

**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 14 March 2023** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors L A Holmes (Vice-Chair), I Cochrane, J Cosslett, S Deinali, J Elmer, D McKenna, R Manchester, C Marshall, E Peeke (substitute for J Quinn), K Robson, K Shaw and A Simpson (substitute for L Brown)

**Also Present:**

Councillors C Hood, F Tinsley and M Wilkes

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, L Brown, C Kay, J Quinn and A Surtees.

**2 Substitute Members**

Councillor A Simpson substituted for Councillor L Brown and Councillor E Peeke substituted for Councillor J Quinn.

**3 Minutes**

The minutes of the meeting held on 14 February 2023 were confirmed as a correct record by the Committee and signed by the Chair.

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

The Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not had any input into their submission in objection to application on the agenda. He added that he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

Councillor C Marshall noted he was aware of both applications from his previous role as Portfolio Holder for Economic Regeneration, however, he had a clear mind in terms of looking at the applications at Committee.

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

##### **a DM/22/03636/PNT - Land south west of Kepier Community Clinic, Kepier Crescent, Gilesgate Moor, DH1 1PH**

The Planning Officer, Michelle Penman 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 prior notification for installation of 15m Phase 9 monopole together with wraparound cabinet at base, 3no. ancillary equipment cabinets, and associated ancillary works and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted that the prior notification application was only considering the siting and appearance, not the principle of the development and that should Members be minded to approve the prior notification, it would be subject to the amended plans showing the reduced height of the monopole and stipulating the colour as being fir green (RAL).

The Chair thanked the Planning Officer and asked Parish Councillor Patrick Conway to speak on behalf of Belmont Parish Council in relation to the application.

Parish Councillor P Conway noted that the Parish Council recognised that in the 21st Century there was a need for 5G connectivity and understood the need for such development to take place. He added the Parish Council welcomed the reduction in height from an original 20 metres down to 15 metres, however, he noted that the applicant had not engaged with the Parish Council or Residents' Association on proposed alternative sites.

Parish Councillor P Conway explained that only two of the three nearby schools had been contacted, with St. Joseph's RC Primary School having not been contacted. He noted this demonstrated that the consultation had not been as thorough as it should have been. He noted that there had been public health concerns raised, noting that the Durham Alliance for Community Care operated their clinic nearby six days a week. He added that while the report indicated that information was that a health risk was 'unlikely' he noted that the 'jury was still out'. He reiterated that there were a number of alternative sites put forward, and there was no need for the monopole at this site, others could accommodate it.

Parish Councillor P Conway noted that paragraph 34 of the report referred to National Planning Policy Framework (NPPF) paragraph 115 which was clear in stating that the '*number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum*'. He explained that the Parish Council did not feel there was sufficient evidence in terms of need and noted over the last two to three months there had been two similar applications, and he was sure there would be more within the city and wider county. He added that, bearing in mind NPPF paragraph 115, the Parish Council felt it would be very helpful if the Local Authority would look at supplementary planning documents (SPDs) that would help support the County Durham Plan (CDP) in respect of such masts, and that it would be a good opportunity now to look at the issue regardless of the decision made by Committee on this particular application.

The Chair thanked Parish Councillor P Conway and asked Carole Lattin, representing the Gilesgate Residents' Association to speak in relation to the application.

C Lattin thanked the Chair and the Committee and noted she would echo the comments from the Parish Council and would add that the representations received from residents were numerous and that not all were set out on the Planning Portal. She explained that people did not object in principle, rather it was felt this particular mast was in the wrong place. She added that the same network had several other monopoles in the area, with one less than 300 metres away from the proposed site, a more appropriate siting. She explained that the applicant had not engaged with the Parish Council or Residents' Association, with no contact prior to the application being submitted. C Lattin noted that paragraph 31 of the Officer's report set out that the application was for the siting and visual appearance, and not the principle, and she noted that while the proposed height had been reduced by five metres, it was still 15 metres, next to a single storey building, Keiper Clinic. She added that in comparison to the Clinic and bungalows at Whitwell Court the proposed mast was three times the height and would affect the skyline and visual profile of the area.

She noted that those best placed to judge the impact were those that encountered the area on a daily basis, adding that all three County Councillors, the Parish Council and Residents' Association had all made representations against the proposals, with a lot of the representations made citing a loss of visual amenity. She noted that the Residents' Association recommended a review of policy and would urge developers to contact local community to help find suitable sites to help cut out such numerous objections in the future.

The Chair thanked C Lattin and asked the Planning Officer to comment on the points raised by the speakers.

The Planning Officer explained that there was a level of consideration given to other sites, they had been discounted, with the applicant submitting documents to show the site was the ideal location, sited to the south to avoid the residential area and to not be sited on a footpath. She added some of the alternative sites mentioned by objectors had been discussed, with one on the A690 having been discounted as it would not be safe in terms of any maintenance works. She noted that there was a mast north east of the site and the proposals were to target a hole in coverage. Accordingly, Officers were satisfied that alternative site had been looked at. As regards any health concerns, the Planning Officer noted she understood the point being made, however, paragraph 118 of the NPPF noted that Planning Authorities should not look to set health safeguards different from the International Commission guidelines for public exposure.

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

Councillor K Robson noted he would have liked to hear from the applicant as regards the points raised by the speakers. The Chair noted that there was no representative from the applicant at Committee, their comments and information being as set out by the Planning Officer in her report and presentation.

