

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Special Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Monday 22 July 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), L Brown, J Cosslett, S Deinali, J Elmer, R Manchester and K Shaw

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, J Clark, I Cochrane, C Kay, D McKenna, K Robson and A Surtees.

2 Substitute Members

There were no Substitute Members.

3 Declarations of Interest

Councillor L Brown noted she was a Member of the City of Durham Parish Council, however, she was not a member of their Planning Committee and had not had any input into their submission in objection to applications on the agenda. She added that she 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.

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.

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

a DM/23/02236/FPA - 1 Beech Crest, Durham, DH1 4QF

The Planning Officer, Michelle Hurton 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 to sub-divide dwelling (C3) into 3no flats (Part Retrospective) and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the application was within the Durham City Conservation Area and referred the Committee to internal layouts, adding there were no external changes to the property. She explained that the rooms met the nationally described space standards (NDSS) and a cycle and bin storage was provided. She noted there had been no objections from the Council's Highways or Environmental Health Teams, subject to conditions. The Planning Officer added that there had been one letter of support and 25 objections received, with objections including from the local MP Mary Foy, Neville's Cross Community Association, City of Durham Parish Council and City of Durham Trust.

The Planning Officer noted the application was acceptable in principle in relation to the relevant policies, as set out within the report. She noted the applicant provided evidence that the University had been consulted. She reiterated that the rooms met the NDSS, bin and cycle storage was acceptable and as there were no external alterations, there would be no impact upon visual amenity or the Conservation Area.

The Chair thanked the Planning Officer and asked Parish Councillor Susan Walker, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor S Walker noted the Parish Council would wish to comment on some matters prior to the meeting, namely several changes the Parish Council had not been made aware of, and extra information that had not been made available to view the previous week. She noted the information was three letters from Estate Agents, back dated to March. She added that these types of issue did not appear to be one-offs and asked the Chair to note the points raised in terms of timely information being made available.

Parish Councillor S Walker noted that the application stated there were two in-curtilage parking spaces provided, however, that was not the case and in fact it was one space and the garage, and asked how those would be divided between three flats. She added that the Council's Highways Section had noted there were no issues, however, the Parish Council were aware of the price of parking permits on the black market with many offered on social media. She added there was the additional issue of deliveries to the property. She noted some 'errors' that had been completed by the Agent, and therefore asked that, if the Committee were minded to approve the application, that the permission be tightly conditioned such that it did not become an House in Multiple Occupation (HMO).

Parish Councillor S Walker noted the application was part-retrospective, however, the layout and inclusion of effectively four bedrooms and two kitchens looked like an HMO and therefore a condition should be applied preventing it becoming one in future. She added that in respect of the Parking and Accessibility Standards SPD, there was not the minimum requirement in terms of in-curtilage spaces and there should be three EV charging points, one per flat, provided. She added therefore the application was not meeting the requirements of County Durham Plan (CDP) Policies 29 and 31 and the Parking and Accessibility Standards SPD.

Parish Councillor S Walker noted that assuming there would be three flats, the shower room in Flat Two was effectively in a cupboard and therefore failed CDP Policy 29 in terms of well-designed buildings. She added that it was effectively the loss of another family home, with three flats not being suitable for families. She added that sustainable development must meet the needs of the present, with the application taking away a family home. She noted the ground floor flat was marketed as being in close proximity to the University Science block and noted no quantitative need had been demonstrated, only qualitative. She explained there was a lack of children in the local area to fill the local schools and there was both a qualitative and quantitative needs for family homes.

Parish Councillor S Walker concluded by noting that the application failed to meet Parts 2 and 28 of the National Planning Policy Framework (NPPF) as well as Policies 21, 29 and 31 of the CDP and Policy D4 of the Durham City Neighbourhood Plan (DCNP) and urged the Committee reject the application.

The Chair thanked Parish Councillor S Walker and asked the Agent for the applicant, Sachin Parmer, to speak in support of the application.

S Parmar noted there were a number of objections to the application, however, he highlighted that HMOs were not unique to Durham and that Article 4 Directions were in place within many cities around the country.

He reminded the Committee that the NPPF encourage mixed use and that planning decisions should not control the type and background of the people that may wish to rent a property.

