

**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 March 2025** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

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

**Also Present:**

Councillors J Miller and L Hovvels

**1 Apologies for Absence**

Apologies for absence were received from Councillors D McKenna.

**2 Substitute Members**

There were no Substitute Members.

**3 Minutes**

The minutes of the meeting held on 11 February 2025 were confirmed as a correct record by the Committee and signed by the Chair.

**4 Declarations of Interest**

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 Item 5c - DM/24/02744/FPA - Land to the East of 36 Hallgarth Street.

The Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council and 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 Item 5c - DM/24/02744/FPA - Land to the East of 36 Hallgarth Street.

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

**a DM/24/03202/FPA - Land East and North of Malvern Crescent, Seaham, SR7 8AU**

The Senior Planning Officer, Callum Harvey 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 33no. affordable dwellings with associated infrastructure, landscaping and ancillary works and was recommended for approval.

The Senior Planning Officer noted since the publication of the report, it had been noted that while all the required site notices and advertising in the press had been conducted, neighbour notification letters had unfortunately not been dispatched. He explained that therefore the letters had been sent out as soon as possible, however, this meant there was a change to the recommendation to be approval to reflect the associated consultation period, subject to no new material issues being raised and received by 28 March 2025, and the conditions and s106 Legal Agreement set out in the report.

The Senior Planning Officer noted that following comments from the Tree Officer, an additional condition relating to updated planting details being received prior to first development. He added that while roof mounted solar photovoltaic panels were not required in terms of planning, they were a requirement of building regulations.

The Senior Planning Officer explained that the site formed part of a wider site that had been allocated for housing. He noted there had been no objections from internal consultees subject to conditions and s106 legal agreement, including contributions in terms of the NHS, Habitat Management and Monitoring Plan, mitigation of the impact on the Durham's Coastal European Designated Site, capacity at Seaham High School, SEND provision across the county and open space provision within the Deneside electoral division.

The Senior Planning Officer noted that it was felt that the proposals were not contrary to policies within the County Durham Plan (CDP), being in a sustainable location, with no unacceptable loss of public open space to provide 33 social housing properties.

The Chair thanked the Senior Planning Officer and asked Steven Longstaff from ELG Planning, representing the applicant, to speak in support of the application.

S Longstaff thanked the Chair and fully endorsed the Officer's report and recommendation for approval. He explained that the site was an allocated site, H37, within the CDP and therefore the principle of development on the site was well established. He reiterated that the proposal was for 33 affordable homes, with open space and biodiversity net gain (BNG). He explained that the development was the first in a number of developments as part of the Durham County Council (DCC) homes programme, to build 500 homes by 2029. S Longstaff noted that there had been extensive pre-application consultation with the Planning Department and the public to help ensure a smooth process. He noted that the proposals included two-bed bungalow and two and three-bed homes, all being in excess of M42 accessibility standards. He added that the homes would be energy efficient with an 'A' EPC rating and would include air-source heat pumps and photovoltaic solar panels. S Longstaff concluded by noting there had been no objections from statutory consultees and therefore he would ask that the Committee approve the application.

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

Councillor A Bell noted it was brilliant to see this type of application come forward through the Local Authority, including air-source heat pumps and solar panels, setting a good example for other developers. He asked what the tenure mix was across the development and whether the properties would be retained by the Council or would transfer to a housing provider. He added that, as an application from the Local Authority, he would question the use of external agents acting on behalf, in terms of effective use of resources.

Stephen Bell, for the developer T Manners and Sons, noted that the properties would be in the continued ownership of the Council and would not transfer to a register provider.

Councillor A Bell moved that the application be approved as per the recommendation set out by the Senior Planning Officer.

Councillor K Shaw asked as regards the site being initially designated for bungalows only, 28 bungalows initially. He noted that the area was within the top ten areas with need for bungalows in the county. He asked how this had moved to mixed tenure and noted that therefore the proposals were not meeting that initially identified need in terms of bungalows. The Senior Planning Officer noted that the CDP stated ten percent requirement in terms of bungalows, which would equate to three for the proposed 33 properties, with the six being offered therefore in excess of policy requirements. He added that he was the Case Officer for the larger site that the proposed development formed part of and would be mindful of the provision of bungalows across the whole site.