Councillor R Manchester noted there appeared to be no concerns raised and that while points had been made as regards local consultation, they were outside of determination of the application. He proposed the application be approved as per the Officer's report and presentation. He was seconded by Councillor S Deinali.

Upon a vote being taken it was:

**RESOLVED**

That Prior Approval be **APPROVED**, subject to the conditions as set out within the report, including a condition relating to the amended plans which includes details of the proposed colour.

**b DM/22/01537/FPA - The Orchard, Hallgarth, High Pittington, Durham, DH6 1AB**

The Senior Planning Officer, Lisa Morina (LM) 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 change of use of dwelling (Use Class C3) to spa facility (Use Class E(e)) including removal of existing front door and installation of new entrance door to northern elevation and was recommended for approval, subject to the conditions as set out in the report.

The Chair thanked the Senior Planning Officer (LM) and asked Councillor D Hall, Local Member, to speak in relation to the application.

Councillor D Hall thanked the Chair and Committee and explained that he represented the Sherburn Division, which included High Pittington and the small hamlet of Hallgarth. He noted Members would have had sight of his e-mail to the Committee and therefore he would give a summary of why he felt the application should be deferred to allow for consideration of a noise management plan for the proposed spa and the cumulative impact that would have when considering the proposals with the existing site. He noted from residents that the noise worsened with seasonal events and that one nearby local resident suffered with dementia and another family nearby had a child with autism. He explained that residents had reported that issues with noise were worse than last year, and added that the spa proposals would impact upon residential amenity as visitors and associated noise would be closer to residents. Councillor D Hall noted that the applicant had promised a noise management plan, however, it had not come forward and added that he was aware a plan was drafted for the wider site including addition of holiday pods. He emphasised that he felt it was essential that the noise management plan include the spa site and be enforced. He noted that he did not want to stop the hotel, rather he wanted the hotel to be successful but not to the detriment and impact on the mental health of residents, their families and children. He again asked that the Committee defer the application.

The Chair thanked Councillor D Hall and asked the Committee Services Officer to read out submissions by registered speakers who had been unable to attend the meeting.

The Committee Services Officer read out a statement from Simon and Elisa Berry, Local Residents in objection to the application.

*“Thank you for the opportunity to express our concerns over this planning application, and I’m sorry we cannot be there in person.*

*Contrary to what this statement may appear - we would really like the Hallgarth Manor Hotel to become commercially successful. Both myself and my wife grew up in Pitlington and returned to the village 15 years ago. We have raised our sons in the Village and they both attended the local primary school. Ideally would like to see the Hallgarth Manor Hotel be a proud addition to a thriving Village.*

*Our specific concerns over this planning application are already documented. The reason for this statement is to put things into a personal context.*

*We have significant problems with the way that the Hallgarth Manor Hotel currently run their events, and specifically their disregard for the impact that their events have on their neighbours. This has led us to pursue a noise complaint with Durham council that is still ongoing. Over the Summer period it is common for them to run events 4 out of 7 days a week. These events commonly include live outside bands. When inside, the events go on until 12pm, including Sundays. The specific details of this, and the result of a noise survey, are all documented in our noise complaint.*

*The frustrating thing for us is that there is a solution, because when they do run their events respectfully, we have no issue with them. However, this is not often. They do not believe they need to engage, and do not accept that they are doing anything incorrect or harmful to our lives.*

*There is also a specific concern for us. Our son is autistic and has a learning disability. He is sensitive to bass sounds and on a good day will only get agitated when he hears the music, but on a bad day he will self harm significantly. Both Durham council and the Hallgarth Management have seen photos of the wounds caused by noise from the events, when they are run irresponsibly. Both myself and my wife are registered carers and our son attends Durham Trinity school. He is also under CAMHS and the effect that the Hallgarth events are having is documented in his medical history.*

*Throughout all this, the owner has not engaged. I have never spoken to him despite numerous attempts to do so. The management response is that they can do nothing more than ask that the doors are kept shut and try to keep the sound limiters on. They will not insist on this however, and from numerous times we have asked them to do this, they see us as a nuisance.*

*I realise that reading a one-sided viewpoint there will always be questions about how reasonable the statement is. However there are facts that can be checked to substantiate our concerns. At the meeting with the case officer last year the owner promised to fix a wall which was in serious risk of falling and speak to one of the residents about bass control at a face to face meeting last year - both of which didn't happen. They have also not removed the surveying bolt that was placed on our (the residents) land, this land was illegally surveyed because they did not have permission for the survey.*

*And specific to this application, at the meeting with the case officer last year the owner promised to carry out a site wide noise management plan as part of the planning application for the Spa, this again has not been carried through.*

*Further to this there are consistent representations from the majority of the immediate neighbours to this application.*

*We don't believe that the Hallgarth Manor Hotel is being run in a manner that a village like Pittington deserves. It does not show the Village, or its residents, any respect.*

*The application for the Spa should, in theory, be something we would welcome. But there has been a considerable loss of trust in how the business is run and I'm afraid that there is nothing for us to believe that they will run the Spa any more responsibly than they will their current business.*

*For this reason, we have objected to the planning permission".*

The Committee Services Officer read out a statement from Billy Walton, Local Resident in objection to the application.