S Parmar explained that the application was not for an HMO, it was for three flats, as explained within the Planning Officer's report and presentation, and the use class was C3, dwellinghouse. He added that the only current occupier was a young professional and noted the proposals were for three flats and that the applicant would not have been able to get a mortgage for an HMO. He added that if potential occupants were to be students, it was likely they would be post-graduate students. He explained that their research in terms of a bespoke housing needs assessment had confirmed that there was a lack of this type of one and two bed flat, with Estate Agents confirming there was this demand.

S Parmar added that the Council's Highway Section had raised no objections and there was in fact a lower reliance on motor cars, the property being close to transport links in a very sustainable location. He added his client was local, and that while there was a school nearby, the property had been on sale for a long time, and was purchased at auction, else the property would have been vacant. He noted that it was a logical development, with the smaller units being better suited for the housing market. He concluded by urging the Committee to go with the recommendation of their professional Officers and approve the application.

The Chair thanked S Parmar and asked the Planning Officer for any comments on the points raised by the speakers.

The Principal Planning Officer, Paul Hopper noted that he would pick up the comments from the Parish Council in terms of late documents and information being made available.

The Chair asked the Committee for their comments and questions.

Councillor J Elmer noted the comments from the Parish Council in terms of the parking available, with three flats and two parking spaces, in contravention of the Parking and Accessibility Standards Supplementary Planning Document (SPD) and asked for clarification. The Principal DM Engineer, David Battensby explained the existing property had two parking permits, as it was within a Parking Control Zone. He added that the changes to the property did not constitute additional parking permits. He continued, noting that the property was the same as any other property which may have three or more vehicles, and it would be for the occupants to agree between themselves and not a planning issue, with two permits now, two for the future.

Councillor J Elmer asked whether there was a requirement for in-curtilage parking. The Principal DM Engineer noted that it would not be physically possible at the property, and as the property was within the parking control zone, then permits were issued, adding that if any in-curtilage parking were to be provided then this would be balanced in terms of the number of vehicles. Councillor L Brown asked whether the garage counted as in-curtilage parking. The Principal DM Engineer noted that often old garages did not meet the requirements of the SPD, being less than three metres by six metres, however, the number of permits would remain the same.

Councillor L Brown noted the single-track road with a turning circle leading up to the property was often blocked and asked that if approved, then an 0800 start-time was conditioned, as the area was residential. She noted that the application was the first of two set of flats on the agenda, adding she felt they were a way of getting around planning policy. She noted it would be nice if the flats were affordable, to help those working within the City, in hospitality for example.

Councillor J Elmer noted that if the property was an HMO then it would not be approved as it would be over the 10 percent threshold, and therefore there was not an issue in terms of it becoming an HMO. The Principal Planning Officer noted that for an HMO being considered under CDP Policy 16.3, then it would fail under that policy as HMOs within a 100 metres radius would be greater than the 10 percent threshold. He noted this application referred to Policy 16.2. He added a condition restricting change of use was not required as it would require further planning permission in any case, therefore such a condition would fail the condition test. Councillor L Brown asked for clarification. The Principal Planning Officer noted restricting use by condition was not required as a change of use would require a separate planning permission. Councillor K Shaw asked if such a change of use application was made, would the matter come before Committee for consideration. The Principal Planning Officer noted that such an application had the potential to be called-in to Committee.

Councillor J Elmer noted the flats could be rented out to students and therefore he felt it was a clever way around a push for family housing. He noted this was something to be addressed with a refresh of the CDP. He moved approval of the application. Councillor D Oliver seconded the proposal. The Chair noted all Members were aware of what the application represented.

Upon a vote being taken it was:

RESOLVED:

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

b DM/24/00402/FPA - 44 Claypath, Durham, DH1 1QS

The Planning Officer, Michelle Hurton gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use of ground floor office (E) to a 2 bedroom flat (C3) for student accommodation including replacement of 1no window for 1no door and window to rear and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted that the property was not listed, however, was a non-designated heritage asset. She added that all the proposed bedrooms met NDSS and cycle storage would be provided. She explained there were no objections from the Highways Section, Design and Conservation or Environmental Health. She noted that the City of Durham Parish Council had objected to the application, as had the City of Durham Trust and St. Nicholas' Community Forum, with their objections as set out within the report.

The Planning Officer noted that it was felt the application was acceptable in terms of planning policy, room sizes met the NDSS and did not impact residential amenity. She added there was no impact upon highway safety and the minor external changes maintained the character of the Conservation Area and therefore reiterated that the application was recommended for approval.