Councillor K Shaw reminded the meeting he had been the Cabinet Member for Housing when the ten percent bungalow provision had been included within the CDP. He explained there was around 3,500 people on the housing register and therefore he felt that all opportunities to include bungalows should be exhausted, especially in an area within the top ten areas of need, and he therefore felt in this case that the needed bungalows were not getting built. The Senior Planning Officer noted that the outstanding need was recognised, however, from a planning policy requirement the application was providing in excess of the required number of bungalows.

Councillor J Elmer noted that the application site was part of a larger allocated site and asked if there was pressure in terms of the open space allocated and area for BNG, when looking at applications across the wider site and there being pressure to deliver additional housing. The Senior Planning Officer noted the whole site was allocated for 260 dwellings and explained that BNG had been factored into the site, as well as the contributions in terms of coastal mitigation as previously referenced. He noted that the area to the north of the site would be untouched and that future phases of development would have to provide their own BNG and coastal mitigation.

Councillor J Clark noted that she agreed with the comments from Councillor A Bell in terms of having our own planning resources within the Council. She noted she felt that the comments raised by Councillor K Shaw had not been taken on board, in relation to the need for bungalows, and while it could be expected from private developers, she did not accept that stating there was greater provision than the minimum policy requirement and that future developments would provide bungalows was sufficient. She noted that the Committee could not account for what any future developments may bring and that the need that was established should be addressed and not ignored.

The Senior Planning Officer noted that he understood the local need in the area, and that the provision in the application before Members was deemed acceptable.

He added that the reference to bungalows would be fed back to colleagues. The Chair noted that there was housing need across a number of areas and types, not just bungalows. The Senior Planning Officer noted there was identified need for two, three and four-bed properties.

Councillor L Brown asked if the Lawyer, Planning and Highways, Neil Carter would comment as regards the neighbour consultation letters and noted that she would wish for amendment to Condition 20 for a later start time of 0800 for works on site.

The Lawyer, Planning and Highways noted that while the neighbour notification letter had gone out late, it was not statutory publication in the same way as the site notice and notice within the local press. He added that, if Members were minded to approve the application, then the Council would await the conclusion of the notice period, as referenced by the Senior Planning Officer, to see if any new material information was put forward, and if so then the application would return to Committee accordingly.

Councillor A Surtees noted that, in light of the comments from Councillor K Shaw in terms of the allocation of bungalows to the site, what remit had been given to the developer in terms of the delivery of bungalows. The Senior Planning Officer reiterated that the wider site had been allocated for 260 dwellings in the CDP, with ten percent, 26, being the policy requirement for the whole site. He added that developers could be pressed in terms of future developments across the wider site. The Chair asked if the site being considered via this application was specifically for all bungalows by allocation. The Senior Planning Officer noted the CDP did not state the site must be 100 percent bungalows.

S Bell noted that T Manners and Sons had been briefed by DCC in terms of the development, in terms of the number of bungalows and being able to provide a deliverable scheme in terms of any Homes England grant. He added that he had been provided with demand data across all tenure and build types, with a mix arrived upon looking at Durham Key Options (DKO), Housing Policy and need data. He added there had been a desire to maximise the number of bungalows whilst meeting the financial parameters in terms of grant rates. He reiterated there had been a lot of work with DCC technical staff, Planners, Finance and Architects, to ensure the development ticked as many boxes as possible and was the best scheme possible.

Councillor D Oliver thanked S Bell, adding that the context he provided was useful. He noted there was an immense need for bungalows within the wider need for housing in general. He added he was reassured by the comments from Officers and the developer and therefore would be happy to second Councillor A Bell in approving the application.

