

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 11 July 2023** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), A Bell, L Brown, S Deinali, J Elmer, L A Holmes, D McKenna, I McLean (substitute for K Shaw), R Manchester, I Roberts and K Robson

Also Present:

Councillors E Mavin and L Mavin

1 Apologies for Absence

Apologies for absence were received from Councillors I Cochrane, C Kay and A Surtees.

2 Substitute Members

Councillor I McLean substituted for Councillor K Shaw.

3 Minutes

The minutes of the meeting held on 13 June 2023 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

There were no Declarations of Interest submitted.

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

a DM/23/00700/FPA - Land to the north of 28 North Terrace, Seaham, SR7 7EU

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 application was for the erection of 1 no. 3 storey building comprising of 3 no. units (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to ground floor, 1 unit (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to first floor and 4 no. residential units (Use Class C3) ancillary to the commercial units to the ground and first floor to the second floor and was recommended for approval subject to the conditions and Section 106 Legal Agreement as detailed within the report.

The Principal Planning Officer noted that the application was for a site where a previous application had been refused by the Committee, and the decision of the Committee to refuse the application had been upheld by Planning Inspectorate. The Principal Planning Officer noted that the current application was for three floors, the previously refused application having been set over four floors. He noted internal consultees had responded with no objections subject to conditions. It was explained that Seaham Town Council has objected to the application, and 19 letters of objection had been submitted. The Principal Planning Officer concluded by noting that Officers felt the application was acceptable and therefore was recommended for approval subject to the conditions and Section 106 Legal Agreement in respect of CAMMs Tier 2 Beachcare and Wardening programmes.

The Chair thanked the Principal Planning Officer and asked the Committee Services Officer to read out a statement from Councillor K Shaw, Local Member, who was unable to attend the meeting.

The Committee Services Officer read out the statement on behalf of Councillor K Shaw:

"I am writing in my absence to raise my objection to this planning application on behalf of myself and Councillor L Kennedy and to further support the concerns and objections from and on behalf of my local community.

This application which has been resubmitted by the applicant was formerly refused by committee and the decision to refuse was upheld by the Planning Inspector in his decision dated 14th April 2023.

The Planning Inspector in paragraph 4 of his report states that when visiting the site, he “paid special attention to the desirability of preserving or enhancing the character or appearance of the Seaham Conservation Area”

And he states quite clearly that:

The main issues are:

(i) The effect of the proposed development on the character and appearance of the Seaham Conservation Area (CA)

(ii) The effect of the proposed development on the living conditions of the occupiers of nearby dwellings

(iii) The effect of the proposed development on highway safety, with reference to parking demand and provision

I agree totally on the Inspector’s concise reasoning on what the issues are for this proposed development and the character and appearance of the Seaham Conservation area and support his reasons to refuse based upon primarily issue 1.

These concerns which led to refusal have not been addressed in any significant way other than to imply a slight reduction in the building’s height.

However, the new proposal is that building will cover an even greater area of the proposed site than previously so in relation to its actual size mass and scale these impacts will as proposed be even greater and as previously outlined in the Inspectors report formed only a part of the much wider concerns and the reasoned refusal he provided.

The Inspector reasons within his report in paragraph 7:

7. The Seaham Conservation Area Character Appraisal and Management Plan 2019 (CAMP) identifies the appeal site as falling within Character Area 2 – North Area, with the significance of this part of the CA being primarily defined by buildings of architectural interest. Reference is made specifically to North Terrace in the CAMP, where it is noted that properties are largely two-storied terraces, with some extending upwards an additional level, through an extra storey or dormer windows. It is further noted that the roofline is relatively even, with only a few variations in the length of the terrace. Whilst reference is made to the former Harbour View Hotel as having been demolished, there is no explicit reference in the CAA to its replacement, which has subsequently been constructed. Figure 56 of the CAMP highlights a key vista in which the appeal proposal would be clearly seen.

And this key vista is clearly still impacted therefore destroying a key aspect of the Seaham Conservation Area Management Plan reason for being which is to protect maintain and ensure the Conservation Area is not impacted by inappropriate development and maintaining the Vistas and Views from key locations.

