

**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 8 November 2016** at **1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors A Bell, J Clark, P Conway, D Freeman, S Iveson, C Kay, B Moir, J Robinson and K Shaw

**Also Present:**

Councillors J Bell, G Holland, N Martin and R Ormerod

**1 Apologies for Absence**

Apologies for absence were received from Councillors G Bleasdale, M Davinson, A Laing and J Lethbridge.

**2 Substitute Members**

No notification of Substitute Members had been received.

**3 Minutes**

The minutes of the meeting held on 26 September 2016 were confirmed as a correct record by the committee and signed by the Chairman, subject to an amendment to include apologies for absence from Councillor S Iveson. The minutes of the special meeting held on 11 October 2016 were confirmed as a correct record by the committee 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/16/02285/FPA - Kepier House, The Sands**

The Senior Planning Officer, Barry Gavillet 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 Officer advised that Members of the Committee had previously visited the site and were familiar with the location and setting. The application was for erection of 35 apartments and associated external works and was recommended for approval subject to conditions.

Members were reminded that the application had been considered at the last meeting in October when Members had resolved to refuse it. It was explained that the application was back at Committee for consideration as there had been an error within the report considered by Members in terms of the parking provision. The Senior Planning Officer reminded Members of an existing permission that included undercroft car parking provision and explained that the report considered by Members in October had stated that there were 46 undercroft car parking spaces. It was noted that this was incorrect and that the existing permission actually included 36 car parking spaces, 25 of which were undercroft car parking spaces, accessed from Providence Row, with the remaining 11 being surface car parking spaces accessed from Ferens Close. Accordingly, it was noted that the current application only reduced the car parking numbers by 2, not 12 as stated in the previous report.

Councillors were also asked to note that some minor discrepancies relating to plans and land ownership, were addressed within the report. The Senior Planning Officer highlighted that since the Councillors had visited the site prior to the last Committee meeting it had been fully screened, with images showing this being displayed. Members were shown elevations comparing the previously granted permission with those of the application being considered, with the Senior Planning Officer noting that the new elevations were almost identical.

The Committee were reminded that the approved scheme had included 25 undercroft car parking spaces accessed from Providence Row and 11 surface car parking spaces accessed from Ferens Close. It was added that the proposed scheme included 8 surface car parking spaces accessed from Providence Row, 16 surface car parking spaces accessed from Ferens Close, at the same point as the previous application, and a further 10 surface car parking spaces accessed from the south end of Ferens Close, with a footpath link from these spaces to the proposed development.

The Senior Planning Officer noted that in terms of representations from statutory consultees, the position was the same as at the October meeting, with no objections and that the Highways Section had noted that 34 car parking spaces for 35 apartments was acceptable given the close proximity to the city centre.

The Committee noted an additional letter of objection had been received since the last Committee, making a total of 12 objections received with the main reasons cited in objection including: an increase in traffic; lack of car parking spaces; the location of the car park resulting in noise and disturbance; loss of trees; flood risk; and the appearance of the development.

The Senior Planning Officer noted that in terms of the extant permission the principle of development had been approved and it was the opinion of Officers that the issues raised in terms of impact upon residential amenity, impact upon the Conservation Area and highways were not considered sufficient to warrant refusal of planning permission and therefore the application was recommended for approval.

The Chairman asked Ms K Banks, a local resident to speak in relation to the Application.

Ms K Banks thanked the Chairman for the opportunity to address the Committee and thanked the Members for their careful consideration and decision made at the October meeting refusing the application. It was noted that the report, and articles in the press with comments from the Head of Planning and Assets, had set out the reasons for the application being back at Committee. However, Ms K Banks explained that she felt the proposals were the same as those considered and refused at the last meeting. Ms K Banks noted that the reasons for refusal had been on issues of highways safety and residential amenity and added that the distance to the application site was greater than the 400 metres mentioned within reports previously.

Ms K Banks explained that the proposed car park at the top of the site would be inaccessible during periods of snow, adding that often the conditions were such that residents living at the top of Ferens Close would have to leave their cars at the bottom of the bank. Ms K Banks noted that at the October meeting, Councillor P Conway had explained that a key reason for the approval of the application in 2014 had been the provision of undercroft car parking.