The Chair thanked the Planning Officer and asked Parish Councillor Carole Lattin, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor C Lattin thanked the Chair and Committee and noted the objections from the Parish Council were a rerun of previous issues. She noted that the Parish Council were fully aware of the key challenges the city faced and the DCNP had looked to address some of those issues, for example community issues, sustainability of local schools and shops.

Firstly, Councillor C Lattin asked whether the property was an HMO or a dwellinghouse. She explained that there had been a four-bed HMO application withdrawn previously, however, the idea was clearly still on the applicant's mind as the current application had a clear internal layout that could easily be amended to give a four-bed arrangement, with bedroom one consisting of two rooms with an interconnecting door.

She asked that the HMO application be considered under CDP Policy 16.3, and as the property would be over the 10 percent threshold, with data suggesting an HMO figure of 28 percent in the area, then the application would be in conflict with policy. She asked if the application was not an HMO, then what would the use be. She added that the application stated C3 use, however, within the description there was reference to student accommodation. She noted paragraph 66 of the report set out that the proposals '*cannot strictly be considered to amount to purpose-built student accommodation*', however, purpose-built student accommodation (PBSA) was set out within the CDP as '*accommodation built, or converted, with the specific intent of being occupied by students, either with individual en-suite units or sharing facilities*'. Parish Councillor C Lattin noted that the applicant had stated the accommodation was for students and therefore if the property was not an HMO, then it was at a minimum a PBSA, and therefore should be considered under CDP Policy 16.2. She added that Policy 16.2 (a) stated there was a requirement to demonstrate need, noting that demand was not the same as need.

Parish Councillor C Lattin explained that the Parish Council strongly disputes the applicant's comments in respect of need, as set out within their submission in objection, adding that the University clearly stated that the number of students had reduced already, and would reduce further in the next academic year. She explained there was already a significant surplus of student bed spaces, therefore there was no demonstrable need.

Parish Councillor C Lattin noted the residential amenity was considered within (d) and (e) of CDP Policy 16, as well as within Policies 6, 29 and 31. She added the Parish felt the report focussed upon the impact of a dwellinghouse rather than the impact of students. She noted that the Article 4 Direction that had been made acknowledged the impact of student imbalance, and with a 28 percent level of student properties within 100 metres of the application property, then there would be clearly an impact upon the quality of life of the other, non-student properties in the area.

Parish Councillor C Lattin reiterated that the Parish Council felt the application was contrary to CDP Policies 6, 16, 29 and 31 and therefore should be refused.

The Chair thanked Parish Councillor C Lattin and asked Janet George, representing St. Nicholas' Community Forum, to speak in relation to the application.

J George explained she lived quite close to the application property and reiterated the point raised by the Parish Council, that the property would be for students.

She emphasised that the applicant had initially tried to obtain permission for an HMO, adding that with 28 percent of properties within a 100 metre radius and with around 50 percent in the slightly wider area, there was a desperate need for more long-term residents to be given the chance to live there. She explained that Estate Agents and the student newspaper both confirmed that there were a number of vacant student bed spaces.

J George explained that St. Nicholas' Community Forum was part of the University's community and residents' forum and understood from the University that student numbers had reduced from 22,130 to 21,600 this year, adding that there would be a number of students that would live away or be on placement. She added that the University had noted there were around 1,000 empty bed spaces for 2024/25. She noted further PBSAs had been approved and therefore there would be even more capacity with developments at the Prince Bishops Shopping Centre and the College of St. Hild and St. Bede.

J George noted that therefore there was not a need for further student properties, rather there was a need for more long-term residents to balance communities and to support local shops, schools and facilities. She added that families were unable to get on to the property ladder as student landlords were able to move quickly with cash to secure any property that comes on to the market. She noted the number of Council Tax exempt properties was in effect a £11 million loss of funding to the Council. She added that the County Council and Parish Council picked up a lot of additional costs in terms of absentee landlords. She noted a recent example where she had tried to speak to a landlord for over three weeks as regards rubbish at a property. She concluded by emphasising the need to keep properties for local residents.

The Chair thanked J George and noted the point raised in terms of 1,000 empty bed spaces. He asked the Planning Officer as regards whether the property, whether it was an HMO or PBSA. The Principal Planning Officer noted that the application sought use as flats, in C3 use for any occupant. Any change to C4 use could then be controlled in its own right. The Chair asked if there was no consideration of need in this context. The Principal Planning Officer explained that consideration of need was for applications considered under Policy 16.2, however, Officers were satisfied as regards this type of accommodation in this part of the city. Councillor L Brown asked for clarification regarding whether the policy in play was Policy 16.2. The Principal Planning Officer confirmed that was the case.

