

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 June 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), A Bell, L Brown, J Cosslett, M Currah (substitute for L A Holmes), S Deinali, J Elmer, K Shaw and A Surtees

Also Present:

Councillors J Blakey, G Hutchinson and E Mavin

1 Apologies for Absence

Apologies for absence were received from Councillors I Cochrane, C Kay, D McKenna, R Manchester and K Robson.

2 Substitute Members

Councillor M Currah substituted for Councillor LA Holmes.

3 Minutes

The minutes of the meeting held on 14 May 2024 and special meeting held on 17 May 2024 were confirmed as correct records by the Committee and signed by the Chair.

4 Declarations of Interest, if any

Councillor L Brown noted she was a Member of the City of Durham Parish Council and was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

She explained that in respect of Item 5c, DM/24/00586/VOC - Saffron House, Newcastle Road, Crossgate Moor, she had called-in the item to Committee and had objected in respect of impact upon residential amenity, therefore she would leave the meeting during the consideration of that item.

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 applications 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.

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

a DM/24/00334/FPA - 131 Grange Way, Bowburn, Durham, DH6 5PL

The Senior Planning Officer, Lisa Morina gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that some Members of the Committee had previously visited the site and were familiar with the location and setting. The application was for a temporary change of use of the property from a C3 residential dwelling to C2 children's home for a period of up to 3 years and was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer noted the application had been deferred by the Committee at its last meeting to enable more information to be obtained in terms of a robust management plan from the applicant and in respect of more detailed information from Durham Constabulary in terms of incidents within the local area. She explained as regards the sporadic use of the home since 10 March 2023 and referred to site photos and proposed parking arrangements.

In reference to statutory and internal consultees, the Senior Planning Officer noted that Cassop-Cum-Quarrington Parish Council had objected to the application, and that the Council's Highways Section and Durham Constabulary had offered no objections in relation to the application.

She explained that Durham Constabulary had provided additional information in terms of anti-social behaviour (ASB) noting that in Bowburn, since 2021 to 16 May 2024, levels had reduced, and within the last year there had been five incidences of ASB at Grange Way, however, none related to the application property. For the period 2021-22 there had been no incidents recorded at the property, with 54 incidents in 2023, and 10 incidents for the period January to May 2024. She reiterated that Durham Constabulary had not objected to the application. It was noted that the Council's Planning Policy and Environmental Health Teams had offered no objections to the application, with the Children and Young People's Service (CYPS) offering no objections and noting there was a need for such children's homes.

The Committee were asked to note there had been 47 letters of objection, with a summary of the concerns set out within the report, which included: anti-social behaviour, business use without permission, and devaluing nearby property values. The Senior Planning Officer explained that the Police and Crime Commissioner (PCC), Joy Allen had raised concerns in terms of the demand on policing from such C2 children's home use increasing within the county. She added there had also been four letters of support for the application, noting that looked after children had as much right to a decent home and that there was bias against looked after children. The Senior Planning Officer noted on further letter in support had been received following the previous meeting, and had a letter of objection had been received from Mary Foy MP, which noted several points relating to residents' concerns, that the application was contrary to County Durham Plan policies 18 and 31, whether the services were being provided correctly, concern the home was operating without a change of use, and noted the callouts to the property being for safeguarding issues, rather than ASB. It was added Mary Foy MP had noted residents noted the role of Councillors as corporate parents, their concerns should also be considered, and whether the site was the right one for a children's home. The Senior Planning Officer explained that the applicant had noted he would be complaining at Government level about the discriminatory language used within the MP's letter.

The Senior Planning Officer noted there was a need demonstrated for such children's homes, and Officers felt the proposals were in line with policy and that there would be no detrimental impact upon residential amenity. She added there had been no objections in terms of Highways and Durham Constabulary had provided the statistics for call outs to the property and the ASB levels within the area and had provided no objections to the application. It was noted that the applicant would seek Ofsted registration subsequent to planning permission, should Members be minded to approve the application. The Senior Planning Officer concluded by noting Officers felt the proposals were in line with policy and therefore the application was recommended for approval, temporary for a three-year period.

The Chair thanked the Senior Planning Officer and asked Councillor J Blakey, Local Member, to speak in relation to the application.

Councillor J Blakey thanked the Chair and Committee, and Durham Constabulary for their attendance at the meeting. She explained that she was not objection to the idea of children's home, noting a children's home had operated in Bowburn for over 50 years. She added that, however, residents still had concerns as regards what was going on at this children's home.

The Chair thanked Councillor J Blakey and asked Councillor G Hutchinson, Local Member, to speak in relation to the application.

Councillor G Hutchinson thanked Members for the opportunity to speak on the application. He noted that according to their management plan, Juniper Care had been working with Durham County Council since 2022, and asked why the Council had not been aware that the property was operating as a children's home until he and Councillor J Blakey had spoken to the Council in 2023. He asked why Councillors had not been made aware of the children's home. He asked why, if the Council knew of the intentions of Juniper Care, why was planning permission not sought as soon as possible, if Ofsted registration was being sought, and that required planning permission, why was a planning application not submitted straightaway.

Councillor G Hutchinson noted that Juniper Care stated that the care for the children was their highest concern, then why would they not have applied for planning permission, then obtained Ofsted approval, rather than operate illegally until caught. He noted that Ofsted guidance stated that applicants should understand any restrictive covenants in place and asked therefore would Ofsted allow operation. He noted that Juniper Care stated they offered the highest care, however, he noted that some of their job advertisements had as for 'some' care experience.

Councillor G Hutchinson noted that residents were not against the children, rather against Juniper Care, following 18 months of suffering by residents. He noted Baroness Scott had stated that the that the *care system should provide stable, loving homes close to children's communities*, however, he felt this unregulated site did not work with DCC and was not serving the needs of children as per Baroness Scott's statement.

In respect of the children's home management plan, Councillor G Hutchinson noted it had referred to 24-hour supervision to be provided, and asked whether it was provided now. He noted that children should not be unattended at night.