Also, clearly due to the building's location size mass and scale and it being incongruous in its setting.

The inspector continues and states:

8. The reference point given on the plans submitted for the height of the proposal is the new development at No 18. It is self-evident that this is not only a high building, but one of some considerable bulk and massing in how it occupies its plot. By reason of its height, width and depth, the appeal proposal would itself be of a comparable scale, but it would have a greater visual impact, being located on a corner. Whilst there are buildings of height in the immediate vicinity of the appeal site, notably the terrace at 1-7 Tempest Road and Barclay House which are identified as non-designated heritage assets, and the listed buildings that form Bath Terrace, those buildings do not have the same combination of height and depth as the appeal proposal would. They are, as a result, buildings that have a much lesser massing and bulk, and as a result they have a far less dominant impact. The proposal would not relate well to these existing buildings in terms of its massing, bulk and overall visual relationship.

9. The impact of the appeal proposal would be readily apparent from many vantage points in the surrounding area, including from the expansive open area in which the listed Seaham War Memorial is located and from near to the harbour looking back along the coastline and the town's sea front. As a result of its scale, the proposal would not sit well within the row of properties on the North Terrace frontage or in the context of the aforementioned properties at Tempest Road and Bath Terrace, even noting the presence of the new development at No 18. There would be an equally harmful impact when viewed from along Tempest Road and from the road between Nos 7 and 9 Tempest Road. This would be in particular in terms of its comparative scale and massing when compared to the adjacent building at 4 Tempest Road, itself identified as a non-designated heritage asset, and the modern residential block that is located next to it. There would also be views of the proposal taken down North Road in between the terraces at Nos 1-7 and Barclay House/Bath Terrace, where the proposal too would appear as a visually dominant feature in the context of its surrounding buildings.

10. It is suggested that the proposal would 'book-end' this part of North Terrace, in conjunction with the development at No 18. However, whilst there is a highway running to the side of No 18, it is narrow in width and due to the scale of the newly built building, the road is not read as a visual break along the frontage. Instead, North Terrace is seen as a much longer frontage, and the appeal proposal would not form a book-end within such a context. But in any event, book-ending would not overcome the harmful impact that would arise from the overall scale of the proposal, and in particular its visual dominance and its harmful visual relationship to the buildings and street scenes that I have identified.

11. The proposed development would therefore, due to its height, bulk, massing and positioning, be an overly dominant feature that would appear incongruous in its surroundings, and one which would cause harm to the character and appearance of the CA. Whilst the proposal would not be objectionable in terms of its design and appearance taken as matters in isolation, this does not overcome the other harm that would be caused. Given the nature of the proposed development and that the harm would be relatively localised, I consider that less than substantial harm to the CA would be caused. This being the case, it is necessary to weigh the public benefits of the proposal against the harm that would arise to the CA, in accordance with Paragraph 202 of the National Planning Policy Framework (The Framework)

In this regard, public benefits have been outlined which relate to the recycling of a disused site in a sustainable location and the provision of an active frontage at ground floor level, in addition to economic and social benefits through both construction jobs and jobs once in use, with an expectation of 80 full and part time jobs being created in addition to other indirect employment. These benefits carry moderate weight in favour of the proposal, in the context of the size of the development that is proposed. However, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and the harm that I have found would arise to the designated area is a matter which carries considerable importance and weight. Therefore, whilst there would be some public benefit from the appeal proposal, this does not outweigh the harm to the CA that would arise.

13. For the above reasons, I conclude that the proposed development would cause harm to the character and appearance of the CA. Consequently, the proposal would fail to accord with Policies 29 and 44 of the County Durham Plan 2020 (CDP) where they seek to achieve well-designed buildings and places and to protect the character and appearance of Conservation Areas. The proposal would as a result also fail to preserve or enhance the character and appearance of the CA. Furthermore, there would be a conflict with The Framework, where it too seeks to achieve well-designed places, and because the harm to the CA is not outweighed by public benefits.

The Planning report has attempted to justify the decision to approve based upon an implied reduction of height which is very minor and indeed contradictory to the evidence produced within the application itself which shows no such thing from different vantages as this mitigates and is meeting the concerns upheld by the Planning Inspector as impacting the CA.