Councillor L Brown noted it was difficult to see from the plans and asked whether it was possible for one bedroom to be converted to two bedrooms.

The Principal Planning Officer noted that any sub-division, with three unrelated individuals living in a property, would require a separate planning permission.

Councillor L Brown asked as regards parking permits for this property. The Principal DM Engineer note, similar to the previous application, that the property was within the parking control zone and that permits would be available, so if two permits previously, then two permits going forward, not more. The Chair noted that it was his understanding that where office use has been converted to living accommodation, there would be no permits issued. The Principal DM Engineer noted that businesses would have been able to purchase permits, with any flat above being an existing property with a permit. Councillor L Brown noted it was not new development, the Chair added it was his understanding that an office would not be able to get a permit. Councillor L Brown added she would wish for a start time of 0800 for construction, should the application be approved.

Councillor J Elmer explained he was finding it very hard to understand the plans as set out and asked for the plans to be shown again on the projector screen, and for Officers to talk Members through the spaces. The Plans were displayed on the screen, the Planning Officer noted that the plans were for two bedrooms, with the Principal Planning Officer reiterating that the application was for C3 use, not C4. Councillor J Elmer asked how the Council would find out whether there was any subdivision and breach of planning permission. The Principal Planning Officer noted that if any information relating to a potential breach of planning permission or conditions was reported to the Planning Department, Officers would investigate and take action as appropriate.

Councillor J Elmer noted he understood the constraints that Planning Officers worked to, however, from the plans the proposals looked like a four bed flat, being stated as a two-bed flat, and to him it seemed a clear way to obfuscate planning policy. He added that Policy 16 appeared to be unfit for purpose in terms of stopping the conversions to student use. The Chair noted he agreed with Councillor J Elmer.

Councillor R Manchester asked for clarity on the need element, whether there was a need for one and two bedroom flats as proposed, as opposed to student HMOs, albeit with the application stating use for students. The Principal Planning Officer reiterated that it was not for the planning system to determine the end-user, and therefore would not preclude other renting the proposed flats. He drew Members attention to the reference to the appeal decision relating to 24 Nevilledale Terrace, where it had been refused as an HMO, then again refused as flats at Committee and then allowed as flats at appeal and reiterated that Officers' recommendation for this application was for approval.

Councillor J Elmer noted he believed that the proposals were for an HMO, given there was more than two bedrooms, and he would recommend refusal and not allow the application as it was actually an HMO.

The Lawyer (Planning and Highways), Neil Carter reiterated that, as stated by the Planning Officer, the application was not for an HMO, and if the property was to be used as an HMO in future, that would be a material change of use and would be looked at accordingly. He added that it was clear what the application before Members sought and it was not for Members to say it was something else. He concluded by noting that if Members were to assess the application as if it were an HMO and refuse the application he could see no way to defend the decision at any subsequent appeal.

Councillor L Brown asked if Officers knew how many unauthorised HMOs there were in the City, and seconded Councillor J Elmer's motion for refusal. Councillor J Elmer noted he felt the application was deceitful in applying for one thing while it was another thing.

The Principal Planning Officer noted that his professional advice was that he strongly believed there would be an award of costs at appeals if the application was refused on the grounds as proposed by Councillor J Elmer.

Councillor D Oliver noted the discussions with interest, adding he felt it may appear to be a slippery way around the rules. However, he appreciated the advice from the Principal Planning Officer and Lawyer (Planning and Highways) in respect of any appeal. He noted that the Committee was quasi-judicial and Members therefore needed to make decisions with that in mind. He added he was reluctant to refuse the application, noting the decision made on the first application on the agenda, and proposed approval as per the Officer's recommendation.

Councillor L Brown asked how many awards of costs against the Council there had been in the last year at appeals. The Principal Planning Officer noted he did not have the information to hand, the Lawyer (Planning and Highways) noted at least two cases in the last few months relating to planning appeals. Councillor L Brown asked if they were in cases where Committee had made the initial decision. The Lawyer (Planning and Highways) noted he did not recall.