He added that it was felt the application was contrary to CDP Policy 18(e) in respect of being '*unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion*'.

Councillor G Hutchinson noted those impacts upon residents in respect of crime, fear of crime and upon residential amenity were already having an impact upon local residents' mental health. He noted paragraph 92 of the Officer's report referred to fear of crime and he added that there had been evidence presented at the last meeting and additional information would be brought forward today by residents. He added the PCC had objected to the application in terms of the impact upon policing from the time dealing with call out relating to children's homes.

Councillor G Hutchinson noted the Planning Officer had explained that the Police callouts to the property had not been in relation to ASB, rather safeguarding issues, however he would ask whether there was an issue with a children's home where there had been 64 safeguarding visits since it had begun operating. He noted that the Esh Group had objected, with criminal damage to their property. He added that the application was contrary to Policy 31, residential amenity, in terms of potential impact upon residents. He added it was not potential impact, there had already been a number of incidents already. He noted that those children being looked after needed the best start in life, with care that meets their needs. He noted there was no evidence there was suitable care within the letter from L Sowerby inviting residents to a meeting, with no telephone numbers being provided. He added that when L Sowerby had been asked whether he would have a children's home near to him he had smirked and replied noting he could '*put three children in*'. He added the proposed time for a meeting, 4.30pm, had not been a suitable time, and that there had been an offer to hold the meeting at a different time at the local community centre.

Councillor G Hutchinson noted that he would ask the Committee to make a decision on what was best for all parties and refuse the application.

The Chair thanked Councillor G Hutchinson and asked S Wilkinson, local resident in objection, to speak in relation to the application, noting a series of slides accompanied her address.

S Wilkinson thanked the Officers and Committee for hearing the concerns of residents. She reiterated that the issues were not with children, rather Juniper Care and how the planning application had been handled, noting that there had only been communication from Juniper Care subsequent to the Committee deferring the application at their last meeting. She added there was still little regard for the community, and what was considered shameful comments with residents being called liars by L Sowerby. She noted there had been 64 visits by Police to the children's home, relating to safeguarding issues, at all hours, with one child having been removed.

She explained there had been four different children at the home so far. She noted that the response from L Sowerby to the MP noted no crimes had occurred relating to the home, however, there was video evidence of one child from the home smashing a shelter belonging to Esh Group, which was criminal damage and had resulted in injury to the child.

S Wilkinson added that one resident had been subjected to foul language in their garden, and last Friday a woman, who was with her two-year-old child, had been threatened. She noted three carers had been aware of the incident, however, had not said anything, therefore the incident had been reported to the Police. S Wilkinson added that one carer had been seen with three wine bottles, with the young person later had appeared intoxicated. She asked why such glass bottle were accessible as there appeared to be issues in respect of self-harm. She added that a 17-year-old should not be allowed to be drunk or vaping, with the issues witnessed having been reported to the Police and the Council's CYPS as it was not felt to be acceptable standards regarding Ofsted. S Wilkinson explained that the parking plan was continuously ignored, and there had been a last-ditch clearance of the garage to the property, with similar issues with their property at Ferens Park.

S Wilkinson noted that the children deserved better and asked how parents in the area could explain to their children about the noise, ambulances attending the property and self-harm occurring. She asked why local residents' children's lives should be negatively impacted. She explained that the local community was an established one, with families with children, and was not a suitable location for a children's home. She noted residents were pleading with the Committee to protect them and added that Members were not corporate parents to children from outside of County Durham and they had a duty to protect residents' children and their community.

The Chair thanked S Wilkinson and asked L Sowerby, the applicant, to speak in support of his application, noting a series of slides accompanied his address.

L Sowerby noted that at the children's home there was a highly experienced team that cared for children with a number of issues. He noted the additional information from Durham Constabulary which highlighted the low number of visits and reasons behind those visits, none relating to crime. He added that the information provided from Durham Constabulary showed the issues were safeguarding relating to complex needs.

L Sowerby noted the law acknowledged that fear of crime was a concern for residents, however, case law and appeals noted such concerns should be reasonable, however the concerns raised were anecdotal, with Police information providing evidence of the actual events.

He noted the home had not been operating illegally, rather the application for planning permission had been submitted and was on the record. He added that safeguarding children was the highest priority and there was quality assurance through Regulation 44 and Social Care visits, as well as through other children's home regulations and standards. He added that a 'Durham First' approached was operated, and the Council CYPS had stated there was a need for these types of children's homes.

L Sowerby noted monthly meetings with Directors, with a willingness to engage with neighbours. He added the Council's Highways Section had noted there was sufficient parking to service the property and therefore there was no highways reason to refuse the application. He referred the Committee to slides highlighting highways issues caused by residents parking cars obstructing footpaths and referred to cars attending the children's home parking vehicles within the garage and on the driveway.

L Sowerby explained there had been no objections from consultees and noted that the concerns raised by residents were anecdotal. He added that there would be a highly trained team in place, giving a chance for a young person to thrive. He reiterated there would be external management oversight, with Ofsted and from the Council's CYPS Team. He concluded by noting he was speaking on behalf of the vulnerable children being cared for, and praised his staff for their excellent work, noting they were heroes.

The Chair thanked L Sowerby and asked the Lawyer (Planning and Highways), Neil Carter to respond to some of the points raised by the speakers.

The Lawyer (Planning and Highways) noted the comments from Councillor G Hutchinson in respect of Ofsted regulation, he noted that was a separate statutory regime and outside of planning. In respect of any restrictive covenant, he noted that was not a material planning consideration, being a private law matter, again outside of planning. He added that any comments made in terms of the competency of the applicant were not directly relevant as planning was concerned with land use, and the identity of an applicant was largely irrelevant, as was the track record of the applicant, with the application to be looked at purely in land use planning terms.

The Chair noted there was representatives from the Police and Office of the Police and Crime Commissioner in attendance to answer questions as required. He asked Members for their comments and questions in relation to the application.

Councillor J Elmer asked if the representative from Durham Constabulary could describe the nature of the 64 visits to the property and why there are required to attend.