Size greater mass than previously submitted scale and incongruous to the location and destroying Vistas and views clearly all remain and public benefit outweighing the harm caused to the CA is purely based upon the aspirational provision of jobs. The number of which has also been reduced from the previous application significantly therefore reducing the previous benefit to balance the harm caused which whilst higher in number was, in itself, insufficient weighting to convince the Planning Inspector at that time.

The previous building of which this was to be the other bookend remains empty despite having being completed two years ago creating no jobs and providing no benefit whatsoever to any harm it may have caused and whilst that was successful in planning terms if benefit to harm was a consideration evidence exists that through the previous development no such benefit may exist with this and my fears are that the previous development was merely speculation.

I therefore request that the planning committee uphold the decision of the Planning Inspectors previous decision due to its impact on the CA with no benefit outweighing the harm and refuse this application” .

The Chair thanked the Committee Services Officer and asked Gary Maughan, local resident, to speak in relation to the application.

G Maughan explained that he was speaking on behalf of local residents that objected to the application. He noted that it was felt to be a carbon copy of the application that the Committee had previously refused, with the Planning Inspector having agreed with that decision, rejecting the appeal. He noted that the reasons for that decision had been in terms of the height, bulk and massing of the proposals, the proposals being incongruous in the surrounding area and would cause harm to the CA.

G Maughan noted that height had been a significant factor in the refusal and noted that the reduction in one floor in the current application still left some uncertainty in terms of the height of the proposed development. He referred the Committee to a slide highlighting the current roof line of North Terrace, with a line drawn across from the top of the proposed development.

He noted that while it was unclear what the final height of the proposed three storey development would be, it would still be significantly higher than the other neighbouring two and three storey properties and therefore not addressing the concerns raised by the Committee and Inspector in their refusal and dismissal.

G Maughan noted that in terms of the bulk and massing of the new proposals, the three-storey building proposed included retail and flats and represented a footprint of around 525m², while the previously refused proposals had represented a footprint of 450m². He added that therefore this represented a 75m² increase across three floors, reduced from four. He noted that in terms of the previously refused application the Committee and Planning Inspector had noted that the 450m² had been deemed as overly dominant and therefore the larger proposed development did not seem to have mitigated the concerns raised.

G Maughan noted that the Planning Inspector had stated that the site fell within the Seaham Conservation Area Character Appraisal and Management Plan area and that the visual impact of development of that scale and massing on the prominent corner site would not sit well within North Terrace and surrounding area. He reiterated that the Committee and Planning Inspector had noted that the scale and visual dominance would not be in accord with the surrounding area and CA. He noted that the Seaham Conservation Area Character Appraisal and Management Plan was a document that industry, businesses and the Council must take notice of and be sure that any plans were able to demonstrate as being harmonious with the Plan. He noted that 173 page document was material and noted that the Case Officer had not once referred to the Plan within their Committee Report. He noted that appeared to be an oversight and given the reasons stated he did not see how the current application could be approved and therefore he would encourage Members to refuse the application, else the decision would fly in the face of the previous decisions by the Committee and Planning Inspector.

The Chair thanked G Maughan and asked Andrew Moss, Planning Consultant for the Applicant, to speak in support of the application.

A Moss thanked the Chair and Committee and noted that as there was a detailed Committee report he would keep to the main points.

He explained that the proposed development was materially different from that which the Committee considered in 2021 and noted that the footprint was not as large as described, with an element including under cover parking which had been included in original calculations.

He noted that the current application sought to make use of a disused parcel of brownfield land surrounded by existing development in a range of uses close to the centre of Seaham, a main town in the County with a consummate range of services and facilities. He noted that therefore it was a highly sustainable site and one that should be reused.

A Moss referred Members to the analysis in Paragraph 87 of the Committee Report which found that the proposals represented a positive reuse of the vacant gap within the Seaham Conservation Area and that the development was acceptable in design and heritage terms when assessed against the CDP and National Planning Policy Framework (NPPF). He added that the paragraph continued, noting that the proposal accorded with Sections 66 and 72 of the Listed Buildings Act.

