

**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 14 April 2015 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors G Bleasdale, J Clark, P Conway, K Corrigan (substitute for Councillor B Moir), M Davinson, D Freeman, S Iveson, C Kay, A Laing, R Lumsdon, J Robinson and K Shaw

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell and B Moir.

**2 Substitute Members**

Councillor K Corrigan substituted for Councillor B Moir.

**3 Minutes**

The Minutes of the meetings held on 10 March 2015 were confirmed as correct a record and signed by the Chairman.

**4 Declarations of Interest**

There were no declarations of interest.

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

**a DM/14/03713/FPA – Land at Mayorswell Close and Kepier Court, Durham, DH1 1JU**

The Committee considered a report of the Senior Planning Officer regarding the erection of 4 new buildings and restoration of Kepier House for use as 214no. Bed student accommodation and associated landscaping at land at Mayorswell Close and Kepier Court, Durham, DH1 1JU (for copy see file of Minutes).

The Team Leader advised that further to a previous call in request, should the application be approved, the decision would first need to be referred to the National Planning Casework Unit for consideration, prior to a decision notice being issued. The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. The item

had been deferred at the previous meeting to allow the Committee the opportunity to undertake a site visit. Members of the Committee had now visited the site and were familiar with the location and setting. The Senior Planning Officer advised that a further letter of objection had been received since the report had been published. The letter reiterated many of the objections which had already been received, however also raised concerns regarding health and safety issues and the accessibility of the site for emergency service vehicles.

In addition, the Committee was advised in addition to provision of open space and public art, should the application be approved, the S106 agreement would also provide for local employment opportunities to be brought forward.

Ms M Johansen, local resident, addressed the Committee. She had lived at the north of the site for 10 years and while she was keen to see the site developed, she did not feel the proposed use and density were appropriate. The previous use of the site had been for post graduate accommodation, however Ms Johansen advised that was not the same as living in close proximity to 214 undergraduates. In addition, the proposed development would have a much larger footprint.

Ms Johansen hoped that during the site visit, the Committee had appreciated the impact of overlooking on her property. Members were advised that while she had fully engaged in the consultation process with the developer and discussed various options for window designs, Ms Johansen advised that none of those mitigating design options had been incorporated into the final design proposals. As such Ms Johansen requested that should the application be approved, a condition be imposed relating to mitigating the issue of overlooking.

Mr R Cornwell, City of Durham Trust, addressed the Committee. Mr Cornwell began by expressing concerns regarding the concentration of students in the area and he made reference to recently approved planning applications.

Mr Cornwell suggested that the application was contrary to saved Local Plan policies H13 and H16, both of which were particularly relevant given that the site had only previously been inhabited by 57 post graduate students. It was further stated that the proposals were contrary to Part 7 of the NPPF.

The Committee was advised that Durham was considered to be the main driver to regenerate the local economy, however Mr Cornwell believed that students frustrated that growth agenda and that the cumulative effect would be too significant. It was highlighted that there were several brownfield sites in the city which would be more suitable for such development however were not being utilised.

Ms H Dowdy, Durham University, addressed the Committee. Members were advised that the University sought refusal of the application as the proposals would cause unacceptable harm to residential amenity and were contrary to planning policy.

The previous use of the site had been 41no. 2 bed flats for post graduates with families, a very different facility to that which was being proposed.

The University was aware that there were differing opinions in relation to the weight to be afforded to the County Durham Plan. However Ms Dowdy highlighted that Policy 18 of the Plan gave sufficient grounds to refuse the application and had not been considered to be unsound by the Planning Inspector. In addition the University believed that saved Local Plan policy H16 paragraph 4 was particularly relevant and also gave clear grounds to refuse the application on the basis that the concentration of students would have an adverse effect on adjacent properties.

Ms Dowdy concluded by advising that there was no need for any further student accommodation within the city as there was already an oversupply.

Ms I Biggs, local resident, addressed the Committee. She lived in close proximity to the application site and her main objections were in relation to the proposed Block 4. She felt that the impact on residential amenity and the visual impact of the Block was largely understated, especially on residential properties at the north of the site.

The Committee was advised that her property had been built in 1963 and that there had been previous proposals for flats to be developed adjacent to her property, however those plans had been refused. The bottom block of the previous post graduate development had been very carefully designed and as such there had been no issue of overlooking. In addition, views of Kepier House had not been obstructed by the previous development.

