from the Committee to be able to get started.

The Chair thanked Mr G Robson and asked Officer to comment on the points raised.

The Principal Planning Officer explained that when the previous two application referred to were approved, the relevant species protection and CDP had not been in force. He added that in the past, and within the report it was accepted that the site was sustainable. He noted that the issue was the point of principle in terms of the Conservation of Habitats and Species Regulations (2017). He noted there were a number of requirements and duties in terms of protected species and DCC Developer Guidance relating to the CDP stated that C3 development within 400 metres of Habitat Regulations Assessments (HRA) areas would have an adverse impact that could not be mitigated and therefore the only recommendation Officers could put forward to Members was for refusal. The Lawyer (Planning and Highways) reiterated that the issue was the impact on the protected coastline and noted that following assessment of the impact it was shown to not be possible to adequately mitigate or address that impact. He noted that accordingly it was not legally possible to grant approval contrary to the habitat regulations.

Councillor K Shaw asked how the site would have access to the protected zone, with a railway line and fencing being in-between the two. The Principal Planning Officer acknowledged the railway line, however, the Ecologist had taken that into account and given there was still a level of access, that would amount to disturbance and therefore the recommendation was for refusal. Councillor K Shaw asked how potential residents of the site would access the protected zone, given the railway line. The Principal Planning Officer noted that while it may be a long route, the Ecologist felt it was possible. He added there had been the opportunity for the applicant to provide further information on how it could be mitigated, however, it had not swayed the opinion of the Council's Ecologist.

Councillor C Hood asked what the Committee could do, given the information provided by the Officers on the constraints.

*Councillor S Deinali left the meeting at 1.45pm*

Councillor C Hood noted the area in question was two-thirds covered in concrete, there had been no objections from local residents and Members were now being told at Committee their hands were tied. He noted he had been elected to look after the residents of the County and he felt in this instance he was being told that he could not.

The Principal Planning Officer reiterated that there was a duty to comply with the habitat regulations and therefore recommend refusal for C3 use. He noted that other potential uses may be possible, however, C3 use was considered to result in an adverse impact. Councillor C Hood asked if those 'what ifs' had been shared with the applicant. The Principal Planning Officer noted the alterations in the shadow assessment the ecology consultants had undertaken.

Councillor C Kay noted the references to regulations and policies within the report, and while very dry, he understood those were the metrics Officers needed to use. He added that it was for Members to consider the human aspect and he noted the lack of objection from the people of Blackhall. He noted he would welcome such development and asked whether there was any form of condition that would make it possible to move forward with development. The Lawyer (Planning and Highways) noted that unfortunately the legislation was clear. Councillor C Kay asked as regards the consequences should the Committee approve the application. The Lawyer (Planning and Highways) noted the decision would be unlawful and subject to potential challenge by Judicial Review. The Principal Planning Officer noted that Natural England had advised that insufficient information had been provided, and that potentially, if that additional information were to be submitted his would require further consideration.

Councillor J Elmer noted the statement from Natural England, in terms of disturbance of the protected species by dogs, adding he felt it was unlikely given the railway in-between, however he suggested it may be decreased further by appropriate boundary treatment. He suggested that it may be sensible to defer the application subject to further information in that regard. Councillor C Marshall noted it may be useful to have an indication from the applicant whether deferral of the application would be acceptable. The Chair noted the applicant could respond in relation to the suggested deferral. Mr G Robson noted his Architect had approached Natural England and they had stated the 'ball was in DCC's court'.

He explained that the site was fenced off physically with 120 houses and an access road, it was effectively land-locked.

He noted he had purchased the land when at a high value, previous proposals had been approved, unfortunately, there had been an eight month delay in the previous planning approval. He added that if the plans had been approved within the eight week timescales, he would have been able to build the properties. He asked, if approval could not be given today, what the point had been. The Chair noted that if Mr G Robson wished the application to be determined today, Officers had advised Members it would not be possible to approve, however, if Members were to defer the decision, then Mr G Robson could look to provide additional information. Mr G Robson explained would rather the application be determined as he had invested considerably into the proposals and failed to see how to convince Natural England. He added that Natural England had installed pathways and steps to allow access through the 'protected habitats'.

Councillor C Marshall understood the concerns and frustrations of the applicant, however, he felt that it would be appropriate to defer the application to allow for further information to come forward to see if any mitigation could be provided and he hoped that the applicant would reflect on why the Committee were suggesting deferment of the application to allow him the opportunity to provide additional information.

*Councillor D Brown left the meeting at 1.58pm*

Councillor C Marshall proposed that the application be deferred, he was seconded by Councillor I McLean.

Upon a vote being taken it was:

**RESOLVED**

That the application be **DEFERRED**.