*"My family and I have been residents in the area of Hallgarth for over 25 years. I have recently submitted an objection to the proposed planning application for change of use of the existing house known as the Orchard, from residential to spa use.*

*The house was previously owned by an elderly couple who despite marketing the property for a long period of time could not sell it due to the concerns of noise and disturbances from the hotel functions, this continued until the hotel eventually purchased the house.*

*This seemed like a very convenient strategy from them because it eliminated the problem of complaints from the "then" occupiers of the Orchard household, and also to give them freedom to expand the existing commercial operation further into a residential area.*

*Since the sale completed the noise levels and disturbance that We have been experiencing from the Hallgarth Manor House for over 20 years has gotten worse than ever.*

*A previous owner from the Orchard House once had an unwelcome visitor that was actually found in her kitchen they had gained access through the hedge that separated the property from the Manor. I understand that this was not the current occupiers responsibility but now that they have cut down the conifer hedge that has been growing there for 30 years and replaced in part with low fence and farm gate for access.*

*My point is that this not only makes access from the Manor easier but transfers the trespassing problem to the next house in line, which is a bungalow resided at by a 95-year-old lady who needs care and support. Security precautions should have been made to protect old and vulnerable neighbours as soon as the property was acquired by the Hotel.*

*In principle we have no objection to any business achieving success nor to the enjoyment of their patrons but this should not be at the expense of destroying ours and our neighbour's quality of life.*

*In the summer of 2022 we had meetings with planners and representatives of the Manor including the owner, he seemed at the time to be very constructive and willing to listen. However some of the verbally agreed solutions to our concerns have not been followed up and it feels like a case of "tell them what they want to hear" for the benefit of the planning officers in attendance.*

*The impact of the resident's quality of life should be seriously considered in this application, and so should the impact of wildlife and the environment. We are serviced in this area by septic Tanks for our sewerage and worry that the chemical waste from an operating spa may not be disposed of safely. We are proud of this tranquil little hamlet and we need help to be protect it from commercial use and the power and wealth that comes with it.*

*We should also be mindful and look at the big picture, to see that this proposal and the concurrent application to Grant a premises licence, allowing them to play live or recorded music outdoors until the early hours of the morning doesn't make commercial sense, why would you want to be able to play late night music outdoors and potentially disturb your own hotel guests and Spa customers. The application would also eliminate any constraints that were previously agreed to limit noise levels within the premises because the noise outside would drown it out and would also be heard for miles. Please don't allow a possible late night venue to be dressed as a Hotel and Spa.*



*As residents all we want is to be able to enjoy the basic comforts of life. To be able to sit in our own gardens when the weather allows without worrying that disturbance from across the street will make it unbearable and to be able to go to bed at night and be able to sleep.*

*We are dreading the arrival of the summer months when outdoor activities can take place and worry about what might come next amidst the rumours of glamping pods and live outdoor bands.*

*This area is a conservation zone and residential, please don't allow it to be expanded, commercialized and turned into something that is more suited to a city centre".*

The Chair thanked the Committee Services Officer and asked Joseph Cuthbert, Agent for the applicant to speak in support of the application.

J Cuthbert reminded Members of the context of the impact of the Coronavirus pandemic on the hotel and hospitality industry and explained the owner of the hotel had a number of hotels in the county. He noted that Hallgarth Manor was at risk of closure and needed investment to survive. He explained that a spa offer was fundamental as part of a short break package to secure the hotel's future. He added that the planned redevelopment would take place at the hotel over a few years and would be done so sympathetically to secure the future of the business. He noted any future application would be for future consideration, in terms of the additions referred to by Councillor D Hall, noting the challenges in terms of the existing listed building and conservation area. He noted therefore the decision had been made to purchase The Orchard and to, through minor internal alteration, provide spa facilities.

*Councillor M Wilkes entered the meeting at 10.22am*

J Cuthbert noted that Planning Officers had stated the application would not harm the Listed Building or conservation area and would positively sustain heritage. He noted access would be via Hallgarth Road and the access was a typical entrance and would not be altered, it would be retained for use in terms of maintenance, with most access being from the main hotel.

In reference to noise, J Cuthbert noted the issue had been raised for a number of years, usually associated with activities such as weddings in the gardens. He added there had been some misunderstandings as regards the current application, noting that it would not generate any additional noise as activities associated with the spa were not external. He concluded by noting that the spa development was the first stage in redeveloping the hotel into a boutique hotel with an emphasis on relaxation and not events, and would ask that the Committee approve the application.

The Chair thanked the speakers and asked the Senior Planning Officer (LM) if she could address the points raised.

The Senior Planning Officer (LM) noted that the application before Members did not refer to any wider redevelopment of the hotel and any such application would be considered on its own merits. She noted that the larger management plan referred to was not relevant to this application, noting that the Council's Environmental Health Section were satisfied with the assessments and information submitted in relation to the proposed spa, subject to conditions as set out within the report. She noted that only information relating to the spa development was relevant for this application, and in respect of any Licensing application she noted that would be dealt with under separate legislation. She noted that the use in terms of music and events for a number of years, reiterating Licensing applications were separate from Planning.

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

Councillor J Elmer noted there was a lot to unpack in terms of the application. He noted frustration in terms of a lack of information in respect of plant equipment as it may have considerable energy consumption and be of interest to the Committee. He noted there was no information as regards chemicals being used, and what the treatment and disposal would be of waste water. He explained that the big issue appeared to be the local concerns raised as regards increasing noise levels. He understood as regards the separate Licensing application, however, asked why a noise management plan had not been requested.