Ms Biggs advised that the stability of the north side of the application site was questionable and in terms of sustainability Ms Biggs advised that solar panels on surrounding properties would no longer be viable. Indeed her property had solar panels which would end up being inhibited should the application be approved, thus halving the income generated by the panels.

Mr L McEwain, local resident, addressed the Committee. Members were advised that the area was currently peaceful, quiet and was occupied by a good mix of residents, however should the proposals be approved, the area would become dominated by students which would have significant impact on the area. Mr McEwain stressed that while the previous use of the site had been student accommodation, it had been very different to what was being proposed.

Members were advised that the proposed imposition of an 11pm curfew for students was of benefit to local residents, many of whom would have young children in bed from approximately 7pm and Mr McEwain urged refusal of the application, not least for the families who were raising children in a quiet, peaceful area.

Mr D Waugh, agent for the applicant, addressed the Committee. Mr Waugh highlighted that in terms of need, there was no numerical limit on the supply of purpose built student accommodation and no onus on an applicant to demonstrate need. Members were advised that the proposed development was not designed to accommodate any increases in student numbers from Durham University, rather it was proposed that the development would accommodate existing students living in HMO's. This in turn would free up such houses for family living. Mr Waugh advised that as had been proven by other local authorities, most specifically Newcastle City Council, for every 4 bed spaces created in purpose built student accommodation, 1

HMO became available for family housing. Based on that calculation, Members were advised that the proposed development would make over 50 HMO's available for family use.

Mr Waugh acknowledged that concerns had been raised regarding the number of students who would occupy the proposed development. He advised the Committee that the application site had an established use for student accommodation and although that had been for student families, it was estimated that around 170 bed spaces could be created just by refurbishment of the existing buildings, with no requirement for planning permission.

It was highlighted that, with the exception of Kepier House, the applicant had no aspirations to refurbish the existing buildings on the site, as such a scheme would not serve to sustain or enhance the conservation area, non-designated heritage asset or residential amenity.

On the issue of residential amenity, Mr Waugh highlighted the current run-down, brownfield nature of the site and the evidence of vandalism and substance abuse which Members would have witnessed first-hand at the site visit. Such issues had been prevalent on the site since 2005. Mr Waugh stated that the current state of the site only served to detract from the residential amenity currently enjoyed by neighbouring properties and as such bringing the site back into use with a well-designed and appropriately managed scheme, could only serve to significantly improve the residential amenity of the area.

Mr P Gillespie, applicant, addressed the Committee. Members were advised that the site had been in the ownership of a local housing association for the past 10 years, which had tried on a number of occasions to obtain planning consent for family housing. All such attempts had been refused due to an inadequate level of affordable housing, the required level making the site unviable due to the site being very costly to develop.

It was highlighted that the subsequent appeal had upheld the refusal, however had supported the layout and style of accommodation. The applicant had therefore worked within those guidelines to prepare the current proposals.

Mr Gillespie advised that the format of the proposals would enable friends who might otherwise share an HMO, to either live together in flats or to make use of self-contained studios.

Members were advised that currently 17 University towns and cities in England had invoked an Article 4 Direction, limiting the growth in HMO's. The applicant had provided the Planning Authority with reports from some of those authorities, which demonstrated that the combination of the support for purpose built halls and the limitation brought about by the Article 4 Direction, had resulted in a distinct shift in demand away from HMO's.

It was highlighted that the City's population was approximately 43,000 of which there were around 15,000 students. Mr Gillespie advised that such an imbalance had an impact on the city, especially when students were out of residence. If HMO's came

back into family use, they would make a proportionally greater contribution to a more stable local economy in Durham than they would in areas such as Newcastle where the benefits of the policy were already evident.

While it was acknowledged that an Article 4 Direction was not yet in force in County Durham, Mr Gillespie pointed out that changes in the City demographics would take time, but would not happen at all unless a sufficient supply of purpose built student accommodation was made available.

Mr Gillespie advised that increases in tuition fees had led to a greater reliance by students on their parents in order to cover the cost of accommodation. As a result, parents had become more directly involved in the selection process. It was to be acknowledged that a parents criteria was different and factors such as all-inclusive rent, high levels of supervision, on-site facilities and the location, all took priority.