Sergeant Kevin Hall, Durham Constabulary noted he did not have a breakdown of each individual incident, however, they mainly related to safeguarding issues for an individual with complex needs, some needs being of a personal nature. Councillor J Elmer asked if the visits were more routine types of visits or represented a more problematic issue. Sergeant K Hall noted issues that could lead to a call out to a property could relate to children being missing from home, crime of varying levels, and wider range of issues that fall within the safeguarding arena.

Councillor D Oliver noted paragraph 99 of the agenda papers referred to the Police considering that '*none of the reported incidents having a direct impact on the wider community*' and asked if it was accurate to say that any incidents were contained within the children's home and did not have an impact beyond the home. Sergeant K Hall noted the majority of incidents involved the children's home and not residents, however, residents may witness or overhear those incidents.

Councillor A Bell noted the Lawyer (Planning and Highways) had set out what was material planning issues and what fell outside of planning. He noted that the Committee had heard from Local Councillors and residents, and from the Police, noting 64 incidents. He noted that it had been explained that attendance at the property by the Police had been in relation to safeguarding. He added he was struggling with the application as it was being said that the management of the children's home was not a planning matter, however, it was leading to ASB which the Committee was being told was an issue. He noted that 64 call outs demonstrated that something was not right in terms of the number of reports.

Councillor L Brown noted she remained unhappy and noted that the National Planning Policy Framework (NPPF), set out that residents should not be left with the fear of crime and Policy 31 of the CDP referred to residents' amenity. She added that while Councillors were corporate parents for looked after children, they also represented all children within County Durham too. The Chair noted the role of Members as corporate parents to looked after children from County Durham and noted a suggestion that the children care for at the proposed children's home were from other Local Authority areas. The Senior Planning Officer noted that the children currently being looked after at the property were not from County Durham, however, the applicant was working with the Council in terms of looking to house children via CYPS once Ofsted accreditation was obtained. She added that the management plan referred to was conditioned and therefore it must be adhered to, and enforcement action could be taken in respect of any breach of conditions. She noted the children's home being used at the current time, and that there was a national shortage of such provision and therefore Local Authorities across the country were placing children 'out of area'. The Senior Planning Officer noted the applicant was working towards Ofsted accreditation.

Councillor A Surtees noted there was no dispute in terms of children who needed care, and as regards the care given by the staff at this children's home. She noted that Members had to weigh up the balance of the children's home and children in care against the wider community. She noted a huge concern in terms of not having had a management plan initially or having sought Ofsted accreditation in advance of opening. She noted the application had taken 16 months to get to Committee and while appreciating it operated as crisis centre initially, she asked as regards that use and regular children's home use. She noted she took her corporate parent responsibility very highly, however, she did not feel comfortable to support the application. She noted Policy 18 referred to the fear of crime and it was clear, from the comments from residents and the number of Police call outs to the property that there was an impact on community cohesion. She therefore moved refusal of the application as she felt it was contrary to CDP Policy 18 in respect of the fear of crime and impact upon community cohesion.

Councillor K Shaw noted he would second the proposal from Councillor A Surtees, having a similar view on the proposals. He added that while it was important to have facilities for children in care, there did not appear to be a joined up approach, citing similar issues in his Electoral Division, with a children's home having been refused permission at Committee, the decision being upheld at the Planning Inspectorate and the children's home still continuing to operate. He added that it was a real issue for the Council in terms of how to deal with those types of issue.

Councillor J Elmer asked for a view from the Police in terms of ASB in the vicinity of the application, noting 168 incidents per year falling to 86 per year, noting that still seemed high and therefore did the ASB related to the children's home. Sergeant K Hall noted that the ASB did not relate to the children's home and explained that within every issue there were issues with ASB, however, those cases referred to were not specific to this children's home.

Councillor D Oliver noted he had spoken at the last meeting in terms of this application, referring to two similar children's homes within his Electoral Division, established in 2018 and 2021. He noted initially there had been similar concerns as raised by residents in terms of this application, however, now the impact was positive, the homes being Ofsted accredited, with three children in each of the two homes. He explained over the last three to five years they had really absorbed well into the community, with very similar locations to that of the application property, demonstrating that these types of children's home can be managed well. He noted Members must base their decisions on evidence and while he had heard anecdotes, Durham Constabulary had not objected to the application, neither had the Council's CYPS.

He felt there was a need for a high threshold in terms of objections, as we needed to provide children's home for our looked after children. He added he felt the costs of delay and stopping the application would be significant and while not every application could be perfect, he felt there was evidence that the management of the children's home could be met properly, and indeed with no objections from the Police one could not refuse the application on safety grounds. Councillor D Oliver explained he looked at the bigger picture in terms of looking after those children in care and therefore he would support the application and moved approval.

Councillor M Currah asked the applicant whether it was common practice to set up a children's home and operate, then to seek formal approval. The Chair noted L Sowerby could respond. L Sowerby noted that the landscape in terms of children's care was very complex and reiterated he had been in contact with the Council in 2022 and he had spoken to Durham Constabulary prior to securing the property. He added that of the 12-13 months so far, around six months of that had been in terms of that element. He noted as regards the arrangements required in terms of getting staff in place. He noted he was a Deputy Headteacher, and his brother worked with young people, and both wanted beautiful homes for their young people. He noted that if they had not operated as they had done, then there would have been no care for the young person over that period until permissions and accreditations were in place. Councillor M Currah noted he would have thought that a professional company would have sought permission first, and that if it was not standard industry practice, then he could not support the application. L Sowerby noted that it was the only route they had, and that it was appropriate and that he wanted Ofsted registration and looked for quality assurance.

Councillor M Currah asked Planning Officers if the approach that had been taken by the applicant was common practice. The Senior Planning Officer noted that children's home applications often were retrospective and reiterated that CYPS had noted they would look to make a placement once registered, as there is often a shortage of these types of children's homes. She added that was only on the provision that a children's home was working towards Ofsted registration and planning permission. She noted it could take time to get staff in place, to then be in a position to be ready to apply for Ofsted registration.