The Senior Planning Officer (LM) noted that Environmental Health had originally asked for additional information and upon receipt, they had considered that, subject to the conditions within the report, that the application was not unacceptable in terms of noise. She noted external elements, such as the terrace were set out at Condition 7 in terms of the extent of hours it may be used. She explained that the red line plan was for The Orchard, and not the existing Manor and reiterated that only the spa element was being considered in the application before Committee, with conditions as set out.

The Chair noted the issue of waste water had been raised by Councillor J Elmer. The Senior Planning Officer (LM) noted that such disposal was, again, outside of planning and covered under separate legislation.

Councillor J Elmer noted the application may be considered contentious by those objecting, however, there did not appear to be any planning policy basis on which to overturn the Officer's recommendation.

He reiterated his frustration in terms of lack of environmental impacts, however, he would reluctantly move approval as per the Officer's recommendation.

Councillor K Robson seconded the motion for approval, noting that the noise issues seemed to relate to a previous permission and use and it was stated there would not be additional noise from the proposed spa. He noted it was important to try to get people to visit County Durham and promote all the County had to offer.

Councillor C Marshall noted, after listening to the representations made, he was minded to approve the application and supported the promotion of County Durham. He suggested for future applications, that the operator worked and engaged early with Local Members and residents to try to work out issues prior to applications coming to Committee.

Upon a vote being taken it was:

## **RESOLVED**

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

### **c DM/21/04262/FPA - Mount Oswald Golf Club, South Road, Durham, DH1 3TQ**

The Senior Planning Officer, Steve France (SF) 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 9 no. dwellings and alterations to existing access road and was recommended for approval, subject to the conditions and Section 106 Legal Agreement as set out in the report.

*Councillor M Wilkes left the meeting at 10.35am*

The Senior Planning Officer (SF) noted support from internal consultees and added that objections had been received from the City of Durham Parish Council, the City of Durham Trust, Local Member, Mount Oswald Residents' Association and individual residents. He noted many comparisons were drawn between the scheme within the application and a previous scheme for the site which would have been for five passive houses. He noted that the application before Members should be considered on its own merits and not in comparison to any previous scheme.

*Councillor M Wilkes entered the meeting at 10.40am*

The Senior Planning Officer (SF) noted there had also been a number of letters in support of the application and reiterated that the application was in line with policy and that the principle of development itself was already accepted, with the previously accepted scheme.

The Chair thanked the Senior Planning Officer (SF) and asked Parish Councillor Susan Walker to speak on behalf of the City of Durham Parish Council.

Parish Councillor S Walker thanked the Chair and Committee for the opportunity to speak in relation to the application. She explained that the City of Durham Parish Council strongly objected to the application as it failed to meet the primary and stated object for this small section of the Mount Oswald estate; namely to create properties whose energy needs were primarily met using their own renewable energy and do not rely on external supplies, primarily imported from hydrocarbon sources. She noted the application site currently benefited from planning permission for the development of five dwellings, which was granted by the Local Planning Authority in March 2018, with the original scheme having set itself apart from a sustainability perspective. She noted that therefore it was highly disappointing that the original proposal had been replaced with an alternative scheme which, for reasons unknown, increased the proposed number of dwellings from five units to nine and entirely abandoned the original sustainability concept of this development.

Parish Councillor S Walker noted that CDP Policy 29 stated:

*“All development proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and: contribute positively to an area’s character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security; minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation, and include connections to an existing or approved district energy scheme where viable opportunities exist. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source”;*

*Councillor C Hood entered the meeting at 10.55am*

Parish Councillor S Walker noted it was that all new development should seek to minimise the use of resources, including energy, and should apply both during construction and the lifetime of the completed development. She added that it also meant that renewable energy technologies would be encouraged on-site, and where opportunities for viable installations had been identified, it was expected that such installations would go forward as part of the development. She explained that major developments would also be required to connect to an existing or approved district energy scheme where viable opportunities existed.

Parish Councillor S Walker noted that whilst the Parish Council welcomed the inclusion of photo-voltaic (PV) solar panels on each dwelling, the Sustainability Checklist did not include any detail, pertaining to how sustainability would be embedded into the design of the development. She noted that no other renewable energy technologies, such as district heating, had been considered by the applicant. She added that, given the forthcoming Future Homes Standard in 2025, the Parish Council was disappointed that no consideration had been given to district heating or indeed other low carbon technologies, such as air-source heat pumps, ground-source heat pumps or Passivhaus, and as such the application did not comply with Policy 29(c) of the CDP.

Parish Councillor S Walker reminded the Committee that Durham County Council (DCC) declared a Climate Emergency in 2019 and it was incumbent on any developer to play a role in seeking to reduce carbon emissions and respond to this to reduce emissions and help deliver a forward looking and future proof development. She added that this was a critical opportunity for Banks, as a sponsor of the County Council's Environmental awards, to produce a flagship carbon neutral development as an exemplar for the County. She noted that Banks should both welcome and grasp the opportunity, as should the County Council.

Parish Councillor S Walker explained that Neighbourhood Plan Policies D4 and S1 were equally clear in that they demand new development proposals to fully minimise energy consumption and carbon emissions through the use of appropriate materials and design, with this proposal being clearly contrary to those policies. She noted there appears to be no justification for the over massing of the site, nor the abandonment of the clear environmental aims of the previously proposed development for five passive homes. She concluded by noting that the Parish Council humbly requests that the application be refused today.