A Moss noted he agreed with the analysis within the Committee Report that the proposed development was suitable in principle, residential amenity, highway safety, ecology, connectivity, contamination and drainage terms.

He confirmed that the applicant was agreeable to the payment of a financial contribution in respect of Coastal Access Management Measures, to be secured through a Section 106 Agreement.

A Moss noted that in relation to conditions the applicant was, in principle, agreeable to the imposition of the recommended 26 conditions, albeit he would ask that Condition 22 be tweaked such that it was not a pre-commencement condition. He added that in that respect, he would suggest that it be amended to require the submission of details before any development above the base course, similar to a number of the other recommended conditions.

A Moss concluded by requesting the Committee follow the recommendation and grant planning permission, subject to conditions and entry into a Section 106 Agreement in respect of Coastal Access.

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

Councillor I McLean noted the reduction by one storey in comparison to the previously refused application. He noted that Planning Officer had noted in detail how they had come to their conclusion, however, when looking around about, the proposals would still be above the level of other buildings.

The Principal Planning Officer noted that the removal of the uppermost storey by definition had reduced the bulk and mass of the proposed development in comparison to the previous application.

He noted that Planning Officers took advice from other professional Officers within the Council, in this case from those in the Design and Conservation Team who had noted that the proposals were acceptable in principle. Accordingly, the reduction in height was a factor in which Officers had felt reduced impact was to a point such the proposals were acceptable.

Councillor A Bell asked if there was a comparison of the current proposals' height to that of the previously refused application. He noted that Seaham Town Council, the two Local Councillors and many residents had objected to the application. He noted the Planning Inspector's decision dismissing the appeal against refusal of the previous application had made reference to the massing of the proposals. He noted that while it was a brownfield site, it was in a beautiful area, and he felt it was a shame that such an application came to Committee without all people being in agreement. He added that, given the nature of the refusal by the Inspector of the application at appeal, he felt visual depictions of the proposals rather than simple black and white elevations would have been useful.

The Principal Planning Officer explained that he understood the reduction of one storey was from 14 metres to 10 metres, a reduction of 4 metres. He referred Councillor to a 3D image and associated site photographs on the projector screen. He reiterated that Officers felt that the reduction in height made the proposals acceptable.

Councillor L Brown asked as regards separation distances from 27 North Terrace and whether they met the minimum requirements. She noted a site visit would have been helpful to see the site in context. The Principal Planning Officer noted that the elevation referred to was not a facing elevation and therefore such minimum separation distances did not apply, and it was not felt it would have an adverse impact. He noted that all other separation distance requirements were met. Councillor L Brown asked as regards the height of the proposals compared to properties at Tempest Road. The Planning Officer noted the proposals were taller than the proposals at Tempest Road.

Councillor L Brown referred to CDP Policy 6 and noted she was not happy in terms of 4.115 which stated that "*...proposals should not significantly increase the size or impact of the original building...*". She noted that should the application be approved, Condition 13 should be implemented the whole way through.

Councillor J Elmer noted that clearly there would be an impact in terms of design and heritage, and noted that the Local Councillors, Seaham Town Council and residents in objection, clearly cared about the site.

He noted it was another case of where the position of the Council's Design and Conservation Team was the polar opposite of that of Local Councillors and local residents. He explained he felt development on the site was not the issue, however, the location and residents deserved a building that respected the heritage of the area. Councillor J Elmer noted that, given the two different opinions in this regard, it may be helpful in future, if an Officer from the Design and Conservation Team could attend Committee to explain how they had come to their conclusions.

Councillor D McKenna note he lived at Seaham, however, he was not one of the Local Members for the Dawdon Division. He noted that all wanted Seaham to do well and the redevelopment that had taken place to date and the increase in tourism to the area had been very important. He noted he felt that the proposed height was not in keeping with the character of the area and that this would have an impact upon residents, adding he felt the proposals would not sit well in the location. He noted that had there been a site visit, Members would have only seen an area of waste ground, however, he noted it was important to have the right development for that area of land. He reiterated that Seaham now had a lot of visitors, and they were coming to the areas in part due to that heritage and therefore that heritage should be kept in mind.