The Chair asked what would happen, should the Committee not grant planning permission, would the children's home no longer be able to operate or could it continue to operate. The Senior Planning Officer noted that the applicant would have the opportunity to appeal any refusal decision, and Officer would await the actions from appeal prior to any enforcement action being taken.

The Chair asked if the permission was ultimately refused, would the Council look to take enforcement action should the children's home continue to operate. The Senior Planning Officer noted action would only be taken if an appeal was dismissed. The Lawyer (Planning and Highways) noted there was potential for enforcement if the application was refused and the children's home continued to operate. He noted that the Committee did not have an enforcement remit, rather that was an issue that was delegated to Officers to enforce, where it was expedient to do so. He noted the appeal mechanism open to the Applicant in respect of an Enforcement Notice would result in the Enforcement Notice being suspended until any appeals process had been concluded.

Councillor S Deinali noted that she was finding it very difficult to come to a conclusion on this application. She noted her experience as a teacher that those with complex needs often display via their behaviour and in some cases it did not matter what management was in place, it was having a supportive community around them that was important. She noted the figures provided showed some signs of improvement in terms of reducing numbers of incidents, showing that the support for these particular looked after children was effective. She noted, however, on the other hand there was the impact on the children and their families in the local community. She reiterated that it was very difficult to weigh up the arguments that had been made on both sides and she would listen further to comments and questions from Members.

Councillor D Oliver noted that the report looked at the wider impact on the community and the Police had contact with Juniper Care, not the wider community. He noted that looking at the wider spectrum of crime, ASB had decreased since the pandemic and issues were elsewhere, not with this particular children's home. He added he felt it was clear from the report that there was not an issue here and that if Members rejected the application today, there would be clear difficulties in terms of our looked after children, with them facing uncertainty as regards their future, with such uncertainty creating anxiety for those children.

Councillor A Surtees noted that was Councillor D Oliver's interpretation of the position and while there had not been a physical crime that had impacted the wider community, the visits from the Police to the property and the perception from that had impacted upon the wider community. She added that it was apparent that there had been an impact upon the community and that she was not fully convinced that it was the right community for this children's home, based upon the impact over the last 18 months as described.

Councillor A Bell asked if the Planning Officer and the applicant could explain why there had not been an application submitted on day one, and that the children's home had been operating unregulated.

He added that the permission was only for three years, however, the home had operated for around 18 months with issues as described not giving a lot of confidence for the Committee to approve the application.

The Chair noted that Councillor A Surtees had referred to CDP Policy 18, while others had mentioned issues relating to Policy 31.

The Senior Planning Officer noted that there was the impact of the Police visiting the site and the impact upon the wider community. She noted that Officers had considered whether such visits could occur at other regular residential properties, if there was a similarly troubled child living at a property. She added that therefore Officers were looking for issues that were over and above regular C3 use. She reiterated that Durham Constabulary had stated issues had been safeguarding related, not ASB and that issues were decreasing since operations had begun. She added that C2 use would result in a management plan being required, Ofsted registration and was temporary for up to three years, therefore when unregulated there would not be as much control as a regulated children's home with a planning permission with conditions in place.

The Lawyer (Planning and Highways) noted there had been a motion proposed and seconded to refuse the application, with refusal reasons being in terms of the fear of crime and ASB and the impact of this on residents. He noted that there needed to be evidence of this, and while there was perception, the Police were experts on this area and within the report it was noted they had not objected to the application. He added he understood that residents disputed that view, however, the Police had stated that the majority of the attendance at the property had related to safeguarding issues and not ASB. Accordingly, the Lawyer (Planning and Highways) noted he was struggling to see how such a refusal reason could be sustained at appeal. He added Police figures stated that the number of incidents were reducing, and the Senior Planning Officer had noted a slightly different use from the initial use as a crisis centre and the proposed use now including a management plan. He noted that Officers had indicated that they felt regularisation of arrangements via a management plan would be acceptable. The Lawyer (Planning and Highways) noted the Senior Planning Officer had referred to the possibility of a similar level of impact from a C3 use, and that the permission was on a three-year temporary basis and therefore if there were issues in terms of ASB, crime or disorder, then it would be very unlikely that a future application would be supported. The Lawyer (Planning and Highways) noted that therefore the application was effectively on a trial basis and reiterated that he could not see the refusal reasons put forward being sustained at appeal without evidence from the Police and therefore it was likely costs would be awarded against the Council.

Councillor L Brown thanked the Lawyer (Planning and Highways) and noted that the item had been discussed for over an hour and a half at this point, and appreciated how difficult such applications were to determine. She noted there were a lot of children's homes applications coming through and it may be useful if the refusal of an application was considered at appeal, to give Members information when looking at future children's home applications.

Councillor A Surtees noted she had not changed her mind and was still proposing refusal. Councillor K Shaw noted he disagreed with the view from the Lawyer (Planning and Highways), adding he felt it was clear from residents of the impact upon their quality of life and therefore he was happy to second refusal.

In response to the comments from Councillor L Brown, the Senior Planning Officer explained that there had been appeals where such applications had been refused under delegated authority on the grounds of fear of crime. She added that in those cases, the Inspector had dismissed the Council's argument and permission had been granted.

Councillor D Oliver noted he felt there needed to be a balance, and that going on purely anecdotal evidence alone was a risk. He added that the evidence from the Police had been black and white, and while the issue was being decided upon, children were facing a year of uncertainty which he felt was greater than the local perception of ASB. He added he felt the Committee had been given clear advice on the matter by the Lawyer (Planning and Highways).

It was proposed by Councillor A Surtees, seconded by Councillor K Shaw that the application be refused and upon a vote being taken it was:

RESOLVED:

That the application be **REFUSED** as the proposed change of use to a children's home (Use Class C2) would be likely to result in unacceptable residential amenity impacts arising from an increase in instances of crime and disorder and the fear of such for existing residents, contrary to Policies 18e) and 31 of the County Durham Plan and Parts 8 and 12 of the National Planning Policy Framework.

b DM/24/00522/FPA - Ramside Hall Golf Club, Ramside, Durham, DH1 1TD

The Senior Planning Officer, George Spurgeon 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 part single and part two storey extension to Golf Clubhouse and Driving Range and was recommended for approval, subject to the conditions as set out in the report.