Members were advised of the various facilities the proposed development would offer, which included pastoral care provided by a fully trained management staff. Details of the management services were listed in the Committee report, one key aspect being that the development was a zero parking scheme with dedicated spaces for deliveries, pick up and drop off, thus avoiding disruption to local residents.

Mr Gillespie had previously been involved in similar schemes which had also been surrounded by local residents and in his experience, he believed that direct contact between staff and residents led to high levels of content for all concerned.

The applicant had designed the scheme with neighbouring residents in mind. There would be courtyard access to all of the accommodation so that any student movement, access lighting and noise would be shielded from neighbours by the buildings. Mr Gillespie advised that even the access point had been positioned so that it was opposite a pair of garages in order that headlight glare would not be a nuisance. Solutions had been offered to overlooking which both officers and the applicant, were agreeable to.

Secure by Design Approval would help ensure the safety of occupants and enable appropriate surveillance of the entire property by the management. Despite the fact that Kepier House was a non-designated heritage asset, Mr Gillespie gave assurance that it would be restored in a manner supported by the Council's Design Officer. Furthermore, no objections had been received from English Heritage or the Council's Conservation Officer.

Members were advised that the applicant would enter into a legal agreement ensuring that the building contractor provided employment for local people during the construction works. Mr Gillespie also advised that it would be ensured that long term employment opportunities were made available locally.

The Planning Policy Officer advised that from a planning policy point of view, the NPPF did not require a need test for student accommodation. While it was acknowledged that a lot of applications had come forward recently for student accommodation which, in theory, exceeded any need, there was no policy provision to allow refusal on that basis. As Policy 32 of the emerging County Durham Plan had

been found to be unsound by the Planning Inspector, Members were therefore advised that no weight should be afforded to it.

Members were also provided with advice in relation to the prematurity of the application. As there were no student accommodation allocations within the County Durham Plan the issue of prematurity did not apply.

The Solicitor took the opportunity to advise that as Policy 18 of the County Durham Plan had not been criticised by the Planning Inspector then the Committee could decide to afford it limited weight during its deliberations. However the Committee was advised that Policy 18 was a general amenity policy and so saved Local Plan Policy H13 would be relevant and could be used in that regard.

It was also emphasised that in relation to the recruitment training provisions within the S106 agreement, while the applicant was committed to that provision, Members were reminded it was a voluntary exercise as it was not something which the Authority could require from an applicant.

Councillor J Robinson sympathised with the residents, particularly in relation to the issue of need and the issue of overlooking. Further to the assertion that the land at the north of the site was unstable, he suggested that a condition could be imposed requiring a land assessment and appropriate mitigation if required.

The Senior Planning Officer clarified that the separation distance between Block 4 and the adjacent properties was 29.5m which was more than acceptable. The Committee were advised that the applicant had already suggested a condition to require angled windows in the north elevation of Block 4.

Councillor Conway raised queries regarding need and prematurity. The Planning Policy Officer clarified that need was not a matter which an applicant would be asked to demonstrate. In relation to the issue of prematurity, Members were advised that this only applied during the preparation of a local plan. As the County Durham Plan was currently considered to be unsound by the Planning Inspectorate, it was unclear whether the issue of prematurity was relevant. As such, the issue was at this stage one of judgement rather than fact.

Councillor Freeman stated that in the absence of a dedicated policy to address the issue of student accommodation, he believed the relevant existing policies to be H16 supported by H13. Furthermore, he found NPPF paragraph 50 to also be relevant.

In referring to paragraph 109 of the officers report, Councillor Freeman highlighted that despite making reference to a management plan, he felt that there was nothing to address the influx of students into a small residential area and the impact that 214 students would have on the character and amenity of the area.

Councillor Freeman felt that the University expansion over the coming years would be miniscule compared to the ongoing development of purpose built student accommodation and as such he felt that such developments were not sustainable. In addition he felt that the requirements of the NPPF regarding population mix, were not met on the current application as 214 students would create a local imbalance.

Despite appropriate separation distances being met, Councillor Freeman highlighted that the site was on a slope and the large development would be sandwiched in between terraced properties and 2 storey semi-detached properties. He was convinced that the development would be overbearing on the neighbouring properties.

Councillor Kay advised that he was more in favour of purpose built student accommodation than HMO's, though he acknowledged that the proposed number of beds would be much higher than what had been at the site previously. Taking all things into consideration, Councillor Kay could not identify any planning reasons to refuse the application.