Ms K Banks noted that the proposals were for a total of 26 car parking spaces to be accessed from Ferens Close. Ms K Banks noted that residents of the proposed development, and visitors to those residents, would drive up Ferens Close to look for a place to park and should there be no spaces available they would then need to reverse back on to Ferens Close. It was added that this would cause issues in terms of traffic and parking as those future residents and visitors may decide to park along Ferens Close itself. It was added that on evenings and at weekends there were no parking restrictions and that if people were to park along the narrow road this would lead to difficulties in terms of access, especially for those existing residents who need to have sufficient room to be able to turn their vehicles to access their driveways. Ms K Banks added that there would be a threat to elderly residents and children from increased traffic and that the proposal would be a detriment to residents.

Ms K Banks noted that the Senior Planning Officer had set out within his report that the previous permission could be implemented Ms K Banks added that the permission including the undercroft car parking had been approved with a flood risk assessment having been provided in terms of that application, and another development in the area had undercroft car parking provision.

Ms K Banks explained it was crucial that the right decision was made and urged Members to refuse the application, as they did at their October meeting, as the reasons for that refusal in terms of traffic and residential amenity were not affected by the error that had been noted within the previous Committee report. Ms K Banks asked the Committee not to bow to Developer pressure.

The Chairman thanked Ms Banks and asked Mr A McVickers speaking on behalf of the Applicant to address the Committee.

Mr A McVickers noted the application was identical to that considered by the Committee last month; however, it was back for consideration due to inaccuracies within the Committee report in terms of plans and car parking. It was added that it was not correct to say that the application which was approved in 2014 only had undercroft car parking provision, rather that permission included an 11 space parking court accessed off Ferens Close. Mr A McVickers explained that the application being considered included 16 spaces at this parking court, an additional 5 spaces, and that the 34 car parking spaces would be accessed either from Providence Row or Ferens Close. It was clarified that the previous permission included 36 car parking spaces, which equated to 1 space per dwelling and 1 additional space, and the application at Committee for determination included 34 car parking spaces, only 2 less than the existing permission.

Mr A McVickers added that the site was further than 400 metres away from the Market Place and that guidance in terms of provision of a maximum standard number of spaces would not apply. Mr A McVickers added that the National Planning Policy Framework (NPPF) reflected this approach at Paragraph 39 noting "If setting local parking standards for residential and non-residential development, local planning authorities should take into account: the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; local car ownership levels; and an overall need to reduce the use of high-emission vehicles". Mr A McVickers noted that the location of the development was very sustainable in terms of its city centre location, with access to public transport at Freeman's Place approximately 350 metres from the application site. It was added that in terms of car ownership, data from the 2012 Census showed that 70.1% of people in County Durham owned 1 car or did not own a car.

Mr A McVickers explained that it was felt that the application was in accord with the NPPF and Policy T10 of the saved City of Durham Local Plan and therefore there was no reason for the application to be refused. It was added that planning law stated that where applications were in accord with local plans then they should be approved. Mr A McVickers added that as each application should be judged upon its own merits, there were no issues with this application and the extant permission was not the one being considered.

Mr A McVickers concluded by noting that the relevant supporting documents and drawings had been submitted and had met the necessary requirements, no objections had been raised by statutory consultees, and therefore as all the requirements had been met, he requested that the Committee approve the application.

The Chairman thanked Mr A McVickers and asked Members of the Committee for their questions and comments on the application noting Councillor D Freeman, also a Local Member in respect of this application, indicated he wished to speak.

Councillor D Freeman reminded Members that the application had been refused at the last meeting of the Committee, with the reasons cited at that meeting for refusal being that the application was contrary to saved City of Durham Local Plan Policies H13 and T1 as there would be an increase in traffic. Councillor D Freeman accepted that the figure as regards car parking provision for the extant permission had been incorrectly noted within the October Committee Report, however, the fact remained that the application being considered would mean more cars accessing the site from Ferens Close.