Councillor K Shaw asked whether the site in question had been identified for bungalows or not. The Principal Planning Officer, Paul Hopper noted that policy was for ten percent of the properties to be for older people, which in general meant bungalows. He added that moving forward, the CDP would be reviewed and should there be a need to amend the amount of such provision to be greater, say 20 or 30 percent, the CDP would change to reflect that. He reiterated that the allocation within the CDP was for ten percent, with the application before Members overdelivering in terms of such provision. He added that Members should note that the Senior Planning Officer was the officer allocated to the wider site and would be cognisant of the need when future applications were being made.

Councillor J Elmer noted there were vast range of positives with the application, in terms of the quality of the application, with affordable provision, bungalows, BNG, open space and green energy. He added there were very few issues, though he had sympathy with the position of Councillor K Shaw in terms of whether there was an opportunity to deliver more bungalows in the area. He added another issue was to look at the provision of accessible properties for residents.

The Senior Planning Officer noted that looking at Policy 4 and allocation, there was no specific reference to bungalow allocation, therefore the requirement was ten percent, being three and the development offered six which was an overprovision.

Councillor A Surtees noted that Councillors were not disagreeing with policy, just asking for clarification in terms of the site and whether there was a single purpose for the site in terms of bungalows. She noted that the proposals represented a good scheme overall and would not wish to hinder the application.

Councillor A Bell noted that fundamentally, as the Agent had referenced, the development was in line with Homes England requirements, and therefore he felt we must support such positive schemes. He noted that there was a greater need for family homes and rental tenure and therefore he reiterated his motion for approval.

The application was proposed for approval by Councillor A Bell, subject to amendment to start time for works to 0800, seconded by Councillor D Oliver and upon a vote being taken it was:

## **RESOLVED:**

That the application be **APPROVED**, subject to no new material issues being raised and received by 28 March 2025, and subject to the conditions and s106 Legal Agreement as set out within the report, with an amended condition relating to works starting no earlier than 0800 and an additional condition relating to updated planting details being sought prior to first development.

### **b DM/23/02656/FPA - Land West of Marley Fields, Wheatley Hill, DH6 3BF**

The Principal 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 64 dwellings with associated infrastructure, access and landscaping works (description amended) and was recommended for approval, subject to the conditions and s106 Legal Agreement set out in the report.

The Principal Planning Officer noted that the initial application had been for 69 dwellings, noting it had been reduced to 64 alongside a number of other improvements to the initial scheme. He noted that currently the site was agricultural land, with open countryside to the west. He noted there was open space to the south west corner of the site and two pedestrian connections to the site linking to the adjacent Marley Fields development. He added that a bus stop would be provided on site, and discussions with Arriva had noted that the Service 22 bus could divert to this bus stop, providing good connectivity to the site. The Principal Planning Officer explained that the proposed landscaping at the western boundary had been improved and noted that the house types proposed were broadly in line with those in the area.

The Principal Planning Officer noted no objections from statutory consultees, with Spatial Policy colleagues having noted the targeted delivery plan for Wheatley Hill to provide greater quality and choice of accommodation. He noted there was affordable homes provision, with bungalows, two and three-bed properties, with 12 bungalows being in excess of the ten percent requirements. He noted that the Ecology Section had no objections as there was BNG on site, and subject to conditions as set out within the report.

The Principal Planning Officer noted the requisite public site notices and advertising had been made, with ten objections having been received in relation to the original application, primarily relating to access being obtained via the Marely Fields development, now not an issue as there is a dedicated access proposed. He added there were a further six objections to the current application in its amended form, with the objections set out within the report, including: loss of light, privacy and outlook; potential for new residents to crash into the existing boundary fencing; Article 8 of the Human Rights Act which relates to benefitting from a private and family life, and peaceful enjoyment of possessions; and concerns over surface water runoff entering the rear gardens closest to the eastern boundary of the site.