Councillor I McLean noted the reduction in height by one floor in comparison to the previously refused application, however, the proposed height still bothered him.

Councillor I Roberts noted she agreed with the comments from other Members in respect of the height of the proposals and asked as regards any parking or traffic issues and how that might impact visitor safety in the area, adding she felt that any development should be in keeping with the heritage of the area.

Councillor L Brown proposed that the application be refused, contrary to the Officer's recommendation.

The Principal Planning Officer noted that in terms of highway safety, he would draw Member's attention to the comments from the Planning Inspector in reference to the previous application, where he had noted proposals were acceptable in highways terms, with the current application being the same in that regard, though Highways colleague may wish to comment. He asked, should the proposal for refusal be seconded, if Policy reasons for refusal were set out by Members. Councillor L Brown noted Policy 44 in respect of the CA, Policy 6, and Policy 31 in terms of residential amenity.

The Lawyer, Planning and Highways, Neil Carter noted that matters of scale and massing and how that impacted upon the CA and heritage assets was subjective, and while Members had heard the Officer's view on the issue, Member were able to take the contrary view should they choose. He noted that he would be concerned in respect of any refusal based upon impact to residential amenity and asked what for specific reasons. Councillor L Brown noted within Policy 31 it referred to visual dominance and she felt that the proposal would be visually dominant.

The Chair noted the motion for refusal had been proposed, however, there had been no seconder. Councillor I McLean noted he would second the refusal of the application as referred to be Councillor L Brown. The Principal Planning Officer reiterated that the Planning Inspector had felt the previous proposals had been acceptable in highway safety terms, and the current proposals in that regard had not changed, only a reduction in height by one floor.

Upon a vote being taken it was:

RESOLVED

That the application be **REFUSED** as the proposal would, by virtue of its design, appearance, characteristics, mass and scale appear as an incongruous addition to the streetscene that would have a detrimental impact upon Seaham Conservation Area resulting in less than substantial harm to the designated heritage asset which would not be outweighed by public benefits. The proposal is therefore in conflict with County Durham Plan Policies 29 and 44, Parts 12 and 16 of the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

b DM/23/01084/FPA - 37 Moor Crescent, Gilesgate Moor, Durham, DH1 1PB

Councillor J Elmer raised as a point of order, noting he felt the next two items for change of use to homes in multiple occupation (HMO) should be considered together as the issues with both of them impacted on each other. The Chair noted they were separate Planning Applications for separate sites and therefore were listed to be heard separately. The Lawyer, Planning and Highways reiterated the point made by the Chair, separate applications and therefore separate items for consideration. The Principal Planning Officer noted the applications had been submitted separately and the Local Authority did not have the ability to combine the applications, however, there would be some elements of duplication between the two applications.

Councillor L Brown noted her dissatisfaction with the wording in both of the reports, namely: *“it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity”*. She noted that in this case there were two HMOs being proposed. The Lawyer, Planning and Highways reiterated that there were two separate applications, and there would only be two after the first application, should it be granted.

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 change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, cycle parking, bin storage and associated alterations and was recommended for approval, subject to the conditions as detailed within the report.

The Principal Planning Officer noted the Article 4 Direction in place which removed permitted development rights in terms of change of use for HMO, and noted the application was at Committee as it had been called-in by Local Members, Councillors E Mavin and L Mavin. He noted that the percentage of HMOs, using Council Tax exempt properties, within 100 metres of the property were 2.6 percent, rising to 6.9 percent if previously approved HMO application not yet taken forward were included. He added if both 37 and 38 Moor Crescent were granted permission, the number would rise to 8 percent, still below the 10 percent threshold within policy. He concluded by noting the condition limiting the number of occupants contained a double negative and, should the Committee be minded to approve the application, that would be amended accordingly.