Councillor R Manchester noted he would second approval of the application, adding while he felt it may be an attempt to get around HMO policies, he wondered if there could be any annual inspection regime that could be put in place, for a period of say three years. The Principal Planning Officer noted that when applying the test in respect of planning conditions, such a condition would fail in terms of reasonableness.

Councillor L Brown reiterated she felt the application was a way of getting around Policy 16. The Lawyer (Planning and Highways) noted the proposal for refusal, with Members noting they felt the property would be used as an HMO, however, he asked for refusal reasons. Councillor J Elmer noted he felt that the applicant misled the Planning Department. The Lawyer (Planning and Highways) noted that was not a proper planning reason for refusal, Planning Officers had determined that the application was valid and therefore it had progressed to Committee. Councillor J Elmer reiterated that he felt Policy 16 was unfit for purpose. The Lawyer (Planning and Highways) advised that if the refusal reason was that it was believed that the applicant had misled Officers and the Committee, he could see zero prospects of defending the decision at appeal and therefore Members would likely be entering adverse costs territory.

Councillor L Brown noted she felt the application should be refused on residential amenity. The Lawyer (Planning and Highways) asked for more specifics. Councillor L Brown noted in terms of being contrary to Policy 31 in respect of increased noise and disturbance impacting upon community cohesion and similarly contrary to the aims set out within the NPPF.

Upon a vote being taken, it was:

RESOLVED:

That the application be **REFUSED** as the change of use of the ground floor office accommodation into one two bed flat for student occupation would result in an adverse impact upon the amenity of existing residents through increased noise and disturbance and lead to community imbalance to the detriment of social cohesion in an area with a high concentration of existing HMOs, contrary to the aims of policy 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.

c DM/24/00695/FPA - 21 Laurel Avenue, Sherburn Road Estate, Durham, DH1 2EY

The Planning Officer, Michelle Hurton 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 (C3) to small house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the removal of a wall to allow for additional in-curtilage parking, and cycle and bin storage to be provided and noted the bedrooms met NDSS.

She explained there had been no objections from the Council's Highways Section, however, there had been objections received from Belmont Parish Council and Local County Councillors. She added their objections had included the number of HMOs being greater than 10 percent in the area, a number of empty HMOs demonstrating there was no demand or need for further HMOs, impact in terms of increased anti-social behaviour, impact upon parking.

The Planning Officer noted that while HMO Licensing was not required, information as regards standards had been shared. She added that Class N Council Tax exempt properties within a 100 metre radius was 7.8 percent, with an unimplemented permission for 20 Laurel Avenue, if implemented, taking the percentage to 9.8 percent, still below the 10 percent threshold. She added Environmental Health had no objections subject to the inclusion of sound proofing. She concluded by noting there had been eight letters of objection, as summarised within the report.

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, as the report noted, the application was outside of the Parish boundary, however, it was within the Neighbourhood Plan area, and in meetings in which the Plan was being discussed, the issue of HMOs in this area had been raised. He noted that local views should be taken into account in determining planning applications, highlighting that all three local County Councillors had submitted their objections to the application.

Parish Councillor P Conway explained the application was contrary to CDP Policies 16, 21, 29 and 31 and Parts 2, 5, 8 and 9 of the NPPF. He added the Parish Council noted it was a matter of judgement and referred to appeals decisions which were felt to have been given undue weight. He noted that previous appeal decisions were not more significant than relevant policies and noted paragraph 84 of the report noted each application should be looked at on its own merits.

Parish Councillor P Conway noted that the Parish Council did not wish to add to the work of Council Officers, however, the Parish Council supported the local County Councillors and local residents in their objections, as there were still a number of substantial material issues.

He noted the NPPF objectives in respect of sustainable development, supporting social, economic and environmental issues. He added that HMOs replaced family homes and brought a transient population, only resident for 32 weeks of the year. He added that local residents should not be subsidising the profits of landlords, and noted the students themselves did not contribute to the local community. He added that in terms of HMOs, it was felt at best questionable to leave to market forces in respect of properties in the area, adding that data suggested that there would be in excess of 10 percent HMOs if rounding up figures.

Parish Councillor P Conway noted CDP Policy 16.3 did not mention a three year time limit on HMO permissions, and therefore this application, if approved, would be in excess of 10 percent.

Parish Councillor P Conway noted CDP Policy 21 in respect of vehicular traffic and safety. He explained the proximity of the application property to the local school, and as regards the very narrow carriageway in the area, often with vehicles parked straddling the footpath. He added that even with three parking spaces in-curtilage, there would still be impact upon parking in the area, effectively creating a chicane.