It was added that within the report that the Environment Agency had noted no objections in terms of flood risk and there had been no issues with the nearby development that had undercroft car parking provision. Councillor D Freeman noted that guidance for car parking provision was 1 space per 2 bedroom dwelling and 2 spaces per 3 bedroom dwelling and therefore this would equate to a provision of 46 spaces for this proposed development. Councillor D Freeman noted he had not supported the approval of the permission granted in 2014 and added the reason for less parking provision than the 46 as per guidance had been cited as the close proximity to the Market Place, with a distance of around 400 metres quoted in the previous report. Councillor D Freeman noted this was ridiculous as the actual distance from the site to Claypath was around 500 metres and the distance to the main transport links of the Bus and Rail Stations was around 900 metres. Councillor D Freeman felt it was not acceptable to ignore the Authority's guidance in this regard, especially as there was potential for car parking issues after 6.00pm.

Councillor D Freeman added that the extant permission had set out 25 undercroft car parking spaces accessed from Providence Row and 11 surface spaces being accessed from Ferens Close. It was added that the proposed development would represent 3 separate access points to the site, 2 coming off Ferens Close, increasing the traffic along Ferens Close. Accordingly, Councillor D Freeman noted that as nothing had changed since the application was considered in October he felt that the application should be refused as it was contrary to Policies H13 and T1 of the saved City of Durham Local Plan.

Councillor J Robinson noted he had not been at the last meeting of the Committee so had considered the development and read the papers and submissions from objectors with fresh eyes.

He noted looking at the minutes and reports there appeared to be an increasing spider-web in terms of the parking issues, and added comments within the report stated residents of the proposed development would not be able to get parking permits as existing residents did and they, and their visitors, would need to pay for pay and display parking. Councillor J Robinson noted that existing residents paid for their parking permits and added that it seemed to be that residents were being fitted around the scheme.

Councillor J Robinson added that there was an extant permission with undercroft car parking and asked why has this scheme not been taken forward, with the Developer knowing what they were getting into as when the permission was granted in 2014. Councillor P Conway had raised the issue in terms of potential flooding and there had been no objections from the Environment Agency as regards that application. Accordingly, Councillor J Robinson noted he could not support the application.

Councillor P Conway noted he understood the reason why that application was back before Committee for consideration, to close a legal loophole, however he felt there were no reasons to change his opinion on this application. Councillor P Conway added that the undercroft car parking had been fundamental to the 2014 approval and that in considering the current application he felt that there would be highways problems if approved. Councillor P Conway suggested that given the location of the development, it was unlikely the apartments would fall within the affordable housing price bracket and that car parking would be required for each property. Councillor P Conway concluded that he would support the Local Member in proposing refusal of the application and would suggest the Developer complete the site as per the 2014 permission.

Councillor C Kay explained he had noted no significant change since the meeting in October and therefore supported the refusal of the application. He added he felt that it was classic Developer creep and while he understood the reasons why the application was back at Committee for consideration, it was the same as the one that was refused. Councillor C Kay noted that the Developer had got planning permission in 2014 and suggested that they go and build as per those approved plans.

The Senior Planning Officer explained that Highways Engineers had stated that while the development was outside of the 400 metres in terms of guidance on parking, it was considered a reasonable walking distance to the city centre, with the Institution of Highways and Transportation noting a suggested acceptable walking distance to a town centre up to a maximum of 800 metres.

Councillor D Freeman noted he proposed that the application be refused, for the same reasons as explained at the October meeting of the Committee, namely that the application was contrary to saved City of Durham Local Plan Policies H13 and T1. The Chairman noted the reasons as set out in the minutes of the previous meeting and asked as regards issues of access. Councillor D Freeman noted that the additional access from the top of Ferens Close made more of an issue in terms of traffic. The Team Leader - Central and East, Sarah Eldridge asked if the issue was simply as a result of the additional access or whether it was intensification.

Councillor D Freeman noted it was both, with the proposed additional car parking spaces provided at the parking court off Ferens Close and the additional parking accessed from the top of Ferens Close meaning additional traffic would access the site from Ferens Close. It was noted that the extant permission would have less traffic along Ferens Close as majority of car parking provision would be accessed from Providence Row.