The Principal Planning Officer noted that the proposals were in line with Policy 6 of the CDP, with the site being sustainable, with the benefit of the new bus stop also benefitting the existing Marley Fields development, along with the two pedestrian links as mentioned. He added that following amendments the application would receive seven green, five amber and no red scores at Design Review, therefore the application was policy compliant. He explained that while there was some moderate landscape harm, they were not felt sufficient to outweigh the benefits of the scheme. He highlighted that the adjacent Marley Fields development had been occupied by 77 percent local people, demonstrating that such developments were addressing need locally. He added that therefore Officers felt, on balance, that the benefits of the scheme outweighed any harm and therefore the application was recommended for approval, subject to conditions and s106 legal agreement as set out within the report.

The Chair thanked the Principal Planning Officer and asked Councillors J Miller and L Hovvels, Local Members, to speak in relation to the application.

Councillor J Miller noted he was delighted to be at Committee and not speaking in objection to a planning application. He added that the application was helping to meet local needs in terms of bungalows, as well as two and three-bed properties. He noted there were a number of three bed bungalows within the village which was also very good. He commended the developer who had consulted with residents and Local Members openly and noted that the rerouting of the Arriva Service 22 to the new bus stop was brilliant, helping connections to the rest of the village.

Councillor J Miller noted he had two questions, one being in relation to funding contributions, noting they were significant, however, after May new boundary changes would come into effect and he would not wish for such contributions to be lost or forgotten. He added that the recommendation was for secondary schools and suggested as there was no secondary school it would be better allocated to the two primary schools instead.



He also asked as regards the 60mph sign located just after the Phase 1 Marley Fields site, just 50 yards from a 30mph sign, and whether it would be better moved to the junction of the two sites. He emphasised how important the s106 monies from the Phase 1 application had been in benefitting the local community and therefore he would urge Members to approve the application.

Councillor L Hovvels agreed that the application had been welcomed and that the developer had come in to work in the village when many others had not. She added this was important in terms of regenerating the village and to help sustain local facilities such as the local schools, one of which catered for children with SEND and NHS provision in the village. She noted that such positive developments should be supported and was delighted to add her support to the application.

The Chair thanked the Local Members and asked Kate McGill, representing the applicant, to speak in support of the application.

K McGill thanked the Chair, Officers and Members and noted that the applicant, VB Turnbull Limited, was a local Durham company, having invested in two such sites within seven years, at Marley Fields and also at Nicholls Close in the village. She noted that their schemes had shown to have a positive impact, with Wheatley Hill being within the top 20 deprived areas in the county, and therefore in need of high-quality homes, to provide social and economic benefits. She explained that they had worked hand-in-hand with the Local Authority and statutory consultees to ensure a good scheme was brought forward with limited harm and numerous benefits, including in terms of local jobs, local supply chain, s106 contributions, and a number of bungalows in line with the Wheatley Hill targeted plan. She added that other benefits included the bus loop, which was positive for both phases of development, a new play area, two amenity spaces including BNG on site and supporting a SME housebuilder, strengthening and diversifying the market in this regard. In terms of tackling climate change and energy efficiency, it was noted the properties would utilise air-source heat pumps and solar panels. She respectfully requested that the Committee approve the application as per the recommendation.

The Chair thanked K McGill and asked the Principal Planning Officer to respond to comments and questions raised.

The Principal Planning Officer noted that in terms of the education contribution, it was specifically for secondary school places, and in relation to upcoming electoral boundary changes, there was a standard approach and some flexibility in terms of the wording used within the s106.

The Principal DM Engineer, David Battensby noted that in relation to speed signs, they had been placed in the legally required places, the 60mph sign and then the 30mph sign. Councillor J Miller noted for clarity that he understood this, however, he genuinely believed the sign was in the incorrect place and asked if it could be checked.

Councillor L Brown noted when she initially looked at the application, she had noted it was outside of the settlement boundary and she would normally not be in favour of such applications. However, she noted that having heard the Local Members speak in favour of the application she appreciated that the application was meeting local need and therefore she had changed her mind in respect of the application.