Councillor Conway commented that the current site was an eyesore and did nothing to compliment the surrounding area. He acknowledged that to develop traditional housing on the site with an element of affordable housing, would be notoriously expensive and as such unviable for a developer. However Councillor Conway moved that the application be refused on the basis that it was contrary to saved Local Plan policies H13, H16 and C3. He stated that while he did wish to see the site developed, he was concerned that in years to come, such developments would be vacant across the city due to lack of demand. He further felt that there was a case for prematurity as it was clear to him that there was already an oversupply of student accommodation across the city.

Councillor Freeman seconded the motion for refusal of the application. While he believed that a suitable development could be achieved on the site, he did not support the current proposals.

The Solicitor took the opportunity to remind the Committee of the fallback position for the applicant, that there was already an established use on the site and as there was no difference between one type of student accommodation and another, the applicant could bring the site into use for the type of accommodation which was being proposed.

In relation to the issue of prematurity, the Planning Policy Officer clarified that Planning Policy Guidance on the issue related to emerging policy and whether approval of development would undermine an emerging plan. As the emerging County Durham Plan was currently considered to be unsound, it was difficult to argue prematurity.

Councillor Bleasdale moved approval of the application, she believed that the applicant had done everything possible to accommodate the concerns of local residents and she believed that the site was in desperate need of development.

Councillor J Clark agreed, stating that she was more than satisfied with the list of provisions in the proposed management plan. She hoped that as a result of more purpose built accommodation, that HMO's would eventually be freed up and brought back into use as family dwellings. Councillor Clark requested that a condition be included to require mitigating measures on the windows in Block 4.

The Solicitor advised that in relation to S106 arrangements, should the application be approved, the recommendation would be changed to allow officers to approve the final details of the S106 agreement.

In response to a query from Councillor Lumsdon, the Senior Planning Officer clarified that while it was not within the remit of the Committee to seek a reduction in the height of Block 4, a condition could be imposed to require mitigating measures on the windows.

The applicant clarified that he was more than willing to mitigate the issue of overlooking with the use of obscure glazing and angled windows.

Further to dispute from local residents and a request for clarification from Councillor Lumsdon regarding the height and separation distances relating to Block 4, the Senior Planning Officer took the opportunity to highlight the area and distances on a map.

The Chairman informed the Committee that a vote would be taken on Councillor Conway's motion to refuse the application, as seconded by Councillor Freeman, on the basis that the application was contrary to saved Local Plan policies H13, H16 and C3, that the application was premature and that it contravened the requirements of the NPPF relating to sustainable development.

Upon a vote being taken approval of the application was defeated.

The Chairman informed the Committee that a further vote would be taken on Councillor Bleasdale's motion to approve the application, as seconded by Councillor Clark, and with an additional condition relating to the mitigating measures on the Block 4 windows and with the authorisation for officers to approve the final details of the S106 agreement.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions detailed within the report, with an additional condition relating to measures to mitigate overlooking and with authority being granted to officers to approve the final details of a S106 agreement.

**b DM/15/00287/FPA – Woodland Barn, Darlington Road, Durham**

The Committee considered a report of the Senior Planning Officer regarding a holiday cottage and café at Woodland Barn, Darlington Road, Durham (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members of the Committee had visited the site and were familiar with the location and setting.

Councillor D Stoker, local Member, addressed the Committee. Members were advised that the development site was nestled within a Woodland Trust site with a lot



of popular, intersecting walking routes, regularly used by ramblers, school trips and other groups. Despite being a popular walking area, Councillor Stoker advised that the Woodland Trust had never provided any public toilet facilities in the area, despite the number of visitors.

While he would rarely advocate development within the greenbelt, Councillor Stoker supported the proposals, particularly as the cafe would have much needed toilet facilities. He also highlighted that the development would be backed by 2 slopes and would be developed next to an existing dwelling.

In relation to highways issues, whilst acknowledging that the access was off a dual carriageway, Councillor Stoker highlighted that a new roundabout was currently being developed close to the site, the impact of which may have a calming effect on traffic speeds. Members were advised that there was no record of accidents in the area of the access point, though Councillor Stoker concurred that the access could be improved. In relation to the narrow single track access road to the site, he also accepted that issues could arise for passing vehicles.