Councillor D Freeman moved that the application be refused; he was seconded by Councillor P Conway.

That the application be **REFUSED** for the following reasons:

1. The new access from Ferens Close would have an adverse effect on the area and on the character of the area by the conversion of an area of green land into a car park, contrary to saved policy H13 of the City of Durham Local Plan.
2. The amended access points for this development would have an adverse effect on the amenity of local residents and of residents in Ferens Close, particularly after 6.00 pm, contrary to saved policy T1 of the City of Durham Local Plan.

**b DM/16/01717/TPO - Land Opposite To 55 South Street, Durham**

The Principal Planning Officer, Alan Dobie 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 Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the felling of one cypress tree protected by a Tree Preservation Order (TPO) and replacement with indigenous deciduous variety and it was recommended for the Committee to be minded to refuse the application.

Members were reminded that the site was within the City of Durham Conservation Area and that in 2015, prior to the TPO being in place, an application was made to fell the tree under Conservation Area controls. It was added that at that time Officers from the Landscape (Trees) and Planning Sections felt that as the tree was within the CA, and that it passed the relevant criteria associated with quality, health, age and longevity, that a TPO was appropriate for this particular tree.

The Principal Planning Officer noted objections to the application had been received from the Council's Landscape (Trees) Officers in terms of the tree being a healthy specimen and was a notable and attractive feature within the visual environment, making a positive contribution to the character of that part of the Conservation Area. It was noted that there had been 12 letters of support for the felling of the tree, citing reasons including: loss of view; non-native species; visual intrusion; detrimental impact upon the area; damage to church buildings; out of character; height; loss of natural light; and the tree being an overbearing eyesore.

The Committee noted that there had been 2 letters of objection to the felling of the tree noting that the tree enhanced the area, that the application for felling was more to do with house prices and that there had been a lack of notification/public consultation.

The Principal Planning Officer explained that in planning terms there were three considerations: the amenity value of the tree; whether the proposal was justified; and whether any loss or damage was likely to arise if consent was refused. It was noted that these matters were set out in some detail within the report, and that Members had visited the site and therefore would be able to make some judgement in terms of the amenity value of the tree. It was added that the tree had been assessed to have "some life left in it" and there was no evidence of the tree causing issues of structural damage. Councillors were informed that there had been a campaign locally to save the tree, however this was not a relevant planning issue and the recommendation was based upon the merits of the application.

Members noted that unauthorised works had been carried out to the tree in terms of lopping, and a retrospective application had been made as regards this, with the Tree Officer having inspected the works and deemed them acceptable.

The Principal Planning Officer concluded that it was the view of Planning Officers that the application be refused, however, Members were advised to note that the Council's Constitution was such that the Committee could not determine the application, rather be minded to approve or refuse and that the power to make a delegated decision was with the Head of Planning and Assets, taking into account the views of the Committee.

The Chairman asked the Local Member for Elvet and Gilesgate, Councillor R Ormerod to speak in relation to the Application.

Councillor R Ormerod thanked Members for the opportunity to speak and noted he would keep his comments brief. Councillor R Ormerod noted that issues in terms of trees were often emotive and the judgement in these matters was subjective, with some trees being judged such to be retained, some to be removed. Councillor R Ormerod noted that in this case he did not feel that the tree was worth keeping and highlighted that actually the tree would not simply be felled, rather it would be replaced. Councillor R Ormerod noted that while some may judge the tree to be a fine specimen in isolation, it was in much conflict with the surrounding woodland and he felt that felling of the existing tree and replacement would be much more appropriate. It was added that there could be an opportunity for the local primary school to get involved in the process of looking at a replacement tree. It was explained that local residents and the Dean and Chapter did not object to the application and therefore Councillor R Ormerod noted that he supported the application.

The Chairman thanked Councillor R Ormerod and asked Ms E Bell a local resident to speak in relation to the Application.