Councillor J Elmer noted it was good to hear as regards the use of air-source heat pumps, however, it was not all about reducing carbon emissions, it was also important in terms of reducing energy costs for our residents. He noted the positive active transport links, and positive BNG plan and added that the development was well related to the existing settlement and development and the bus stop and diverted service was great, helping connect older people to local services. He concluded by noting it was a good development, supported by the Local Members and therefore he would be happy to move approval.

Councillor A Bell noted he too was reassured by the support for the application from Local Members, adding he felt the point made by Councillor J Miller in respect of boundary changes was a valid one and that Members should check as regards s106 allocations in their areas to ensure they are all being utilised. He added that the inclusion of allotments was positive and noted the sustainability of the site, with 800 metres to the bus stop, however, asked regards conditioning the additional bus stop and diverted bus route.

Councillor D Oliver noted he was fairly acquainted with the site, having worked with the Local MP, Paul Howell and therefore was aware of the needs in the local area. He thanked the Local Members for their valuable contributions and therefore he was broadly happy with the application as set out. He noted that Councillor L Hovvells had referred to s106 contributions and asked how they had been negotiated for this development, had it been in line with other such schemes.

The Principal Planning Officer noted there was a condition in relation to the bus stop and shelter, however, it would not be possible to condition Arriva to reroute the bus, however, they had indicated their willingness to do so. In terms of active travel and accessing services, some were within 800 metres including hot food takeaways, nursery and shops, with the new bus stop to enable connections to shops at Peterlee and Durham.

He noted that while there had been some objections in relation to tree loss, this related to the structural landscaping planted to the west of the existing Marley Fields development, with additional structural landscaping proposed to the west of the current application site. The Principal Planning Officer noted in relation to the s106 contributions, the amounts and areas for contributions were specified by the relevant teams, with the Education Team providing the amount and requirement as set out, in line with the Developer Contributions SPD.

Councillor A Bell accepted that some facilities were accessible within 800 metres of the site, however, a recent application considered at the County Planning Committee had secured contributions towards a bus route for five years and added something similar would have provided reassurance for Members. He noted that looking at the plans, the through road appeared to be very straight, and asked as regards whether there were any traffic calming measures to be put in place. The Principal DM Engineer noted that the road was not perfectly straight, and included some slight curves to help encourage reduced speeds as well as some raised tables. He added that with a linear site there was limited scope in terms of measures that could be included.

The application was proposed for approval by Councillor J Elmer, seconded by Councillor A Bell and upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions and s106 Legal Agreement as set out within the report, with an amended condition relating to works starting no earlier than 0800.

**c DM/24/02744/FPA - Land to the East of 36 Hallgarth Street, Durham, DH1 3AT**

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 open space to parking area (Retrospective) and was recommended for approval, subject to the conditions set out in the report.

The Planning Officer noted the retrospective application was for a parking area to the rear of 36 Hallgarth Street, along an unadopted track. She noted the area was a residential area within the Durham City Conservation Area.

She referred Members to site photographs showing the area in question and with examples of cars parked on the site. She noted that there had been no objections from the Highways Section or the Design and Conservation Team.

She noted the City of Durham Parish Council had objected to the application, noting the impact upon the Conservation Area and piecemeal development of such small sites within the city. She noted there had been objections from members of the public, with issues including; impact on the Conservation Area; unauthorised works, obstruction of the track, flooding and surface water issues; and setting a precedent for other parking space applications in future.

The Planning Officer noted that the application was not considered to be a negative loss, with minor intrusion that did not represent significant harm, and was not out of keeping with such back lanes. She highlighted that the Highways Section had provided no objection and there was little impact upon the adjacent garden or residential amenity. She added as a retrospective application there was no requirement for BNG. She added that the change of use application was acceptable in principle in terms of the CDP and National Planning Policy Framework (NPPF) and therefore the recommendation was 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 Members and referred the Committee to photographs displayed on the projector screen highlighting the track referred to. She reminded Members that the application was retrospective and highlighted the concerns the Parish Council had in relation to unregulated construction of a car park for a seven-bed student let, in the heart of the Conservation Area. She noted that if such developments were ignored, each would degrade the quality of the Conservation Area and residential areas little by little, with the cumulative impact being to diminish the city and its historic setting. She added that to grant the application would be to encourage others to ride roughshod over our planning policies.