Parish Councillor P Conway noted that in respect of residential amenity, noting the change from six-bed to four-bed in order to meet NDSS, however, paragraph 67 of the report noted that overall floor area was less than required by approximately 12 percent. He added paragraph 61 referred to the rear extension window impact upon residential amenity. He noted that CDP Policy 29 in respect of sustainable design, the application did not meet the requirements in terms of floor space or the window and therefore could be refused on that policy. He concluded by reiterating that the Parish Council felt the application was contrary to CDP Policies 6, 21, 29 and 31 and the NPPF and should be refused.

The Chair thanked Parish Councillor P Conway and asked the Committee Services Officer to read out a statement on behalf of Local County Councillors E Mavin and L Mavin.

“As County Councillors for the area, Eric Mavin and I, Lesley Mavin, wish to formally object to this planning application, DM/24/00695/FPA - Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey extension, bin and cycle storage to rear 21 Laurel Avenue, Sherburn Road Estate, Durham, DH1 2EY.

We believe it contravenes the following policies of the CDP for the following reasons:

Policy 16 - This states that the council should 'promote and preserve inclusive, mixed and balanced communities and to protect residential amenity'. There are 51 properties within 100m of the application site of which five benefit from a class N exemption or 9.8%. There is also one unimplemented consent – number 20 - which brings the total to 11.7%. It would seem this application therefore fails to satisfy Policy 16 3 b, and this clearly influences the balance of the local community in relation to both residents and students. The university itself has stated that there is no need for any further student accommodation within the city and surrounding areas. As there are also 800 fewer students this year, this need is even less. There is now an oversupply as evidenced by the number of empty out of town HMOs last academic year. The oversupply will be worse in Durham once the PBSAs with unimplemented planning permissions are built, especially the one at the old Majestic. This means the loss of another family house that may possibly lie empty, rotting away instead of being a family home of which there is a shortage in Durham City because of the granting of planning applications like this.

Policy 29

This concerns sustainable design, and we argue that removing more C3 housing stock, of which there is already a significant shortage, from a community where there is already unused, empty C4 houses, the viability in the area as a sustainable community will be reduced.

Policy 31

This relates to amenity and pollution, and again we argue that by creating a cluster of HMOs in a single area the occurrence of transient anti-social noise within the street will increase which will in turn negatively affect the character of the area and the amenity of its residents.

Policy 21

This policy requires that all new developments ensure that any vehicular traffic generated by new developments do not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. This application relies on the unrestricted on street parking on Laurel Avenue. Suitable car parking spaces have not been provided Laurel Avenue has a local school, which already causes parking and obstruction issues. We are requesting for these reasons this application be refused".

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

G Swarbrick reiterated that the application was for a four-bed HMO, and noted the concerns raised as regards the proliferation of HMOs.

He emphasised that CDP Policy 16, with its 10 percent threshold, was in place to maintain a balance within communities. He noted the issues within the viaduct area of the City, however, the situation was not the same within the application site area. G Swarbrick noted that a number of appeal decisions endorsed this position, where the percentage of HMOs was less than 10 percent, then this did not impact upon residential amenity. He added the only visual difference from a residential property would be a small lettings board, that would not detract in terms of visual amenity.

G Swarbrick noted that in respect of NDSS that the property could have had the same number of occupants under C3 use. He added that the modest single storey extension helped in terms of additional space, without impacting upon neighbouring properties in terms of dominance or overlooking, and in fact could be permitted development. He added the Highways Section had been satisfied with the proposals. He concluded by noting that while some may not wish for an HMO in the area, the application was not in conflict with CDP policies and therefore he asked that the application be approved.

The Chair thanked G Swarbrick and asked the Officers to clarify in terms of the percentage of HMOs in the area.

The Principal Planning Officer, Paul Hopper noted Policy 16.3(a) included a 10 percent threshold for Class N Council Tax exempt properties within a 100 metre radius of the application property. He added that currently that percentage was 7.8 percent, and if including an unimplemented permission for an HMO next door, the figure would be 9.8 percent. He noted that all planning permissions had a three-year time-limit in respect of implementation, however, assuming the other property's permission was implemented then the percentage would still be below the 10 percent threshold.