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

Councillor A Bell noted he felt the application was brilliant, and that the Ramside Hotel and Golf Course was one of the successes in County Durham. He noted while the application was in the green belt, it was a suitable use and therefore he would move approval of the application. Councillor K Shaw seconded the motion for approval, noting where else would you find a golf course, but within a green belt.

Councillor J Elmer noted he very intensely supported the application. He noted that the Landscape Team had noted no real impact from the application, however, as development in the green belt there was conflict against policy. He noted he did not feel the additional offer provided did not constitute very special circumstances, where was not something unique. He reiterated that he supported the application, however, felt there was some inconsistency in terms of application of green belt policy.

The Lawyer (Planning and Highways) noted that there was no requirement for a '*very special circumstance*' to be unique, rather very special circumstance was a label that was applied where benefits were considered to clearly outweigh the harm. He noted that, as set out by the Senior Planning Officer, that due to the floor space, the Committee were being asked to be minded to approve, with then referral to the Secretary of State with the ability for the Secretary of State to call-in the application should they feel necessary. If the SoS decided not to call in the application, then planning permission would be granted by the Council. Councillor J Elmer noted that definition of very special circumstance would be useful for Members.

Councillor A Surtees noted she supported Councillor A Bell and felt, in light of the tourism offer within the County, that she would be very happy for the application to be approved, subject to referral to the Secretary of State.

It was proposed by Councillor A Bell, seconded by Councillor K Shaw that the application be approved and upon a vote being taken it was:

RESOLVED:

That the Committee be **MINDED TO APPROVE** the application and the matter be referred to the Secretary of State. In the event that the Secretary of State does not call in the application, it will be approved subject to the conditions set out within the report.

Councillor L Brown left the meeting at 11.16am

c DM/24/00586/VOC - Saffron House, Newcastle Road, Crossgate Moor, DH1 4HZ

The Senior Planning Officer, George Spurgeon 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 variation of condition 10 pursuant to permission DM/20/01107/FPA for the erection of a house in multiple occupation, to allow the first floor en suite window within the north side elevation to be fitted with external opening restrictor (description amended) was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer noted the original approval was in September 2020, and explained that while the windows in place were obscure glazed, they had been intended to be non-opening and one window overlooking the neighbouring property did open, with a horizontal restrictor bar which prevented opening beyond 10 millimetres. He noted that Officers felt that the proposals would essentially protect privacy for the neighbouring property to the north, the application was recommended for approval.

The Chair thanked the Senior Planning Officer 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 explained that the Parish Council was opposed to this application as it believed that, as a matter of principle, developers cannot treat well-crafted planning conditions as optional extras.

He noted that the matter began in September 2016 with a proposal to build a large house on the site of a former bungalow and although the Officer recommended approval, Committee had refused that application and at Appeal in March 2017 the Committee's decision was upheld.

He noted the Inspector's grounds for refusal included "*the effect of the proposal on the living conditions of neighbouring residents, with particular reference to outlook, light and privacy*".

Parish Councillor G Holland noted that the applicant was undeterred and in April 2020 submitted a proposal for two Houses in Multiple Occupation (HMOs) on this site. He noted that application was refused, on grounds which included "*adversely affecting the amenity that surrounding residents could reasonably expect to enjoy to an unacceptable degree*". He added that by September 2020 the HMO scheme re-emerged and was narrowly approved in a zoom meeting by Committee, but with a string of important and protective conditions. He noted that, as the Committee would hear, in the next few years, those conditions were regularly breached and in November 2023 an application to amend one of those conditions was refused. Undaunted, today there was yet another application, this time seeking to remove Condition 10 which, from the outset, required that within the both north and south side elevations the windows will be, to quote, "*non-opening and obscured to level 3 or higher in the Pilkington scale of privacy*" and it also required that, to quote, "*the windows shall be maintained thereafter in perpetuity*".

Parish Councillor G Holland noted there was no ambiguity in that condition however, according to reports, it had been ignored regularly since it was introduced in September 2020, that being for more than 3 years. He noted that a local resident, Mrs Helen Clark, would be speaking to Members next and he asked that Councillors listened carefully to what she had to say and the problems that she and others have encountered in the last four years.

He explained that because that important condition was designed to protect and reassure local residents, there was no case whatever to remove it or amend it. He added that, furthermore, the condition was in place well before this HMO was constructed and its restrictions could have easily been fully integrated during the construction process. He asked that if, deliberately, they were not, why should the residents now be paying the price. He also asked why builder could not have just put matters right rather than bothering us yet again in seeking to evade Condition 10.

Parish Councillor G Holland noted the Committee must not be expected to set aside well-designed planning conditions simply to allow some developer to evade an inconvenient restriction, conditions which he both understood and agreed to almost four years ago and which were well within his power to fulfil at the time. He added that nor must the Committee be bullied by threats of costs if his demands are not met.

He noted that using CDP Policy 29 e and f, paragraphs 5.286 and 5.287 alongside the essence of 'impact' embedded in Policy 31, and taking into account NPPF Paragraph 59, the Parish Council strongly urged the Committee to reject the application.

The Chair thanked Parish Councillor G Holland and asked Helen Clark, Local Resident, to speak in relation to the application.

H Clark thanked the Chair and Committee and noted she was sorry that she must attend at Committee and that Members must once more be asked to protect the welfare of her family and close neighbours, whom she was also representing. She explained she lived next door to the student HMO and strongly objected to the retrospective application to vary the already breached Condition 10.

She explained that when she moved into her home there was a family bungalow next door, however, now, on the same site, there were two student houses totalling 10 bedrooms. She noted that Saffron House, a new-build HMO, was very controversial with 47 objections, and was approved at Committee in September 2020 by just a single vote. She explained it was built in the back garden area, with family homes and private gardens on all sides which meant that it was in a much more sensitive position when it came to overlooking neighbours and being detrimental to their amenity.