Councillor Stoker advised Members that the site had once been an industrial brownfield site. In concluding, Councillor Stoker accepted the application to be finely balanced, however did believe that all issues could be overcome.

Councillor Robinson took the opportunity to declare an interest as he knew the applicant, as such he retired from the meeting.

Mr M French, local resident, addressed the Committee to speak in objection to the application. Mr French highlighted inaccuracies with the application. In referring to the Design and Access Statement, he advised that paragraph 5 was incorrect as the access route was used by more than only 1 resident and the development would create more traffic.

In relation to the Heritage Statement which claimed that there had been no building at the site since 1980. However having studied 1951 and 1961 editions of the Ordnance Survey Map, Mr French advised that it appeared there had actually been no building on the site for some 60 years, in which case he believed an intervention of that length of time meant the area would revert back to greenbelt.

In referring to the conclusion of the Heritage Statement which stated that the application would bring back to use a building of historic interest, Mr French pointed out that there was no building at the site location.

Mr French advised that the single track highway into the application site was unsuitable for any additional traffic and he also advised that there had been 9 accidents resulting in injury on the adjacent stretch of the A167 between 2010 and 2013. One of those accidents had been fatal and three had been in the immediate vicinity of the access to the application site.

In relation to parking, Mr French advised that there were regular issues with the misuse of passing places, with people using them to park vehicles, an issue he believed would be exacerbated should the application be approved.

In concluding, Mr French advised that the refreshments and facilities which would be offered by the café would actually be inaccessible to disabled visitors and visitors with prams or pushchairs, as the development was too far away from the designated parking areas.

Ms P Sanderson, applicant, addressed the Committee. She highlighted that in exceptional circumstances, developed could be deemed acceptable in the greenbelt and she believed that the fact the site had formerly been brownfield, was reason enough to allow development. Members were advised that there was possible contamination on the site, which she was prepared to have cleared at her own cost. The site remained brownfield in her opinion and Ms Sanderson highlighted that there were visible building remains from previous development.

Members were advised that English Heritage had commented that facilities were necessary at the site and the Woodland Trust supported the introduction of toilets. Ms Sanderson compared her application to other applications which had recently been approved and had meant development in the greenbelt.

In relation to highways issues, Ms Sanderson advised that the site had formally been a farm and an agricultural business and so heavy vehicles had regularly used the access. Members were advised that the position of the access allowed for good visibility on the A167 and that the new roundabout would reduce the speed of vehicles on the dual carriageway. The café would be used by walkers and appropriate signage would be erected.

Ms Sanderson advised that the Conservation Area would be enhanced should the application be approved, as storyboards would be erected, there would be additional hedgerow planting and, recycled water would be used and electric charging points would be installed. Members were advised that saved Local Plan Policies E7, R3 and R10 supported the proposals. Ms Sanderson further advised that there was a need to attract high spending visitors to the county and that 625 tourist accommodation rooms were required by 2030 in order for the Council to meet its potential.

Councillor Kay felt that the junction to the site was very dangerous and would require substantial remodelling, especially as it was on a dedicated cycling path. In terms of the existing remains on the site, he felt they were too insignificant to be of any relevance. He further commented that toilet facilities were not to be expected, indeed in many mountainous walking areas such as in the Lake District, it was not commonplace to find such facilities. Councillor Kay moved refusal of the application for the reasons set out in the officer's report.

Councillor Davinson seconded the motion for refusal and was in agreement with the views of the Highways Officer in terms of the egress and access at the site. He had concerns regarding the speed of traffic on the A167 and furthermore, he did not believe that visitors would always use the designated car park.

Councillor Bleasdale expressed concerns regarding the speed of traffic travelling past the site on the A167, having witnessed it first-hand earlier that day on the site visit.

Councillor Freeman queried the cost of the highway works which would be necessary for the application to be deemed acceptable by the Highways Authority. It was noted that the applicant had indicated an intention to pay for any required works.

The Highways Officer advised that in order for the proposals to be acceptable, the Highways Authority would expect a substantial stretch of deceleration lane to be developed on the A167 in the vicinity of the site. While no costs had been calculated, it was estimated such works would be in excess of £100,000.

In response to a query from Councillor Laing, the applicant clarified that the café would be expected to seat a minimum of 50 visitors.

Upon a vote being taken it was:-

**RESOLVED:-** "That the application be Refused for the reasons detailed within the report".