Ms E Bell noted that she and her husband had been dealing with the issues in relation to trees in this area over the last 6 years and that 5 conifer trees had been removed at her and her husband's expense in order to give neighbours a view of the Castle. It was explained that the TPO had been put in place less than a year ago, and Ms E Bell noted that the applicant appeared to insult the Officers involved in the process of granting a TPO, highlighting that TPOs were not arbitrarily determined, with the documentation being meticulously prepared. Ms E Bell added that she would urge the Committee to refuse the application based upon the application being contrary to saved City of Durham Local Plan Policy E22 together with Policies E14 and E15.

Ms E Bell noted that the tree was not within the World Heritage Site; rather it was located within an allotment leased from the Dean and Chapter, in a grove with 4 other trees. It was added that Ms E Bell felt it was unfeasible what the applicant proposed in terms of changing a 100 year old tree, it was not like changing your car, with Ms E Bell stating that the roots of the tree likely supported the local area, including land of the applicant and other neighbours.

Ms E Bell added that the tree would trap CO<sub>2</sub> all year round, being an evergreen species, and that the tree was in a sustainable area and that the only issue seemed to be it was impinging upon some peoples' view, in their opinion. Ms E Bell noted that it had been suggested that removal of this particular tree was no different than the other trees that had been removed. Ms E Bell asked Members to note that the tree was named Elsee, and was not just any tree. It was added that thousands of schoolchildren supported Elsee and that the Head of St. Leonard School, formerly resident at her property, supported Elsee. Ms E Bell added that there were over 200 signatures in support of keeping Elsee and two children's stories had been written about "Elsee the Miracle Tree" and she was meeting with a publisher and an illustrator in this regard. Ms E Bell explained that there may be opportunities to have events involving and supporting the Woodland Trust and that this was not the end of Elsee's story, the ending was up to the Committee.

The Chairman thanked Ms E Bell and asked Mr R Freeley, the applicant, to speak in relation to the Application.

Mr R Freeley thanked the Committee for the opportunity to speak and noted he and his partner lived at 55 South Street in the city. Mr R Freeley explained that all the relevant background information had been provided in his statement within the report and asked Members to imagine if their own home looked out at a tall, dark, unchanging tree and asked would they not prefer to look out at an Ash Tree that changed throughout the year. Mr R Freeley noted that the choice of replacement would be for the Council to make and would be made at his expense.

Mr R Freeley added that if the majority of the residents were of a similar opinion and did not feel that the tree added to their amenity and therefore should be removed. Mr R Freeley concluded by noting that the speaker in objection to the application was no longer resident in Durham and that he hoped Members would support the application.

The Chairman thanked Mr R Freeley and asked the Principal Planning Officer to comments upon the issues raised by the speakers.

The Principal Planning Officer noted that the applicant had offered to replace the tree at their expense and while this was laudable, the loss of a tree of that scale and maturity would be difficult to replace. It was added that any replacement specimen would not be as mature and require a number of years before becoming equivalent in size and impact, therefore in the short to medium term it would not be appropriate suitable replacement. The Principal Planning Officer added that the tree was already in place when the applicant moved into the property and therefore the view of the tree would not have come as a surprise, and in the wider sense the Officers supported the retention of the tree.

The Chairman asked Members of the Committee for their questions and comments on the application noting Councillor D Freeman, also a Local Member in respect of this application, indicated he wished to speak.

Councillor D Freeman noted he was a big fan of trees and it was not very often that he supported their removal. Councillor D Freeman noted that the amenity test looked at whether the removal of a tree would have serious detriment to the amenity of the public, and in this particular instance he did not feel that there would be detriment to the public, with the majority of the local residents not supporting the recommendation for refusal, the planning portal not having any objections from residents of South Street. Councillor D Freeman added that it appeared to him that the tree was not the 100 year old as claimed, rather it was likely planted in the 1980s and as the tree was non-native it conflicted with the natural surrounding area. It was added that the landowner, the Dean and Chapter, had not objected to the removal of the tree, as there was no issue. Councillor D Freeman noted that he understood that it was an emotive issue; however he felt that the removal of the tree would be beneficial to the amenity of residents and therefore he could not support the Officer's recommendation for refusal.