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

Councillor J Elmer asked if the room sizes were such to meet the NDSS, else would the application not be in breach of CDP Policy 29(e). The Principal Planning Officer noted the rooms met the NDSS and therefore was compliant with policy.

Councillor L Brown noted that while the property being converted to an HMO would not breach Policy 16 in terms of a 10 percent threshold, one would agree that the 'HMO bubble had burst', noting two in that area not being let and with 270 properties being available in the area, according to a newsletter. She added she had seen a number of HMOs for sale, offered with reduced rents, as well as a lot more PBSA bed spaces being in the pipeline.

She added that as landlord increasingly 'felt the pinch', the number of complaints as regards unkempt gardens was increasing. Councillor L Brown asked that, if approved, a later start time of 0800 for construction would be included. The Chair noted he agreed with the points made by Councillor L Brown.

Councillor R Manchester moved approval of the application, including the proposed change to construction start time by Councillor L Brown, he was 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, with amendment to the start time for construction works, from 0730 to 0800.

d DM/23/03783/FPA - 10 Rowan Tree Avenue, Gilesgate Moor, Durham, DH1 1DU

The Planning Officer, Michelle Penman gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was a retrospective application for increase in height of flat roof/fascia to front and side of property and new uPVC windows and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer referred Members to photographs of the streetscene, noting a number of various types of extension to properties in the area. She explained that Belmont Parish Council had objected to the application, having a detrimental impact in terms of design and amenity. She added there had been eight letters of objection from the public, with the main issues set out within the report, including: poor design, not in keeping with the area; windows added to create extra bedrooms, the property being advertised as a six-bed property; no proof from internal layouts that the rooms meet NDSS; and issues in respect of bins and the drains.

The Planning Officer noted that the property already had permission as a small HMO, noting that up to six-bed was therefore acceptable in terms of use, as permitted development rights had not been removed with the previous granting of permission for C4 use. She added that the development was not incongruent with other developments in the area, and the impact upon neighbouring properties, nor the issues raised in terms of layout, parking or drainage, were not sufficient to sustain a refusal reason.

The Chair thanked the Planning Officer and asked Parish Councillor P Conway, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor P Conway noted the retrospective nature of the application and added the issue had been ongoing since July 2022 and the change of use application. He explained that Belmont Parish Council had been contracted regularly regarding the implementation of that permission.

He noted that there had been verbal assurance from DCC Officers that the implementation would be in accordance with the conditions set by the July 2022 application, however, now there was a retrospective application and hence why the Parish Council asked for the application to be considered by Committee. He added it was remarkable that the application was not table to be considered by Members prior to call-in.

Parish Councillor P Conway noted that the Parish Council wish for all residents' views to be heard within the planning process and due to the number of objections and representations to the Parish Council then it was felt that the application should be brought to Committee.

Parish Councillor P Conway noted that it was accepted that the permission for HMO use had already been granted. He noted that had permitted development rights included the changes such that a retrospective application had not been required, then the Parish Council would not have called-in the application. He added that while the Parish Council were volunteers and not planning trained, they had noted the retrospective nature of the application. He noted that it was felt that the applicant should have been aware of the requirements of the July 2022 permission, with a basic professional competence in understanding the permission. He added that the windows were not as per the July 2022 permission, with a bathroom overlooking a neighbouring property.

Parish Councillor P Conway noted the fascia height was also at variance with the July 2022 permission, and the number of bedrooms had increased from four to six, as advertised. He asked why the applicant had not applied for a six-bed permission in July 2022, which would have required four in-curtilage parking spaces.

Parish Councillor P Conway noted the proliferation of HMOs was of great concern and reiterated that the application was retrospective, the changes from the July 2022 permission having already been done. He added there was a lack of trust in terms of the applicant and their intentions, noting a year ago the Parish Council had requested to meet with the applicant in order to had regular meetings as regards issues that may arise.

Parish Councillor P Conway concluded by reiterating the issue was not in respect of HMO status, rather that residents' views be taken into consideration and given the concerns that the four-bed property could become a six-bed property, ask that the permission and conditions of the July 2022 permission be fully adhered to.

The Chair thanked Parish Councillor P Conway and asked Fred Smith, local resident, to speak in objection to the application.

F Smith noted that the photographs that had been shown on screen gave a false representation of the fascia that was in place at the property. He added that the front had been blocked by a van for two months during development.