H Clark noted that to protect that amenity, the Planning Committee at that time set a number of conditions, including Condition 10, which stated that the first-floor windows on the side elevations are to be "*non-opening ... in perpetuity*", adding that had been very, very clear.

She noted that, in blatant breach of that condition, opening windows were installed from the outset, with the applicant totally ignoring the Planning Committee's safeguards. It was added that when enforcement action was taken, the applicant still did not comply, instead, submitting an application to remove the word "non-opening" from Condition 10.

H Clark noted that application was refused, however, rather than complying at that stage, the applicant disregarded the enforcement notice and left the windows open.

She explained that once the deadline for compliance passed, the Council indicated that a notice was being drafted for summary prosecution in the Magistrates' Court for the offence of contravening the breach of condition notice, with £1,000 fine as penalty.

She noted at which point the developer hurriedly submitted the current application, seeking to avoid the consequences of a Magistrates' penalty for breaches that had been ongoing for almost two years.

H Clark explained that from the viewpoint of a family that was overlooked by a nearby building, there was a big difference between windows that are non-opening in perpetuity and windows that open but with a temporary bar screwed on. She noted the window on the north side was only three metres from her boundary, at first floor height and had been open, directly overlooking our private garden, significantly spoiling her enjoyment and privacy, and that of her children. She explained that Condition 10, gave peace of mind that the window would never be opened again and also the assurance of the high standard of amenity required by the national and local planning policies.

She noted that, as part of this application, the Case Officer chose not to allow a restrictor on the inside because it could easily be unscrewed. She added that the proposed outside, removeable bar was no different and there was nothing permanent or sturdy about it. She noted a push from a frustrated student could dislodge it, or by the applicant himself, for he has long been doggedly determined to have open windows. H Clark explained the applicant could simply unscrew and remove it in just 10 minutes and therefore she had no confidence that it was a permanent feature and therefore it significantly undermined her families' amenity and Condition 10.

H Clark explained her neighbours shared these concerns due to the long history of breaches associated with the HMO and the ongoing threat that the bar would offer. She added there was not the time for her to list the catalogue of breaches that the applicant had committed, or to fully explain how the proposal did not comply with current Building Regulations, however, at least seven of the 15 conditions recommended by the Committee had been deliberately breached, many times, showing contempt for the Local Authority and the local community. She explained that despite this, the applicant suggested that coming to Committee was petty and not an effective use of taxpayers' money, yet it was the applicant who was forever breaching the conditions, and it was his repeated attempts to erode this Committee's decisions and therefore it was he who was wasting Members' time and taxpayers' money.

H Clark noted that, in summary, Condition 10 required 'non-opening windows ... in perpetuity' and reiterated that could not be clearer and gave peace of mind that a high standard of amenity would be preserved forever, in accordance with national and local planning policy. She noted that her family and her neighbours were very grateful that the Committee chose to safeguard their amenity in this way.

She added that the present attempt to set aside that important restriction was unacceptable. She noted the developer has his student house and that her and her neighbours, just wanted to enjoy a quiet family life with its amenity, security and privacy that Condition 10 was designed to protect from the outset. She concluded by asking that the Committee refuse the retrospective application.

The Chair thanked H Clark and asked the Senior Planning Officer to respond to the points raised by the speakers.

The Senior Planning Officer noted that Officers were happy that the outcome of the wording of the new variation and the original condition were comparable, with the window only opening 10 millimetres, with the restrictive horizontal bar in place. He added should the bar be removed, then planning enforcement could look into the matter.

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

Councillor J Elmer noted the application was extremely strange, with the original condition 10 being to protect residential amenity. He added that if the result was the same outcome, then what was the sense in submitting a variation of condition application. He could only see a difference in that the applicant had breached Condition 10 and therefore he would wish to see that enforced and would propose refusal of the application. Councillor M Currah seconded the proposal for refusal.

Councillor A Surtees noted that she could not see how anyone could see out of a one-centimetre gaps and suggested the gap would only be sufficient to circulate air. The Senior Planning Officer noted that was essentially the view of Officers, and that from the exterior one would not be able to tell if the window was in the open or closed position. He added while it may be disappointing that the original condition had not been adhered too, legislation did allow for such variation of condition applications.

Councillor A Bell noted he felt that the application need not have come to Committee, and he proposed the application be approved. Councillor D Oliver seconded the proposal.

The Chair asked as regards the refusal reasons from Councillor J Elmer. Councillor J Elmer noted the risk of impact upon residential amenity and the history of planning breaches. The Lawyer (Planning and Highways noted that the metal bar was attached to external masonry and would require a ladder in order to be removed and therefore it was inherently unlikely.

He noted that permanent retention of the bar was part of the new condition and that that would give the Local Authority the tools to enforce should the new condition be breached. He concluded by noting he did not feel there was a sustainable reason for refusal, however, the decision was for Members.

A motion for refusal was proposed by Councillor J Elmer, seconded by Councillor M Currah and upon a vote being taken the motion was **LOST**.

A motion for approval was proposed by Councillor A Bell, seconded by Councillor D Oliver and upon a vote being taken it was;

RESOLVED:

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

Councillor L Brown entered the meeting at 11.41am

d DM/24/00555/FPA - 50 Prebends Field, Gilesgate, Durham, DH1 1HH

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 construction of two storey side extension, additional off-street parking and change of use of the existing dwellinghouse (Use Class C3) to an HMO (Use Class Sui Generis) – Resubmission, and was recommended for approval, subject to the conditions as set out in the report.

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

Parish Councillor P Conway noted the Parish Council strongly objected to the application and wished to clarify several points. He noted that Paragraph 4 of the Officer's report correctly stated the Parish Council had exercised its statutory right to call-in the application, however, the Local County Councillors had also called-in the application after careful consideration. He noted Paragraph 31 of the report referred to the submission from Belmont Parish Council, and he would add it would have also been helpful if it had included the policies that the Parish Council felt the application was contrary too, namely CDP Policies 16, 21, 29 and 31 and Part 2 of the NPPF.

