

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 12 December 2023** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors A Bell, L Brown, I Cochrane, J Elmer, P Jopling, D McKenna, E Peeke (substitute for D Oliver) and K Shaw

1 Apologies for Absence

Apologies for absence were received from Councillors S Deinali, C Kay, D Oliver and A Surtees.

2 Substitute Members

Councillor E Peeke substituted for Councillor D Oliver.

3 Minutes

The minutes of the meeting held on 14 November 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.

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

a DM/23/02859/FPA - 5 Monks Crescent, Gilesgate, Durham, DH1 1HD

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 a retrospective planning application for the raising of a garage roof and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted that the application had been called into Committee at the request of Belmont Parish Council, who objected to the application, and noted that there had been two letters of objection from residents, as well as from the City of Durham Trust, with all objections summarised within the report. He added that the property already had permission in terms of a granted change of use, from C3 dwelling to C4 house in multiple occupation (HMO) and emphasised that the application before Members was solely in relation to the extension of the height of the garage roof.

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

Parish Councillor P Conway thanked the Chair and Committee and noted that, further to the applications having been submitted, additional information had come to light. He noted that the Applicant suggested that objectors, including Belmont Parish Council, were acting in a malicious or vexatious manner, however, that was not the case. He explained that Belmont Parish Council carefully considered all planning applications and, in this case, noted the retrospective nature of the application, and the 500mm in additional height to the garage. He added that the Parish Council had received representations from the local community in respect of the application and therefore deemed that the application should be brought before the Area Planning Committee for consideration by Members.

Parish Councillor P Conway noted that the Parish Council could see no justification for the increase in height of the garage roofs, and if any justification had been put forward, the Parish Council would have considered that justification. He noted as there was no justification put forward, that had in turn prompted members of the public to come forward with their objections.

He added that while the reason set out within the report may be legitimate, many people objecting via the Planning Portal question why the replacement roofs were not like-for-like replacements.

Parish Councillor P Conway explained the Parish Council noted no explanation as regards the need for the increase in height of the roofs and noted that some other objectors had noted their concerns in respect of the motives behind the increase in roof height. He noted that it was understood that the change of use from C3 to C4 HMO use was not in question in respect of the applications before Committee, however, Members would be aware that the Parish Council had made representations on a number of HMO applications and were asking for a review in relation to the Article 4 Direction and HMO Policy 16 of the County Durham Plan (CDP). Accordingly, Parish Councillor P Conway noted the Parish Council would seek to act positively and constructively within policy, reiterating that there had been concerns raised in terms of the motives behind the applications.

Parish Councillor P Conway explained that the Applicant was a well-known student HMO landlord and noted the Parish Council had requested a meeting with the Applicant. He added the Parish Council met with a representative for the Applicant, however, the Parish Council felt the responses to questions had not been constructive or satisfactory. He noted that the Parish Council did hope for future dialogue and information.

Councillor K Shaw entered the meeting at 9.41am

Parish Councillor P Conway reiterated that the application had been requested to be considered by Committee by the Parish Council, not to be vexatious or punitive, rather it was 'exasperational' as the application appeared to have no justification in terms of the retrospective nature or requirement for the additional height, though the Parish Council could not speak to the technical nature of the works.

The Chair thanked Parish Councillor P Conway and asked the Committee Services Officer to read out a statement on behalf of Councillors E Mavin and L Mavin, Local Members for the Belmont Division who were unable to attend the meeting.

'Chair and Members of the Planning Committee, we would like to raise our objections to both of these retrospective planning applications at 5 Monks Crescent and 9 Monks Crescent.

It is obvious that the raising of the garage roofs is because in future they will be turned into extra rooms for an already approved HMO, the garage is currently used for a cycle and bin store.

The Parish Council and local residents have expressed their concerns that these developments look out of place and are totally out of character with other properties in the area, we hope their concerns are taken on board by the Committee.

We are concerned that Developers can ignore planning regulations and build what they want and only when it is reported to the Planning Officers as regards what they are doing, they then put a retrospective planning application in and get away with it.