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

Councillor L Mavin thanked the Chair and Committee and noted that she and Councillor E Mavin formally objected to the application. She noted that Councillor E Mavin and herself would not normally contest HMO applications when in line with CDP Policy 16, however as stated in the Committee Report, the proposal was for an additional HMO in an area already with a number of existing HMOs the issue was that of cumulative harm. She noted the report stated there was not the over-proliferation of HMOs and stated a single HMO. She reiterated that this was a pair of HMOs, and the cumulative impact was the issue that needed to be considered.

Councillor L Mavin noted the points raised by Councillor L Brown and the Principal Planning Officer that there were two HMO applications before the Committee today, and she noted that other properties at 15, 18, 45 and 110 Moor Crescent had been converted to HMOs. She added that numbers 37 and 38 Moor Crescent were within a cul-de-sac, and both being converted to HMOs would mean over 10 percent of the cul-de-sac would be HMOs. She added that the 100 metre radius considered when assessing HMOs was arbitrary and did not take the local layout and context into account. Councillor L Mavin noted that should the application be approved, there would be a reduction in residential amenity for the neighbouring properties and the character of the areas would be adversely impacted, including issues such as parking. She reiterated that the percentage of HMOs within the cul-de-sac would be greater than 10 percent if the applications were approved.

Councillor L Mavin concluded by noting that she and Councillor E Mavin felt the applications were contrary to Policy 21 in terms of sustainable transport, 31 in respect of residential amenity and the NPPF and they would strongly suggest that the Committee refuse the applications.

The Chair thanked Councillor L Mavin and asked Parish Councillor Patrick Conway to speak on behalf of Belmont Parish Council who had registered their objection to the application.

Parish Councillor P Conway thanked the Chair and Committee and explained that Belmont Parish Council were against the applications in principle, noting they felt that the two applications for HMOs should have been considered together. He noted that in both cases the Parish Council had written to the Planning Department asking that the applications were taken as one item at Committee.

Parish Councillor P Conway noted that for the residents of Moor Crescent, for this case, there were particular circumstances. He noted that the NPPF states that one must take as a material consideration the particular circumstances of an area. He noted that notwithstanding the Article 4 Direction and CDP Policy 16 relating to student properties, it should be noted that the 100 metre radius considered was arbitrary and did not look at clusters of HMOs that were created. He added that the Officer's report included phrasing such as "in judgement", "broadly acceptable", and "considered on balance". He noted that Belmont Parish Council think those statements were contestable and noted there was no evidence that the applications represented sustainable development. He noted that occupancy of 30 weeks per year did not meet the sustainable criteria within the NPPF and reiterated there was no evidence in terms of environmental sustainability or in respect of climate change, such as the installation of heat pumps.

Parish Councillor P Conway explained that in relation to parking, the application would require 4.8 parking spaces, rounded up to five and the proposals did not meet that criteria or include any electric vehicle (EV) charging point. He added that any visit to the site on an evening or weekend would show vehicle congestion, contrary to the CDP.

In reference to the Article 4 Direction, Parish Councillor P Conway noted that granting the two applications would in fact exceed six HMOs in a 50 metre radius and in fact more if other Class N properties were taken into account. He explained that the cul-de-sac was a self-contained area, with no throughway, and therefore the 100 metre radius considered for HMOs was an inappropriate measure. He noted that there was not a demonstrated need for such HMOs and there would be adverse impact upon residential amenity, with the Council's Environmental Health Officer having expressed concern in their consultation response. He concluded by noting that other HMO management was questionable and reiterated that the Parish Council felt the application should be refused on Policies 16 and 21 of the CDP as the development did not represent sustainable development and take local circumstance into account.

The Chair thanked Parish Councillor P Conway and asked Gary Swarbrick, Agent for the Applicant to speak in support of the application.

G Swarbrick noted that as numbers 37 and 38 were separate properties, separate units, they were submitted as separate applications. He noted that should both be approved the percentage of HMOs within the required area would not exceed the 10 percent threshold as per policy. He explained that the 10 percent threshold had been agreed by the Inspector when considering the CDP and as in this case the 10 percent would not be breached, the area had not reached that 'tipping point'. G Swarbrick noted that the application was for a larger HMO for students and noted that there would be clauses within agreements as regards noise and behaviour, with termination of tenancy where issues are not addressed. He added that the applicant was a member of a national landlord accreditation scheme and Durham Student Landlord, working with the University, Police and Local Authority in terms of any issues. G Swarbrick noted that recent similar applications for 1 and 3 St. Monica's Grove that had been approved by the Committee and that in terms of any highways or parking issues, the likelihood of students having a vehicle were low, however, there was sufficient in-curtilage provision with the Highways Team noting the application was in line with policy and presented no highway safety issues. He concluded by reiterating the application was in line with Policy and was recommended for approval.