Parish Councillor P Conway noted that NPPF Part 2 referred to sustainable development, and suggested that replacing family homes with HMOs, with a transient population only being resident 33 to 34 weeks a year was not sustainable development and did not contribute a strong economy with HMOs being Council Tax exempt. He added that in terms of any contribution to the environment, over the last three years there had been a steady increase in the number of HMOs in the area and there had been a visual impact on the area, with many HMOs in a detrimental state, and with more waste. He noted the pressure on local communities, the application being the third within the street, next door to a seven-bed HMO. He noted the applicant's reliance on the Article 4 Direction, however, that aspect of Policy 16 did not trump other policies within the CDP, such as maintaining mixed and balanced communities. He noted that Belmont Parish Council would wish for a review of CDP Policy 16 and the 100-metre radius used for calculating the percentage of Council Tax exempt properties up to a 10 percent threshold. He added this issue was raised during Neighbourhood Plan discussions.

Parish Councillor P Conway noted that Durham University noted there would be around 800 fewer students next year and that numbers would be around 21,400 by the end of the decade. He noted that the methodology of the 100-metre radius did not take into account situations such as this where there were three HMOs within a few metres, with 13 to 14 bed spaces, not in the spirit of the CDP.

He noted CDP Policy 21, and the traffic generated from an HMO and compromise to public safety and issues with parking from some many HMOs. He noted CDP Policy 29 and the removal of C3 housing stock. He explained that and Independent Review by Belmont Parish Council, as part of the Neighbourhood Plan process noted serious issues with the CDP up to 2030, in respect of the Housing Needs Assessment, with HMOs leaving properties empty for substantial parts of the year. He added that once properties were altered to create large HMOs, they would not likely be turned back to family homes. Parish Councillor P Conway noted CDP Policy 31 and explained that a cluster of three HMOs would impact upon residential amenity in terms of increased noise, movement of vehicles.

Parish Councillor P Conway noted the Parish Council strongly suggested that Members refuse the application, and with NPPF Paragraph 19 noting to take into account local views and reminded Members that residents had their rights and that planning decisions were not merely an administrative process for an applicant to go through. He noted that Members would look carefully and exercise their judgement and reject the application.

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

Councillor E Mavin thanked the Chair and Committee and noted they were well aware of the proliferation of HMOs in his Electoral Division. He noted it was increasingly difficult for people in the area to get on to the property ladder. He explained that the University had noted they had sufficient accommodation for students, and he noted that what was needed was more family homes to help support and sustain local communities. He noted the transient population of students was challenge, not contributing in terms of CDP Policy 29(a) and being contrary to CDP Policies 29 and 31. He noted those policies were not optional and must be met in full. He asked that the Committee refuse the application as it would unbalance the community and negatively impact upon the neighbourhood contrary to CDP Policies 29 and 31.

Councillor L Brown left the meeting at 12.00pm

The Committee Services Officer read out a statement on behalf of Councillor C Fletcher, Local Member.

"I wish to formally object to this planning application. Too many of our family homes are being extended and their use changed in order to increase rental income.

Whilst I can understand the motivation of landlords, residents tell me the impact for their community is felt strongly because of the additional parking, the changes to our physical environment by extensions and the change in dynamics from long term neighbours who get to know each other to a transient, nomadic community.

We welcome students in Durham City – they make up 50% of our population during term time. However, we rarely get to know them as they move from term to term and year to year. The primary schools are seeing reduced pupil numbers because families are pushed out to the villages by student landlords purchasing the homes designed for families.

I believe that this application does not meet Policy 16 which states that the council should promote and preserve inclusive, mixed, and balanced communities and to protect residential amenity.

The university has advised that student numbers will be reducing (expected to be 800 less students this year), not increasing and that there is no need for further student accommodation at this time within the city and surrounding areas. We have a housing shortage in the city for residents. This application contravenes Policy 29 for sustainable design.

We have empty C4 houses already in the Gilesgate area and this development is not sustainable. Is this simply going to be another empty house in a residential street with a neglected garden affecting the morale of residents?

The SPD for parking means that 4 secure parking spaces should be provided for this house. I do not consider that this is being provided.

Therefore for the reasons stated I strongly urge the officers to reject this development and insist that this house remains a dwellinghouse”.

The Chair thanked the Committee Services Officer and asked Rowland Stubbs, and Jane Robson, Local Residents in objection to the application, to address the Committee.

R Stubbs noted a safety issue in terms of the proximity of two HMOs, up to 11 individuals and very narrow road of only 4.93 metres wide, with partial parking on the pavement. He noted that numbers 50 and 51 Prebends Field were on a tight bend and there was no footpath on one side, only a narrow grass verge. He noted that pedestrians were often blocked and likely they would need to use the road to get past, and with cars coming from three directions he felt it was an accident waiting to happen. He noted that therefore the application should be refused on safety grounds.

J Robson noted that unlike student properties within the city centre, properties further out at Gilesgate Moor would attract car owners, and there would be at least three cars on the road, with four in curtilage. She noted issue with the proposed layout and that public road space would be used. She reiterated the point made by R Stubbs that the road was very narrow and people used Dean’s Walk and Prebends Field to avoid speed bumps and parents regularly used the road as route into Durham linking to the public right of way to Kepier Wood, Dragonville. She noted the additional pressure on parking from the HMOs in the area, which may not be appreciated by looking at plans alone.

The Chair thanked R Stubbs and J Robson and asked Garry Hodgson, Agent for the Applicant, to speak in favour of the application.

G Hodgson noted he was disappointed that the application was before Committee, noting it could have been dealt with by delegated authority, had it not been called-in and it suggested a significant lack of trust in Officers' ability to come to a fitting conclusion. He noted that CDP Policy 16(3) was unambiguous in where the development of HMOs was acceptable, in areas where within a 100-metre radius the percentage of Council Tax exempt properties was under a ten percent threshold. He noted it was 6.7 percent in respect of the application.