If the Planning Officers aren't of a mind to refuse such applications, then it is down to the Planning Committee to support Local Councillors, the Parish Council and local residents and refuse these applications.

Thank you for listening'.

The Chair thanked the Committee Services Officer and asked the Lawyer (Planning and Highways), Neil Carter to comment.

The Lawyer (Planning and Highways) noted Councillor K Shaw had entered the meeting part-way through the representations from the Parish Council and advised that he may therefore not wish to take part in terms of the application, however, the decision was for Councillor K Shaw. Councillor K Shaw thanked the Lawyer (Planning and Highways) and noted he agreed with the advice and would not participate or vote in relation to this item.

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

Councillor L Brown asked as regards why such insulation had been required for an uninhabited room, why the works on the two properties was not permitted development, and should the Applicant wish to convert the garages to additional bedrooms whether separate planning applications would be required. The Principal Planning Officer, Paul Hopper noted that he could not comment on Building Control Regulations in terms of insulation requirements. He noted the application was not permitted development as the additional height of approximately 500mm was greater than that allowed under permitted development. He explained that any conversion of the garage to an additional bedroom would be allowed under permitted development and therefore that was not within the control of Planning. He noted that the garage, and the garage in the subsequent application on the agenda, had contained bin and cycle storage as part of the previous change of use permission, however, that was not secured in perpetuity by condition and while that use for bin and cycle storage could continue should there be a conversion to a bedroom, that issue was not under consideration within the current application, only the additional height to the garage roofs.

Councillor L Brown noted she would have thought the Article 4 Direction and policy would require a separate application. The Principal Planning Officer reiterated that that would be allowed under permitted development rights.

Councillor A Bell noted the concerns of the objectors in terms of the likely final outcome of the situation, however, an application for an additional bedroom would come back for determination. He moved that the application be approved as per the Officer's recommendation. The Principal Planning Officer noted that any change of the garages to bedroom was allowed under permitted development rights relating to the previous change of use permission and would not require a separate application. Councillor A Bell noted the permitted development rights and reiterated he would proposed that Members approve the application.

Councillor J Elmer noted he was surprised by what he had heard, adding he felt that it was a little sneaky that a garage could be subsequently converted after a change of use application was granted. The Principal Planning Officer noted that the change of use permission related to the whole of the properties, including the garage portion. He added that the change of use permission had been for C3 to C4 HMO use, without any specific restriction on the number of bedrooms or tenants for the property. Councillor J Elmer noted that the garage was allocated as bin and cycle storage. The Principal Planning Officer reiterated that the change of use permission referred to the whole of the property, including the garage, and it may be possible that some part may be retained for that use. Councillor J Elmer noted he felt that there would not be the increase in height or inclusion of such insulation unless the aim was to convert the garage to an additional bedroom. He noted he felt that was a material consideration and asked it be noted on the record that he felt the Committee had been 'taken on a bit of a merry ride' and that Members did not appreciated that. Councillor L Brown added that she agreed with Councillor J Elmer and asked if similar situations occurred in future, that it was conditioned that any additional bedrooms or conversion would require separate planning permission.

The Chair noted that while the Committee may be cynical in terms of the likely final outcome in terms of the properties and creation of an additional bedroom, the application for consideration had been moved for approval by Councillor A Bell. Councillor I Cochrane seconded approval.

Upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED** subject to the conditions within the Committee report

b DM/23/02860/FPA - 9 Monks Crescent, Gilesgate, Durham, DH1 1HD

The 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 a retrospective planning application for the raising of a garage roof and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the property in question was two doors further along the street at Monks Crescent and highlighted the similarities to the previous application.

The Chair thanked the Planning Officer and asked Parish Councillor P Conway if he wished to add anything further to his previous comments.

Parish Councillor P Conway noted that he would not wish to take up anymore of the Committee's time, however, he would make a few additional points. He noted that Belmont Parish Council was supported by three very good public spirited County Councillors, however, Parish Councils were not supported in terms of planning advice and therefore may need to seek its own advice in terms of proposing conditions in future. He added that it was felt that there had been no discussions with the Applicant as regards why insulation had been included, especially if it was not a requirement. He reiterated the Parish Council's previous request that the Article 4 Direction and CDP Policy 16 be reviewed.