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

Councillor A Bell noted he was disappointed with such applications, given the purpose build student accommodation that existed within the city, and the spread out of HMO into the suburbs. He asked for clarity on the percentages of HMOs within the 100m radius of the application site. The Principal Planning Officer explained that the current percentage was 2.3 percent, with unimplemented existing planning permissions increasing that to 6.9 percent. He added that should both applications for 37 and 38 Moor Crescent be approved that would represent 8 percent, still below the 10 percent threshold.

The Chair noted that while 8 percent was less than 10 percent, objectors had made reference to the area being within a cul-de-sac and asked if there was any implication from this in terms of any greater impact. The Principal Planning Officer noted that the policy and the 100 metre radius had been discussed at length by Committee, and noted that any particular circumstance could be material and it would be for Members to decide if they outweighed an application that was policy compliant, noting the pending application for 38 Moor Crescent as the next item of business.

Councillor L Brown noted that the average family in 2021 was 2.4 people, the two properties in question would house 9 people in total. She asked if Policy 6 applied in terms of a garage being converted. She asked if Condition 5, if the application was approved, could be changed to have a start time for works of 8.00, and being up to 14.00 on Saturdays. She asked for the distance to the nearest bus stop and if the parking surface would be permeable. She noted that, in reference to 1 and 3 St. Monica's Grove, they were considered at separate meetings of the Committee. The Principal Planning Officer noted that the conditions regarding construction times were the standard ones based upon feedback from Environmental Health.

Councillor I McLean noted comments as regards students looking to rent further out into the suburbs being 'different' than those looking for city centre accommodation and asked how this would be ascertained, whether it was they were older, better dressed. The Chair noted that, as Member for a city centre division, he had not noticed a difference, and asked G Swarbrick for further information. G Swarbrick noted that there were no specific conditions in place, rather that anecdotally from experience, those students in their second year may wish to take advantage of the night life offered in the city centre, and other students may wish to take advantage of quieter areas. He noted that in fact he had lived in St. Monica's Grove, and he had felt the students at that time in the street had been considerate and part of the community, with one having taught his daughter piano, others helping with events at Halloween and Christmas. He reiterated that there were conditions within student tenancies for termination should students be in breach of those conditions.

Councillor I McLean noted that effectively there was no way to 'police' the types of students occupying a property, rather there were processes in place to try to tackle issues that could arise. He added that there was still an issue in terms of bringing students into non-student areas.

Councillor L Brown asked if properties further out from the city centre were less expensive than those close to the city. She noted that while G Swarbrick had encountered very conscientious students in his experience, they changed every few years as the students moved through their education and beyond. Accordingly, it was not necessarily the same individuals each year.

The Principal Planning Officer noted that the nearest bus stop was 200 metres away and that Officer felt the location was broadly sustainable. He reiterated that the HMO data from Council Tax in terms of exempt properties did not specify specific properties, rather gave the percentage of properties within a 100 metre radius. He noted that the end-user of such an HMO, whether that was an undergraduate, postgraduate was not enforceable and therefore material weight should not be given in that regard.

Councillor L Brown noted that there were other policies other than Policy 16 that could be referred to be the Committee. The Principal Planning Officer noted that Parish Councillor P Conway had referred to Policy 16 in terms of the Parish Council's opinion on the applications, however, noted the Committee could look at all relevant policies. He reiterated, however, that Officer felt that the application was in accord with all the relevant CDP policies and the NPPF.