He noted that therefore the principle of change of use was acceptable. He noted the consequence of the HMO policy, so that there was not further HMOs within the city centre area. G Hodgson noted that Belmont Parish Council did not understand policy and generalised assertions about the proposal's impact were unsupported by objective analysis and could be seen as unreasonable behaviour by the Inspectorate if that transcribed to the reasons for refusal and the decision was appealed.

G Hodgson refuted that there was no need for HMOs and noted that the Council had an obligation to consider need in its policy monitoring and noted that the latest report stated: '*The target specifies that it is related to the identified need, however, at this point in time there is no assessment of identified need for HMO bedspaces*'. He noted that if Policy 16 was having an adverse impact on the housing stock where there is an insufficient supply of HMOs to meet the existing and future demand of students and non-students, then Policy 16 should be considered 'out of date' and a determination made in accordance with paragraph 11(d) of the NPPF.

G Hodgson noted that while Members were not bound by their Officer's recommendation, he noted they should pay heed to their professional assessment. He noted there was need, the principle of development was acceptable and requested that Members approve the application.

The Chair thanked G Hodgson and noted reference to highways and parking issues by the speakers and asked the Highway Development Manager, Phil Harrison if he wish to comment. The Highway Development Manager noted he did not have anything to add to the report and would answer any questions from the Committee.

The Chair thanked the Highway Development Manager and asked the Committee for their comments and questions.

Councillor A Bell noted the agent for the applicant stated Members had no faith in Officers and explained that Committee Members did have faith in Officers, with the call-in coming from Belmont Parish Council and Local Members. He noted no objections from Highways following amended plans. He noted recent appeals decision in relation to HMOs and noted they may help inform Members upon decisions on similar application going forward.

The Principal Planning Officer noted that details of appeals decisions were given at the last meeting, with a number of appeals being where the percentage of Council Tax exempt properties within 100 metre radius was greater than the 10 percent threshold. He noted the Council had been successful in defending the decisions in relation to those appeals. He noted applications refused by Committee and approved by the Inspector.

He noted in total two appeals were for large HMOs, the remainder being smaller three to six-bed HMOs. He added that need was addressed by the Inspector, noting that no weight should be attached as it was not referenced within CDP Policy 16. The Principal Planning Officer noted that while Policy 16 was the principal policy to assess HMO applications against, other policies also applied including CDP Policies 29 and 31 and the NPPF. Councillor J Elmer asked as regards the two large HMO applications that were considered by the Planning Inspectorate. The Principal Planning Officer noted one appeal was allowed, one dismissed.

Councillor J Elmer noted he took exception to the first line of the Applicant's Statement in respect of the disappointment that the application was at Committee. He noted the Councillors on the Planning Committee were Elected Members and there was a process to allow these types of application to be discussed and he felt it was out of order to suggest application should not be considered by the Committee. He noted the reference to the impact on social cohesion, likely additional ASB and likely impact on the highway, with parking proposed for four vehicles, though there could be up to seven vehicles, potentially parking such to impact blue light vehicle access along the street. The Highway Development Manager noted that such vehicles would be able to get past, and if the road was blocked or the verge to the side used, they would represent an offence.

Councillor J Elmer noted that he would suggest that, if Members were minded to approve the application, that the construction start time be amended to 0800 from 0730. However, he would propose overturning the recommendation and refuse the application.

Councillor D Oliver noted he shared the concerns raised by Councillor J Elmer, however, where there was a demonstrated over-proliferation of HMOs. He noted in this instance the percentage of HMOs was 6.7 percent, below the 10 percent threshold as set out in policy. He noted he would not want the street full of HMOs, however, we were currently far from that situation and while there would be an impact, each application must be looked at and decided upon based on the threshold. He proposed that the application be approved.

Councillor J Cosslett seconded Councillor J Elmer's proposal for refusal.

The Chair asked Councillor J Elmer on what grounds he was proposing refusal of the application. He noted he felt the application was contrary to Policy 31 in terms of the impact upon residential amenity. The Principal Planning Officer asked if that related to noise and disturbance. Councillor J Elmer noted that was correct.

Councillor K Shaw asked as regards the outcome of recent appeals that had used that reason for refusal. The Principal Planning Officer noted that of the two large sui-generis HMO applications, one was upheld, one was dismissed, both having similar reasons for refusal. He noted that C4 use was for three to six bedspaces, with the large HMOs being for seven bedspaces or more. He noted in this case the impact was one additional bed space, and the recommendation from Officers was for approval.

Councillor J Elmer asked as regards costs award for either of those appeals. The Principal Planning Officer noted that applicants could apply for costs, with the more appeal decision being against the Authority the more likely costs could be awarded, however, it would be on the specifics of each case.

The Chair noted that Parish Councillor P Conway had referred to a review of Policy 16 and asked whether this would be addressed at the next stage when looking at the CDP. The Principal Planning Officer noted that would be led by colleagues from Planning Policy, with Policy 16 to be reviewed as part of the process.

The Chair noted he would allow Parish Councillor P Conway to respond. Parish Councillor P Conway reiterated that CDP Policy 16 should not trump other policies within the CDP and that a review of the Article 4 Direction was important, as linear development of HMOs may not fall within a 100-metre radius and that the Parish Council felt it was too important an issue to wait until a review of the whole of the CDP. The Principal Planning Officer noted that the Article 4 Direction was used to remove permitted development rights for change of use from C3 to C4, with this case being for a large HMO, with Policy 16 being the principal policy the application was assessed against, with the 10 percent threshold.

A motion for refusal had been proposed by Councillor J Elmer, seconded by Councillor J Cosslett and upon a vote being taken it was;

RESOLVED:

That the application be **REFUSED** as the change in use of the property to a large house in multiple occupation (Use Class Sui Generis) would have a detrimental impact upon community cohesion and adversely affect the amenity of existing residents and the character of the area through increased noise, disturbance and anti-social behaviour contrary to the aims of policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.