Parish Councillor C Lattin explained that the benefits were for only seven students within the student house in multiple occupation (HMO) and represented a loss for the community in terms of the loss of the verge and attractive back land used by many. It was added that the car park as constructed was not wholly in curtilage of the property, and in effect was a land grab. She highlighted there had been damage to the 13th Century burgage plot and noted that the proposals were on an unadopted public byway which had been impacted by the loss of verge.

She noted that other properties in the area had erected legal parking areas wholly within the curtilage of their properties, with one resident setting back their fencing so that all parking was set back and within their curtilage.

Parish Councillor C Lattin noted that the parking area had not been requested within the seven-bed student property's curtilage, rather ten square feet of public land which was now unsightly and potentially dangerous, with such gravel surface being banned within the relevant supplementary planning document (SPD). She added that if the applicant was allowed to get away scot-free and would set a precedent and change a green area into a car-lined route. She noted it was not too late and that it would only amount to an afternoon's work to reinstate the land to previous state. She asked that the Committee refuse the retrospective application, and call halt to the damage being caused. She noted the application was contrary to NPPF Section 12 Paragraph 135 a, b, and c in terms of well-designed and quality development, CDP Policy 6c and 6d in terms of unallocated sites and loss of ecology and habitat, and CDP Policy 44 in terms of non-designated heritage assets and the Conservation Area, and Neighbourhood Plan Policy S1d in terms of impact upon conserving the significance of the setting, character, local distinctiveness, important views, tranquillity and the contribution made to the sense of place by Our Neighbourhood's designated and non-designated heritage assets. She added it was also contrary to the Parking SPD in terms of the use of gravel. Parish Councillor C Lattin concluded by urging the Committee to do the right thing and refuse the application.

The Chair thanked Parish Councillor C Lattin and asked the Committee for their comments and questions.

Councillor A Bell referred to the map showing the site in relation to the boundary of the property. He noted it was already up to the roadside as it was, with fences and hedgerows in the area being also up to the road. He asked if the area where cars were parked was within the ownership of the property. He also asked as regards the area that was gravelled and whether in effect was it permitted development.

The Planning Officer noted that the area of land was not in the ownership of the applicant and therefore could not constitute permitted development. She noted the applicant followed the requisite process in terms of ownership notices and no one had come forward.

Councillor J Elmer noted that where large HMOs did not have all the requisite parking within their curtilage there was always issues with parking in the area and therefore it was always a major consideration when looking at HMO applications.

He added he could not accept that this HMO would not have gone through a similar process in terms of its approval and having an appropriate level of parking provision. He added he had absolute sympathy with the City of Durham Parish Council, noting it was their duty to try and preserve the historic nature of their city.

Councillor J Elmer reiterated that he did not accept that a seven-bed HMO application from an experienced developer would not have included parking provision, suggesting a strategy rather than a mistake. He noted he agreed approval would be a green light for others to create similar parking areas, impacting the green verge and historic route. He noted the photographs shown that demonstrated the visual impact clearly. He moved that the application be refused and that the land be reinstated.

The Principal Planning Officer, Paul Hopper noted that the current application was for change of use, not looking at parking demand or development. He added that while he understood Members' frustration in terms of retrospective applications, they were allowed within legislation.

Councillor L Brown noted that one advantage of a retrospective application was that the damage caused by the application was able to be seen. She asked why the applicant had not taken an additional 10 feet from their garden to better accommodate parking for cars larger than a Fiat 500. She noted she was not sure if the lane was used as for bin collection, and was not sure how many properties were served by the lane. She noted she agreed with the points raised by Councillor J Elmer and would therefore second his proposal for refusal.