The Chair noted that a proposal was required to progress the meeting. Councillor A Bell noted that Officers had been clear in their responses, and he could not see any grounds for refusal so therefore he proposed the application be approved. Councillor J Elmer seconded the proposal, noting he found it very frustrating that the Committee could not refuse the application, however, he noted for the record that this type of development was not desirable and indeed the University were keen for students to stay within their accommodation. He noted that such applications impacted upon the settled communities within Durham and while they could not be stopped, they were not wanted. The Chair noted he agreed with the comments from Councillor J Elmer. The Principal Planning Officer asked for clarification, whether Councillors A Bell and J Elmer wished for the amended conditions referred to by Councillor L Brown. They both noted that was the case.

Upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED** as per the conditions set out within the report, subject to amended conditions relating to construction times and permeable parking surface.

Councillor A Bell left the meeting at 11.00am

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The Planning Officer, David Richards 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 from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including formation of new parking area to front, bin storage and associated alterations and was recommended for approval, subject to the conditions as detailed within the report. The Planning Officer noted some updates in terms of conditions, with Condition 8 no longer requiring 'prior to commencement' and details of soundproofing had now been provided, with amended wording displayed upon the projector screen. He noted Condition 7 was a duplicate of Condition 3 and would be deleted.

The Chair thanked the Planning Officer and asked Councillor L Mavin, Local Member, to speak on the application. Councillor L Mavin noted her previous statement in relation to 37 Moor Crescent was also applicable to this application and would not reiterate for the sake of brevity.

The Chair thanked Councillor L Mavin and asked Parish Councillor P Conway to speak in respect of the application.

Parish Councillor P Conway noted he too would not reiterate the points from the previous application, however, he would make a few comments. He noted that firstly, the issue of local circumstances were material considerations for the Committee. He added that the Article 4 direction referred to a 100 metre radius, however, in this case the area was a cul-de-sac, not a throughfare. He added that the Article 4 Direction was welcomed 10 years ago, however, there had been substantial creep in terms of HMOs and the situation now was that other Class N exempt properties were not being taken into account, with other types of HMOs. He noted that a nearby purpose build student accommodation (PBSA) at Ernest Place had places available and the nearby former cinema generate no demand and was for sale. He noted that local families were being priced out of purchasing properties in the area.

Parish Councillor P Conway noted that terms used by the Officers such as 'broadly' and 'on balance' were judgements and explained that the Parish Council contested those judgement and felt the application should be refused on CDP Policies 6, 19, 21 and 31 and the NPPF.

The Chair thanked Parish Councillor P Conway and asked G Swarbrick to speak in support of the application.

G Swarbrick noted the points to consider were similar to those raised in respect of the previous application. He noted that should this application also be approved, it would result in a percentage of HMOs of 8 percent, still below the 10 percent threshold. In terms of demonstrating need, he noted that Policy 16 did not require a demonstration of need, however, his client noted a need in terms of students enquiring as regards properties in the area. He added that while taking on board the points raised as regards PBSAs, their still remained a demand for such properties by students.

The Chair noted the conditions relating to working hours and parking surface that had been amended in terms of the previous application. Councillor L Brown noted she agreed with those as agreed for the previous application. She added that she was surprised that Policy 44 had been referred to noting she was not aware the application was within a Conservation Area and was also surprised Policy 6 had note been mentioned. She noted the issue raised by Parish Councillor P Conway in terms of the price premium for such properties due to their demand as student HMO lets. She noted that the CDP would be reviewed in 2024 and she noted she had made several representations in term of supplemental planning documents (SPDs) and reiterated that other policies were available to the Committee.

Councillor R Manchester noted his comments on this application were similar to those of Councillor A Bell in terms of the previous application. He added, however, that he would echo the comments of Councillor J Elmer and while the application did not go against policy, he felt it was not in the spirit. He moved approval of the application, subject to the amended and deleted condition referred to by the Officer and amended conditions as referred to by the Chair and Councillor L Brown. Councillor K Robson seconded the motion for approval.

Upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED** as per the conditions set out within the report, subject to deletion of a duplicate condition, amended conditions as referred to in terms of soundproofing, construction times and permeable parking surface.

6 Special Meeting

The Chair noted that the special meeting proposed for 24 July 2023 was not required and therefore the next meeting of the committee would be 12 September 2023.