*Councillor C Kay left the meeting at 2.01pm*

**e DM/21/03682/FPA - St Cuthbert's House, Diamond Terrace, Durham, DH1 5SU**

The Senior Planning Officer, Louisa Ollivere, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the demolition of the Mainstreet USA offices and the erection of a new build 2-4 storey workplace building and associated landscaping and was recommended for approval, subject to conditions.

The Chair thanked the Senior Planning Officer and asked Parish Councillor Susan Walker to speak on behalf of the City of Durham Parish Council in objection to the application.

Parish Councillor S Walker thanked the Chair and Members and explained that the Parish Council strongly objected to the proposals and urged that the Committee refuse the application. She noted under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, there was a legal duty on Planning Authorities to pay special attention to the desirability of preserving or enhancing the character of conservation areas, with the application site falling within the Durham City Conservation Area. She added that the Conservation Character Appraisal noted the Sidegate as being "*narrow, distinctive lane of an enclosed and intimate character*" and that this should inform the type of architecture. She noted the Parish Council felt the proposal would change the character of the area, and that the scale and massing were substantially greater than the building currently occupying the site. Parish Councillor S Walker noted the proposals were for a two to four storey building of approximately 900 square metres, equivalent to 62-70 people. She noted while the design attempted to follow the same building line as Diamond Terrace, it failed to work and was overbearing. She noted Policy 44 of the CDP made it clear development must sustain the importance of designated and non-designated heritage assets, as did Durham City Neighbourhood Plan (DCNP) H2. She added DCNP Policy S1 required that new development harmonise with its context in terms of scale, layout, density, massing, height and colour.

Parish Councillor S Walker noted the Officer's report falls on extant residential development permission, however, that referred to three two-storey and two three-storey dwellings and did not have a similar impact to that of the proposed office development. She noted CDP Policy 6 referred to unallocated sites, and that development should be approved if the proposals were compatible with existing uses and were in scale and keeping of an area. She noted in that respect the application failed.

She added the proposals were contrary to Policies 6 and 44 of the CDP, DCNP Policies S1 and H2 and Section 15 of the NPPF. She reminded the Committee that those policies had been hard won and should not now be forfeit.

In respect of parking, Parish Councillor S Walker noted that the provision was way below that set out in the Council's guidance, and therefore in conflict with CDP Policy 21. She noted five spaces for over 60 people was not sufficient and requested that the Committee refused the application.

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

Councillor R Ormerod noted he was in opposition to development that caused significant harm to the conservation area in the city, and he explained that the area was very special, a 'village' within the city. He noted that replacing an unsuitable two-storey building with an equally unsuitable four-storey building was not appropriate. He added that the use of the building was not known, and this added to the impact on residents. He reiterated the comments of the Parish Council in terms of the impact on the character of the area and the limited parking provision of five spaces for 60 occupants, contrary to CDP Policy 21. He added he felt the spirit of the DCNP should be adhered to and that the development proposed was unsuitable in terms of its size and type and was contrary to policy.

The Chair thanked Councillor R Ormerod and asked Mr Robin Humphrey, Chair of the Sidegate Residents' Association, to speak in objection to the application.

Mr R Humphrey explained that the Sidegate Residents' Association agreed with the detailed policy objections as set out by the City of Durham Trust and Parish Council. He explained there were three key points, firstly that the scale of the proposal was out of keeping with the location, with the 900 square metre proposals being claimed to be of a similar massing to the previously approved two and three storey properties.

Secondly, Mr R Humphrey reiterated that the provision of five spaces was significantly below the parking standards and was therefore contrary to CDP Policy 21. He noted that had been brushed aside within the report with reference to the central location and proximity to the train station and public transport. He noted staff at the nearby Probation Service building had a car park that was always full. He noted that thirdly there was concern as regards the impact on residents parking, especially those of Diamond Terrace, noting the land was owned by the applicant, though not the access, and parking was controlled by permits.

He noted the preference was to refuse the application, however, if Members were minded to approved the application, then to condition as regards the applicant providing parking for residents.

The Chair thanked Mr R Humphrey and asked Mr J Ashby, representing the City of Durham Trust, to speak in relation to the application.

Mr J Ashby noted the City of Durham Trust supported all the comments made by objectors. He noted that the development was exceedingly large and referred to the impact on the World Heritage Site, parking and access. He noted that permission for seven town houses for student use was refused in 2016, with Highways refusing the application on the basis that there was insufficient parking and that there would be queuing from Framwellgate Peth.

Mr J Ashby noted the desire for extra jobs and agreed that was very important, however, he noted that as shown by the example of Fram Well House, where jobs had simple moved across the city, he was not sure if jobs created would be new jobs. He concluded by noting the City of Durham had submitted its objections in writing which set out they felt the application should be refused as it was contrary to CDP Policies 21, 29 and 44, and DCNP Policies S1, T1, H1 and H2.