The Chair thanked Parish Councillor S Walker and asked Lewis Stokes, from the applicant, Banks, to speak in support of the application.

L Stokes thanked the Chair and Committee and explained he was Community Relations Manager with Banks and had spent the last 12 years working with local communities in the area as regards the Mount Oswald development. He explained that Banks was a family ran business, operating for 40 years and having 230 employees, many from within County Durham.

L Stokes explained that Banks welcomed the Senior Planning Officer's report and recommendation. He noted the overall development was a high level site, with outline permission having been granted in 2013, and with a number of reserved matters applications to build out the site. He noted that in 2018 there had been proposals for this particular site, for an innovative scheme using prefabricated dwellings from Sweden, however, due to economic and provider issues that scheme was not implemented. L Stokes explained that the current proposal for nine properties, which were felt would better integrate into the wider Mount Oswald site and with existing properties. He noted the properties were of generous proportions and were of bespoke design. He noted there were numerous benefits of the scheme in terms of contributions of £418,095 for new affordable housing in the city, additional areas of bio-diversity net gain at Mount Oswald, £15,651 for public open space provision in the local area.

L Stokes noted that Banks had listened to the Parish Council and Local Member, L Brown and there was to be inclusion of PV solar panels on the roofs to generate renewable energy as well as electric charging points in each home. He noted that Banks were keen to begin development and that there would be separate application in respect of the gatehouse. He added that the construction road would be reinstated as parkland once the development was completed. He concluded by noting retail development to the north of the overall site, that feedback had been listened to, and that he would ask the Committee to support the recommendation of its Officer's report.

The Chair thanked L Stokes and asked the Senior Planning Officer (SF) to address the points raised by the speakers.

The Senior Planning Officer (SF) noted that planning policies within the CDP and Neighbourhood Plan (NP) were widely aspirational in terms of sustainability, however, it was felt the application met current standards at an acceptable level and that enhanced Building Control regulations would overachieve compared to DCC planning policy. He noted the benefits of the scheme as described by the applicant were basic mitigation, with the scheme not being deemed acceptable without those mitigations.

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

Councillor J Elmer asked as for a policy statement in respect of the previous Masterplan for the site. The Senior Planning Officer (SF) noted that it was not relevant for this application, it being a full planning application, the Masterplan referred to the Reserved Matters applications previously mentioned. Councillor J Elmer noted that he felt that brought into question the Masterplan process.

Councillor J Elmer explained he felt that it was a great shame that the scheme for five passive homes had been dropped in favour of additional housing, the application being for nine properties that only met minimum requirements and lacked consideration of heating solutions, which were possible and viable, such as air-source or ground-source heat pumps. He noted that therefore that with disappointment he would move that the application be refused as it was contrary to CDP Policy 29, in terms of not making the best use of resources, and in this case energy.

Councillor C Marshall noted his previous work with Banks in terms of his former role as Cabinet Member for Economic Regeneration. He asked as regards viability of district heating for self-build plots. The Senior Planning Officer (SF) noted none of the nine units were self-build and noted that CDP Policy 29(c) encouraged looking at such measures, however, the applicant had not explored that option for this development. He added that district heating would usually be for a larger development and not for one of this size.

Councillor J Elmer noted CDP Policy 29 being described as aspirational and added that it was an adopted plan and therefore was as relevant as any other in the CDP and terming it as aspirational inferred to him that it carried less weight. The Senior Planning Officer (SF) noted that it was not his intention to infer it was to any degree lesser, and it was a fully adopted policy. He added that the policy had minimum standards as well as areas in which it looked to encourage other aspects. He noted the previous application for five passive homes was far above the minimum standards as set out by policy, however the current application for nine properties did meet the minimum requirements of that policy. He reiterated that in effect it was superseded by Building Control regulations.

Councillor K Shaw noted he understood the point being made by Councillor J Elmer, however, the application did meet the need for County Durham, giving diversity to the housing offer in terms of executive homes, helping to meet the 10 year need. He added that the contributions secured by the Section 106 Legal Agreement should be welcomed, especially in terms of affordable homes, and he therefore moved that the application be approved as per the Officer's recommendation. The Senior Planning Officer (SF) noted for clarity that the affordable housing contribution was for the area covered by the Durham City Neighbourhood Plan.

Councillor K Shaw noted that made the application even more attractive in his opinion.

Councillor C Marshall noted that having clarification from the Senior Planning Officer on the queries raised he felt overall that the scheme was well thought through and, as it compiled with policy, he would second approval in line with the Officer's report.

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.

### **d DM/22/03456/FPA - First Floor And Second Floor, 84 Claypath, Durham, DH1 1RG**

The Senior Planning Officer, Lisa Morina (LM) 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 conversion of first and second floors to form two 5-bed HMOs (Use Class C4) including window changes to lightwell elevation and was recommended for approval, subject to the conditions as set out in the report.

*Councillor C Hood left the meeting at 11.08am*

The Senior Planning Officer (LM) noted that the City of Durham Parish Council maintained their objection to the application following the submission of further information by the applicant in respect of odour control. It was noted that the Council's Environmental Health Officer had been satisfied subject to an additional condition to be added. She added that while there was no requirement by the Council in terms of the applicant having to submit a CMP, given the size of the application, the applicant did submit a plan and therefore it would be included and form part of the conditions, as well as the additional condition relating to odour control, should Members be minded to approve the application.