F Smith thanked Members for the opportunity to speak and thanked the Parish Council for calling the application to Committee. He urged that the Committee refuse the application, with the drawings being of a 'house that never was', the property being a six-bed HMO, shown as a four-bed on the drawings, having been changed from a three-bed residential property. He noted that therefore it effectively had never been a four-bed property.

F Smith noted that on 6 November 2023, Enforcement Officers had spoken with the developer as regards rectifying the issues with the windows and door, however, on 16 December 2023 an application was submitted and validated, including incorrect drawings.

F Smith noted that policy stated that applications should enhance the neighbourhood, and the Officer's report stated that NPPF Part 12 referred to achieving well-designed places, with the Government attaching great importance to the design of the built environment, with good design being a key aspect of sustainable development, indivisible from good planning. He explained that the fascia in place was not good, did not fit with the roof line and appeared to be an error. He added that Officers made light of the issue with the windows, stating that the window was '*...slightly further to the rear of the property, it is not considered that it will result in significant additional overlooking...*'. He noted that the report neglected to see that it was of course possible to see both in and out of a window, and that therefore it was visible from No.8, approximately seven metres away, resulting in a loss of privacy.

F Smith noted original Drawing 1240 had been submitted as part of the July 2022 application, and Drawing 1240/3 showing the new windows ready for converting rooms to additional bedrooms. F Smith noted it was for the Committee to decide on the application.

The Chair thanked F Smith and asked G Swarbrick, Agent for the applicant to speak in support of the application.

G Swarbrick noted that permission for use as an HMO had been granted in July 2022. He added that the current application was only matter being considered and was for minor exterior alterations. He noted that there was a slight shift to the window, which would have been permitted development. He noted that the other issues were also minor, and the Officer had stated they did not represent an unacceptable impact upon residential or visual amenity. He added that the fascia met with building regulations and again did not impact. He noted the variety of extensions and alterations on Rowan Tree Avenue and therefore the property was not out of keeping with the built environment. He added that therefore he would ask that permission was granted.

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

Councillor L Brown asked for clarification in terms of any breach of conditions in respect of the previous application. The Planning Officer noted the works had not been completed fully in accordance with the plans, and therefore the retrospective application had been submitted, as before Committee.

Councillor L Brown noted that she felt the applicant, with their experience, should have known as regards the window and not breached the Residential Amenity SPD. The Planning Officer noted that noted the slight change to the bathroom window, now clear, however, it was offset and did not amount to a significant change and was not in breach of separation distances. Councillor L Brown noted that paragraph 46 of the report stated the window was '*...believed to serve the stairs/landing...*' and asked for clarification if that was indeed the case. The Planning Officer noted Officers were satisfied that was the case.

Councillor J Elmer asked, if the July 2022 application had been for a six-bed HMO, whether all the rooms would have met the NDSS. The Principal Planning Officer, Paul Hopper explained that would be difficult to say, as no such six-bed HMO application had been made. Councillor J Elmer noted that if a six-bed large HMO application had been submitted, it would have been a very different consideration and he felt the applicant would have been well aware of what the final layout would be, misleading the planning department. He asked whether the planning department had been misled, and would a six-bed HMO have more impact in terms of community cohesion. The Planning Officer noted that small HMOs were up to six-bed, and would have been assessed as a small HMO, just with two more bedrooms. Councillor J Elmer asked if a Licence was required. The Principal Planning Officer noted that if a property did or did not require an HMO Licence was outside of planning. Councillor L Brown noted a licence was required for six-bedrooms or more.

The Chair noted that a motion was required to be put, one way or the other.

Councillor D Oliver noted that he was happy to move approval, adding he felt the Committee's hands were tied. He was seconded by Councillor R Manchester and upon a vote being taken it was;

RESOLVED:

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

e **DM/24/01303/FPA - County Hall Car Park, County Hall, Durham, DH1 5UQ**

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 temporary change of use of car park for use by a school for a purpose falling within Class F.1(a) (provision of education) and was recommended for approval, subject to the conditions as set out in the report.

The Chair noted there were representatives from the construction company present to answer any questions Members may have.

Councillor L Brown asked whether the application was retrospective, and what would happen should Members refuse the application. The Principal Planning Officer noted the application was solely the change of use application, the Government having noted that works on school sites would be permitted development, and therefore if the change of use was granted, then the works would benefit from that permitted development.

Councillor J Elmer moved approval, he was seconded by Councillor L Brown and upon a vote being taken it was:

RESOLVED:

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