The Chair thanked Mr J Ashby and asked Mr Adam Serfontein, Managing Director of Hanro Group, the applicant.

Mr A Serfontein noted with disappointment he would be the lone voice speaking in support of the application to bring back into use a disused former 'Main Street USA' property. He explained he was the Managing Director at the Hanro Group, a north east developer that operated in Durham and built to own long-term. He emphasised the long-term and explained that the proposals represented a significant investment in Durham. He explained that the vitality of Durham was important, as was the sustainable location, to create flexible accommodation to support small and medium sized enterprises (SMEs). He explained Hanro Group had worked with Business Durham who supported the model being put forward, helping to support start-ups and aid in the retention of students from the high class University. He noted that the proposals had the backing of the Council's professional Officers and admitted he was surprised as regards the vociferous opposition to the creation of new jobs in the area. He noted that aspirations of the Hanro Group and Durham were aligned, and the application had been guided by policy, design and the economy. He reiterated that the proposals would bring back into use a derelict site and hoped the Members would approve the application. Mr A Serfontein noted he was as excited as regards this opportunity as he had been in 2004 for a smaller site in Newcastle supporting SMEs and start-ups and hoped to similarly attract and retain businesses in the area.

The Chair thanked Mr A Serfontein and asked Officers to respond to the issues raised.

The Senior Planning Officer noted that the Heritage and Design Section had noted the constraints of the site, with colleagues from Conservation heavily involved due to the issues associated with the World Heritage Site and Conservation Area. She noted that the proposals represented an enhancement to the Conservation Area and added that the scale was similar to that of previous approved proposals. She noted that the City of Durham Neighbourhood Plan suggested that the site was suitable for housing, however, she noted the Inspector had confirmed this was not an allocated housing site, and the consideration was that of 70 jobs balanced against five residential properties.

The Principal Development Management Engineer, David Battensby, noted that the parking standards were guidance, and there was a need to strike a balance. He noted that the area was within the city and in a highly sustainable location and, combined with the excellent park and ride service, it was felt that in this case five spaces was acceptable.

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

Councillor C Marshall noted he was in favour of such development, noting it was in the wider context of creating better jobs for County Durham and the north east. He noted the proposals were not talk, or a press release, but tangible development that would help encourage other investors to come to Durham. He noted the Council's successful building, Salvus House, which had a similar offer though was massively oversubscribed. He noted the Government grant for the development of the plot at Aykley Heads and hoped that the proposed development could help bridge the gap between the Aykley Heads development and the redevelopment at Millburngate. He noted the need to retain University students to help boost GVA and noted the excellent transport links, with quick access to the nearby rail station. He noted the concerns raised about parking for the proposed offices and reminded Members that the much larger National Savings and the Passport Office buildings in the city did not have any associated parking provision.

Councillor C Marshall noted that he felt that it would be a disservice if the application was not approved as it was in line with policy and good for County Durham. He proposed that the application be approved as per the recommendations.

Councillor J Elmer noted the comments from the Parish Council, City of Durham Trust and the Residents' Association and noted the support within the DCNP that the area be used for housing.

He noted that it was a case, once again, that where bodies across the city were in polar opposition with DCC Officers. He noted it did not make sense to him. He added that if Members were to approve the application, he would wish to see a condition as regards a sustainable workplace travel plan to encourage sustainable modes of transport.

The Chair noted he supported the comments from Councillor J Elmer, noted the policy support for housing within the DCNP, however, also noted the support of Business Durham for the application.

Councillor K Shaw noted Members were not considering hypothetical situations for the site, rather considering the application before Committee. He noted he had listened to the reasoning and saw no material planning reasons to refuse, therefore he seconded Councillor C Marshall's motion for approval.

The Chair noted there had been two proposed additional conditions, one relating to a work place travel plan, the another as regards parking provision. The Senior Planning Officer noted that in terms of a Sustainable Travel Plan, the size of development was below the threshold that would normally be required, however, given the low number of parking spaces being provided, it may be something the applicant may wish to provide, or Members wish to condition.

The Lawyer (Planning and Highways) noted that it would be a struggle to impose a condition as regards the developer providing a solution to residents' parking, he added it would fail the relevant tests in terms of the imposition of conditions. He asked, if the applicant was minded to agree to a condition relating to a work place travel plan, if the mover and seconder would agree for that to be included.

Mr A Serfontein noted he would be happy to have a condition relating to a work place travel plan, however, any addition condition in association with provision of residents' parking would be unacceptable. Councillors C Marshall and K Shaw noted they would be happy to include an additional condition relating to a work place travel plan and thanked the applicant for offering to include the condition.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report, and an additional condition relating to the provision of a work place travel plan.