The Chair thanked the Senior Planning Officer (LM) and asked Parish Councillor S Walker, to speak in relation to the application.



Parish Councillor S Walker explained that the City of Durham Parish Council objected to the proposal as its form before Members and asked that the application was either refused or that additional conditions were applied to the proposal prior to work commencing and first occupation of the proposed dwelling.

*Councillor C Marshall left the meeting at 11.25am*

She explained that the Parish Council believed that the use of the upper floor of the site for residential purposes would not give rise to conflict with existing uses in the area and therefore was in accord with DCNP Policy E3, Part 3 of CDP Policy 16, CDP Policy 9 and Paragraph 86 of the NPPF. She noted that added to that, the Parish Council welcomed that the proposed development did not involve significant extensions or alterations to the exterior which would unacceptably alter the character or scale of the original building.

Parish Councillor S Walker noted that previous concerns raised by the Parish Council in respect of odour had now been addressed by condition. However, she noted that while the Parish Council considered that the principle of the use was acceptable, there remained concerns regarding the proposals and proposed conditions for waste management and bin storage in this part of the city, as well as details within the proposed Construction Management Plan (CMP).

Parish Councillor S Walker noted the design and access statement set out that refuse would be removed by a private contractor, and it was noted that the Parish Council considered that further details of the collection arrangements were required as the service yard was inaccessible with a lorry and the Parish Council were concerned that this would result in large bins being left on the street at Claypath. She added to which the development of William Robson House behind will exacerbate this problem, resulting in an adverse impact on highway safety, contrary to the requirements of CDP Policies 16 and 21.

*Councillor C Marshall entered the meeting at 11.27am*

Parish Councillor S Walker noted that, at present, there was no requirement to ensure that the bins were collected weekly, or as frequently as required, as referenced in paragraph 89 of the Committee report and nor was there a requirement that they were immediately removed from Claypath and returned to the proposed storage area. She explained that the Parish Council believed that proposed Condition 5 must be strengthened in order to reflect this requirement. She reiterated that bins along Claypath, particularly industrial sized waste bins, were a constant problem in terms of accessibility, the street scene and sense of place for the area.

She noted that the issue must be mitigated against at this early stage in order to ensure that the problem was not simply passed to another arm of the County Council, namely the Clean and Green Team or Neighbourhood Wardens. She noted the Parish Council would ask for a CMP, though welcomed the fact that the storage of materials would take place within the building, and that the Parish Council felt that there needed to be greater 'firming up' of details relating to deliveries. She noted that it was proposed within the CMP, and at Condition 6 of the Committee report, that no external construction works nor internal works audible outside the site boundary shall take place other than between the hours of 7:30 to 18:00 on Monday to Friday, and 8:00 to 17:00 on Saturdays. She noted that the Parish Council respectfully asked that if Members were minded to approve the application that the 7:30 start time be pushed back to 8:00 in order to safeguard the amenity of residents living at the care home, Claypath Court, directly opposite this application site.

The Chair thanked Parish Councillor S Walker and asked John Ashby, representing the City of Durham Trust to speak in objection to the application, noting there were accompanying slides that would be displayed as part of the representations.

J Ashby thanked the Chair and Committee for the opportunity to make representation and explained he was speaking on behalf of the City of Durham Trust and also for the St. Nicholas Community Forum, which endorsed the Trust's objections.

J Ashby explained that the City of Durham Trust considered that the proposals could be acceptable, indeed, student accommodation above retail was supported by the CDP and the DCNP. He noted that the Trust however objected, unless practical and effective measures to prevent noise and waste management nuisance were imposed so as to prevent negative impact on retail and commercial activities and protect the general amenity of neighbouring properties and residential amenity as required by CDP Policy 16.3 and DCNP Policy E3. He added that those issues were also highlighted by the County Council's Spatial Policy Team.

J Ashby explained that it was particularly noted that there was the potential for harm to the amenity of nearby residents, notably the elderly residents of Claypath Court and students living above most of the units in Lower Claypath, and also the problem of wheelie bins being left on Claypath for many days, even weeks.

On the issue of noise nuisance, J Ashby noted the Trust were grateful to the County Council's Officers for addressing the need for measures to protect the proposed new student bedrooms from external noise, with a suitable condition proposed within the Officer's report to ensure that noise levels are satisfactorily mitigated. He added that the Trust also welcomed the voluntary CMP.

J Ashby noted that however, management arrangements for household waste were not conditioned satisfactorily. He added that the Trust were pleased that paragraph 89 of the Committee Report stated that:

*"Precise details for the means of refuse removal in that case is by private contractor who would move the bins to Claypath in line with the method previously employed for the offices and collected weekly or as frequently as required which is considered acceptable and this could be secured via planning condition."*

He noted that, unfortunately, the list of proposed planning conditions in the report only required:

*"5. All domestic waste generated by the HMOs hereby approved shall be stored in the area identified for bin storage on Drawing No. 315-005-01 entitled 'Proposed Site Plan' until such time it is removed from the site."*

J Ashby noted there was no requirement to ensure that the bins were collected weekly or as frequently as required, nor that they were immediately removed from Claypath and returned to the storage area. He explained that large waste bins standing on Lower Claypath were already a familiar problem, obstructing pedestrians and especially people with prams, pushchairs or mobility vehicles, and indeed blocking the entrances of the ground floor commercial properties. He added that the absence of such a requirement in the proposed conditions may be merely an oversight however, given that paragraph 89 says this could be secured by a planning condition, the Trust would ask that Condition 5 be extended to include that requirement, otherwise, the Trust and St. Nicholas Community Forum maintain their objection to the application on the grounds of CDP Policy 16.3 and DCNP Policy E3.