In respect of justification, the Principal Planning Officer explained that there was no policy requirement for the Application to make such an explanation why they wished to make such alterations, rather the information provided within the application was sufficient to be able to make a recommendation based on relevant policy.

The Committee Services Officer noted the comments from Local Members, Councillor E Mavin and L Mavin also related to the application at 9 Monks Crescent.

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

Councillor A Bell asked how long the works had been completed and when the retrospective applications had been received. The Principal Planning Officer noted that planning applications were being determined within around eight weeks, albeit the Committee cycle would lengthen the process to around a couple of months. Councillor A Bell moved that the application be approved.

Councillor P Jopling explained she appreciated the position of the Parish Council and can understand their frustration in terms of the previous change of use decision. She noted that left the Committee with a dilemma in terms of looking at applications against policy and also in terms of what the likely additional bedroom. She noted Members were also not keen on retrospective application, however, the Committee must determine applications that are before them and therefore she would second approval of the application for an increase in garage roof height.

Councillor L Brown agreed that the Committee had to consider the applications that were put before it, adding it was accepted that this application was 'in principle' acceptable. She asked that it be recorded in the minutes that the Committee felt that the applications represented '*a cynical exploitation of the planning system*'. Councillor J Elmer noted all were aware of what Durham faced in terms of the loss of family homes to become student HMOs, however, there was no evidence of the need for these types of student properties. He added that there was a tremendous negative impact upon the residents of Durham by cynical landlords. He noted that the previous change of use decisions had likely been under delegated authority and noted that perhaps if those applications had been called in, the Committee could have looked at the issues raised. The Chair noted he felt the Committee could all agree with the comments in terms of the cynical nature of the applications. Councillor P Jopling added she agreed and that Members of the Committee understood the impact on communities where large numbers of HMOs are permitted. She noted she understood the need for student properties, however, she felt that these types of family homes in these types of areas were not the right properties.

The Chair allowed Parish Councillor P Conway to make a point of clarification. Parish Councillor P Conway noted that the Parish Council had requested some such change of use applications be considered by Committee, namely 4 Monks Crescent. He added that the Parish Council made reference within its submissions to a wide range of policies, not just Policy 16, including those within the NPPF and CDP relating to social, economic, environmental aspects, as well as transport and highway safety.

He reiterated that the Parish Council had also referred to the Article 4 Direction and Policy 16, citing one example where while 25 percent of a street were HMOs, as the area in question was a cul-de-sac, the 100-metre radius within policy showed less than 10 percent HMOs, within policy. Parish Councillor P Conway added that the Parish Council had taken on board information from Planning Officers as regards other policies within the NPPF and CDP that had material weight as regards HMO applications, and had made reference to such policies within its submissions. He concluded by noting that there needed to be a balance between Policy 16 and the other relevant policies within the NPPF and CDP.

The Chair noted he agreed with Parish Councillor P Conway, adding that the Committee had refused some HMO applications when looking at that balance between planning policies.

The Principal Planning Officer noted that 4 Monks Crescent was a different application to the two properties on the agenda, being 5 and 9 Monks Crescent. He added that the change of use permissions had been granted under delegated authority, noting that as the percentage of HMOs within 100 metres had been only 2.1 percent, Officers had been comfortable to approve the change of use without limiting the number of tenants, given the lower percentage of HMOs within 100 metres. He reiterated that bin and cycle storage may be retained within the garage space, should it be converted to a bedroom, or the landlord may accommodate bin and cycle storage within another area, such as the garden. He concluded by reiterating the issue being looked at was solely the increase in garage roof height.

Councillor J Elmer noted the comments from Parish Councillor P Conway and the Principal Planning Officer and withdrew his comment in terms of calling-in the previous change of use applications.

The Chair noted that the application had been moved for approval by Councillor A Bell, seconded by Councillor P Jopling and upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED** subject to the conditions within the Committee report