The Principal Planning Officer noted that it was Officers' assessment that the impact on heritage assets and the Conservation Area was not adverse, with the Design and Conservation Team noting no impact.

Councillor A Bell asked if the application was refused, would the gravel be taken away. He asked if refused, would there be power to prevent unregulated use for parking. He noted from some of the photographs shown that there was a number of other vehicles parked on verges along the lane. He noted that it was important to take into account the views from Local Members and Town and Parish Councils, the vehicles that were being parked along the lane would have to go somewhere if not along that lane. The Principal Planning Officer noted that in terms of development, there was an operational element and a material change of use. He noted that if the parking area was removed, and it continued to be used for parking, then the issue in terms of whether a change of use had occurred would be investigated, with enforcement action as necessary.

Councillor J Elmer noted it was not just the impact upon heritage, he added that there was also the impact upon residential amenity, as the lane was used by those walking and cycling, with increased parking use acting to reduce walking and cycling. He noted that both walking and cycling were to be encouraged through planning applications, with this situation being the opposite.

Councillor D Oliver explained he shared the frustrations of fellow Members in terms of a retrospective application and acknowledged the comments from the Parish Council. He added that, however, he felt the Committee's hands were tied, and that there were no grounds for refusal of the application. He noted that the overall impact on heritage was not felt to be sufficient to refuse the application in the view of Officers and he tended to agree.

Councillor J Elmer noted that he disagreed and felt there were strong grounds for refusal, particularly within the Neighbourhood Plan, with Policy S1d and CDP 44 in terms of the impact upon the burgage plot and historic lane. He added he was very disappointed that those elements had not been picked up by the Design and Conservation Team.

The Chair noted that other policies that had been highlighted included CDP 6c and 6d, CDP Policies 29 and 44.

The Lawyer, Planning and Highways asked for clarification on the reasons being put forward by Members for the refusal of the application. He noted he had heard reference to adverse impact on the character and appearance of the area, however, given the clear position set out by the Design and Conservation Team he did not believe such reason would be sustainable at appeal.

Councillor J Elmer noted that he felt there was clearly evidence of the impact versus benefit, impacting the both the historic area as well as the Conservation Area, as well as impacting upon the wider people who live in the city. He noted those impacts were weighed against the benefits for seven people in one house. He added that there was the amenity impact on those walking and cycling along the historic route. The Lawyer, Planning and Highways noted the additional reason in terms of effectively impact upon recreational amenity, however, his understanding was that the route was a private road and not highway open to use by right. Councillor L Brown noted that the lane behind her property was not adopted and residents wanted to install a gate, however, they were told that was not possible as it would prevent access. The Chair noted he believed the lane in question may have had a bollard at one end, but that may have been around 15 years ago.

The Principal DM Engineer noted the lane was not recorded either as adopted highway or a byway and no public right of way exists over it.

He noted that roads could accrue a highway right due to unhindered use over an extended period of time. The road surface in this case being well compacted would indicate use by residents. He added that residents would likely have a right of access, and installation of a gate would contravene that access. He also noted that the Google image showed a sign stating "Private Road, residents access only" and historically there was a bollard located there. He added that it was outside the remit of the Highways Authority and noted that if there had been a bollard at one end then perhaps the access was not unhindered.

Councillor L Brown noted some bins on some of the photographs shown, the Chair noted it was his understanding that bins were not collected from the back lane.

Councillor K Robson noted that looking at the map and plans, the buildings in the area had long gardens and queried whether a fire engine would be able to attend at the rear if required. The Chair noted there appeared to be access along the lane up to a point.

The Principal Planning Officer noted that if amenity was being cited as the reason for refusal, then defending the refusal would need to demonstrate qualifying as a route that was in use by sufficient number of people.

The application was proposed for refusal by Councillor J Elmer, seconded by Councillor L Brown and upon a vote being taken the motion was **LOST**.

The application was proposed for approval by Councillor K Shaw, seconded by Councillor D Oliver and upon a vote being taken it was:

**RESOLVED:**

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