The Chair thanked J Ashby and asked Steve Major, Agent for the applicant to speak in support of the application.

S Major noted he welcomed the good news from the Parish Council in terms of some elements of the scheme. He noted that the Officer's report and included applicant's statement set out and explained how the application met policy requirements.

He added that in terms of impact of noise on future occupants, the previous use had been as offices for a number of years and the mixed use would be separated with separate access, fire, noise and odour control. He noted there would be minimal impact upon the streetscene, elevations and commercial use. He noted that in terms of noise, sound mitigation could be certified and with a guaranteed performance, mitigate any potential issues. He noted that the standards for the development exceeded minimum Building Control regulations.

In reference to the refuse compound, S Major noted it would be enlarged as compared to the existing compound and private contractors would remove the bins when the lorry was ready to collect. He noted that this would avoid any bins being left on Claypath, adding if Members felt it necessary to have that underlined further within the Condition, the applicant would be acceptable to that. He noted that it was the same contractor that serve the 28 bed student accommodation and collections would be weekly or as required. He noted works would be carried out at the same time as those for the 28 bed student accommodation and the CMP had been approved by Officers, with only unloading and moving materials to storage to take place from Claypath.

The Chair thanked S Major and asked the Senior Planning Officer (LM) to address the points made.

The Senior Planning Officer (LM) noted if Members were minded Condition 5 relating to bin storage could be more detailed as required.

The Legal Officer (Planning and Highways), Laura Ackermann noted that Councillor C Marshall had briefly left the room and asked if he considered he could make a decision on the application. Councillor C Marshall noted had only stepped out briefly for a medical reason and explained that he had read the report, and listened to the speakers, and felt he would be able to come to a considered decision on the application.

Councillor C Marshall noted that it had been a while since he had seen such an application where an applicant had worked through the issues that had been raised by those in objection. He noted that therefore he would move that the application be approved, subject to an amended Condition 5 as mentioned, to contain additional detail in respect of bin storage and collection.

Councillor J Elmer asked if the CMP set out hours of operation, and whether they were set out as 8.00 start weekdays, as per the Parish Council's comments. He asked for confirmation that a private contractor was collecting residential waste, and whether it was only for the Council to undertake such collections.

The Principal Planning Officer, Paul Hopper noted that use of private contractors was not precluded, and the condition could specify no storage on Claypath.

The Senior Planning Officer (LM) noted that in terms of the CMP, the start times were set out with the same detail as contained in Condition 6, 7.30 to 18.00 Monday to Friday and 7.30 to 14.00 Saturdays, and these mirrored the previously approved conditions relating to William Robson House. Councillor J Elmer noted that on that basis he would second Councillor C Marshall's proposal for approval, subject to additional detail in Condition 5.

The Chair asked for clarification from the Officer as regards amended Condition 5. The Senior Planning Officer (LM) noted that detail would be added relating to removal, disposal of waste and return of bins to the storage area, and for bins not to be left on Claypath other than during the process of emptying, and reminded Members of an additional condition relating to odour control.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED**, subject to the conditions set out within the report, an amended Condition 5 in respect of bin storage and an additional condition relating to odour control.

### **e DM/22/02761/FPA - Fernhill, Newcastle Road, Crossgate Moor, Durham, DH1 4JZ**

The Senior Planning Officer, Jennifer Jennings (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 proposed redevelopment of stables to provide 1 no. 3 bed dwelling and was recommended for approval, subject to the conditions as set out in the report.

*Councillor M Wilkes left the meeting at 11.47am*

Members were asked to recall that a previous application for a four bed property over two floors had been refused by Committee and dismissed at appeal by the Planning Inspectorate. The Senior Planning Officer (JJ) noted that the resubmitted application had sought to address the issues raised in the refusal at Committee and dismissal at appeal.

She noted that Officers had felt the current application was in line with policy and had addressed previous concerns, including as regards the impact upon the openness of the green belt, with the proposals having the same footprint as the existing stables. She noted that an additional letter of support for the application had been received subsequent to the publication of the agenda papers. She concluded by noting that the current application was felt to be in line with policy, and had also been considered in the context of the Inspector's Report following the previous appeal decision, and therefore was recommended for approval, subject to the conditions as set out in the Committee report.

The Chair thanked the Senior Planning Officer (JJ) and asked Parish Councillor Grenville Holland, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor G Holland thanked the Chair and Committee and reminded all that just over a year ago he had spoken at this Committee on behalf of the Parish Council about what was an ongoing attempt to construct a house at Fernhill which was located well inside Green Belt land, a status it had enjoyed for almost 20 years. He explained that when Fernhill was included in a Green Belt in the 2004 City of Durham Local Plan it was with the full support of the Inspector, the City Council's Planning Officers who made the recommendation, the Councillors and the public. He noted that those plans were operational until 2020. He explained that, however, during the preparation of the CDP, the County Council's Planning Officers had been far less enthusiastic and earmarked Fernhill for removal from the Green Belt, but the Inspector had disagreed saying "*I am not persuaded that there are exceptional circumstances to justify the removal of Fernhill from the Green Belt.*"

Parish Councillor G Holland noted that this background provided an insight into the planning history of Fernhill from 2003 to 2021 with eight applications, five of them either refused and dismissed on appeal or withdrawn. He noted that despite the further adjustments that had been made to the 2021 application, the Parish Council remained concerned that this was still an inappropriate development in the Green Belt. He added that, in her report, the Senior Planning Officer had made great use of NPPF Paragraph 149 Section (g) which was seen as the only obstacle in the way of this intended development. He explained that Paragraph 149 stated that "*a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt*". Parish Councillor G Holland noted the NPPF offered six exceptions to cover unusual circumstances, four of which fell well outside the realm of Fernhill, while the last two, (f) and (g) sequentially consider in (f): "*limited affordable housing for local community needs*"; and in (g): "*contribute to meeting an identified affordable housing need*".

Parish Councillor G Holland noted that the NPPF focus when considering the Green Belt was on '*affordable housing*' and emphasised that the proposed new house at Fernhill was most certainly not in that category. He noted that the essential protective measures for the Green Belt were found in NPPF Paragraphs 148, 149 and 174. He added that Paragraph 148 required that "*local planning authorities should ensure that substantial weight is given to any harm to the Green Belt*" while 174 noted that "*decisions should contribute to and enhance the natural and local environment by*", first, "*protecting and enhancing valued landscapes*". He noted that the application merely sought to minimise the environmental damage, but certainly did not enhance the environment. He explained that those constraints underpinned CDP Policies 20 and 39 and DCNP Policies H3 and G4.

Parish Councillor G Holland noted that in the report to the previous planning meeting on 9 November 2021, Officers had recommended approval, however, the Committee had recognised the strength of the planning issues involved and refused approval, a decision subsequently endorsed by the Inspector at the Appeal hearing. He noted that the Officer's report was very well written and presented, as she skilfully sought to answer the concerns raised by the Appeal Inspector. He added that the report also hinged on the interpretation placed on NPPF Paragraph 149 (g). He explained that the paragraph was split into two, with the first section addressing the impact on the openness of the Green Belt; and the second addressing affordable housing need within the area, which Fernhill clearly fails. He noted, however, the two sections were separated by the word '*or*' rather than '*and*'. Parish Councillor G Holland noted that it might have been clearer if, in 2012, Paragraph 149 had been split into (g) and (h), or amended at a later review.

Parish Councillor G Holland noted that, however, the Parish Council continued to have concern that the application still constituted unjustified development in this Green Belt, contrary to NPPF Paragraphs 148, 149 and 174 and CDP Policy 20 and the DCNP Policy G4. He concluded by noting that with the extensive planning history of Fernhill, and this Committee's long involvement with the decisions that it had carefully made in the past, the ball was once more in their court.

The Chair thanked Parish Councillor G Holland and asked Joe Ridgeon, Agent for the applicant, to speak in support of the application.

J Ridgeon noted Members would be well sighted on the application and the history of applications for the site. He noted that the recommendation for approval by Officers was welcomed and had been as a result of a number of changes from the previous application, including going from two storey to single storey, which represented no greater impact on the openness of the green belt than the existing stables.

He explained that in addition the design was sensitive to the site, working with notable architects, with the use of local materials and was sympathetic to the existing house. He noted that Officers had noted the proposals were acceptable, with the footprint having also been amended to protect nearby trees. J Ridgeon noted inclusion of impact assessments and measures to address the issues raised at appeal, reiterating that the impact on the openness of the green belt and on visual amenity were no greater than the existing stables, and therefore in accord with NPPF Paragraph 149. He reminded Members of the previous Committee meeting where NPPF Paragraph 149 had been displayed on the projector screen, and noted that it was not a sequential approach. He thanked the Committee for their time and asked that they support their Officer's recommendation for approval.

The Chair thanked J Ridgeon and asked the Senior Planning Officer (JJ) to address the points raised.

The Senior Planning Officer (JJ) noted that Officers understood the history of green belt allocation as related to the site and noted the application was considered and assessed against green belt policy. She noted that it was accepted that the proposals did not refer to affordable housing, however, the wording of NPPF Paragraph 149 doesn't require it to relate to affordable housing but allows for development on previously developed land where the impact was not greater than the existing development.

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

Councillor C Marshall noted he met the applicant in his previous role as Cabinet Member for Economic Regeneration, however, he had approached the application with a clear mind. He noted that the revised proposals represented a significant scaling back compared to the previous application and the site was within a fairly enclosed area, with the new scheme occupying almost the same footprint as the existing stables. He added that he felt the Inspector's comments had been helpful as regards which elements were not acceptable and noted he felt the current application was such that there were no planning grounds for approval. Councillor C Marshall noted that, accordingly, he would propose the application be approved as per the Officer's recommendation.

Councillor J Elmer noted that the previous application had represented a significant impact upon the green belt and had been refused by the Committee, against Officer recommendation, and the decision subsequently agreed with by the Inspector at appeal.



He added that now a reshaped application was before Members, one that was as a consequence of the Committee defending the Council's green belt policy at the previous application. He noted that the Committee had affected a change and added that Members needed to be consistent in their application of policy. Councillor J Elmer seconded the motion for approval.

Upon a vote being taken it was:

**RESOLVED**

That the application be **APPROVED**, subject to the conditions set out within the report.

**6 Special Meeting - 30 March 2023**

The Chair reminded Members that a Special meeting of the Committee was scheduled for 1.00pm, Thursday 30 March 2023.