Councillor B Moir noted he had sat on Planning Committees at Durham for almost 4 years, and had been involved with other Planning Committees for 16 years prior to this and felt he had almost entered an alternative reality when looking at this application. Councillor B Moir noted that the Officers' work on the matter had been solid and therefore he supported and proposed the recommendation that the Committee to be minded to refuse the application.

Councillor A Bell explained he had visited the site with the Committee, he felt that the tree actually complimented the area and hence the TPO being in place, and accordingly he would second the proposal for the Committee to be minded to refuse the application.

Councillor P Conway noted there was an issue of sovereignty in terms of who could make the final decision, and added that personally he often walked along this road and found the height and massing of Elsee to be very large and that a deciduous tree may be more appropriate. Councillor P Conway added he was happy for the Head of Planning and Assets to make an aesthetic judgement in this regard.

Councillor C Kay noted that when visiting the site, the tree was not what he had expected, and while he was no tree expert and while there may be some issue of amenity in terms of residents, no individual owned a view. Accordingly, Councillor C Kay noted his support for the Officer's recommendation.

Councillor B Moir moved that the Members be minded to refuse the application; he was seconded by Councillor A Bell.

## **RESOLVED**

That the Committee were **MINDED TO REFUSE** the application for the reasons set out in the Officer's report, with the final decision to be made by the Head of Planning and Assets under delegated powers.

### **c DM/16/02695/FPA - 16 Nevilledale Terrace, Durham**

The Principal Planning Officer gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was the erection of single-storey extension at rear of dwelling (retrospective application) and was recommended for approval, subject to the agreed alteration works being carried out within 3 months of the date of approval.

Members were reminded that an application for a flat roof extension had been approved in 2015, however, it was brought to the Authority's attention that the extension was: slightly taller than the permission; used slightly different windows; used a different lantern; and a different brick type. Accordingly, a retrospective application was required.

The Principal Planning Officer noted that the Local Members had asked that the application come to Committee for consideration due to the application site being within the Conservation Area and that the work had already been carried out. It was added that Planning Officers had spoken to the applicant in terms of their concerns and a number of changes were proposed within the retrospective application to make the extension acceptable in planning terms.

Members noted the replication of a coal hatch and the use of former coping stones to help visually reduce the height and help assimilate the extension into the street.

The Committee was shown a table setting out the elevations and issues in terms of the 2015 permission, what was actually built and what was proposed in the retrospective application. It was explained that the original permission granted had been approved under delegated powers and at that time the application had received no comments or objections. Members were aware of what had been built, having been out on site earlier in the day.

It was explained that the application in front of Committee proposed a negotiated compromise in terms of a reduction in height by 300mm, with anything greater requiring significant structural alterations, and work to the aluminium trim. It was added that the current glazed lantern element would be replaced with a less visible unit and in the Planning Officers' view these alterations would make the extension acceptable and if granted the works would be required to take place within the next 3 months.

The Committee noted that there had been 33 letters of objection to the application, with none having been received at the time of the 2015 application, and 30 letters of support had been received in terms of the application. It was added that objections had also been received from the Member for Parliament for the City of Durham, Roberta Blackman-Woods MP, the Crossgate Community Partnership and the City of Durham Trust. Members noted an additional objection had been received since the report was prepared for Committee.

Councillors noted that supporters had cited several reasons including that the development improves the property, that the works were minor and they constituted no significant harm to the Conservation Area.

It was noted that objectors had raised several issues in terms of the design of the extension and the context of the Conservation Area and saved City of Durham Local Plan Policies, as summarised within the report. It was added that other issues raised by objectors had included: that the original plans should have been followed and a fine should be issued for the breach; that the changes proposed were not sufficient; and that the Design Team had not correctly evaluated the proposed changes.

The Principal Planning Officer explained that the Council's Design and Conservation had offered no objections on heritage or design grounds. It was added that the flat roof, as opposed to sloped roofs used on other extensions in the area, was not seen as a significant issue and that in terms of the works already undertaken there was no real punishment in the case of the errors in construction. Accordingly, the recommendation was for the retrospective application to be approved and subject to the condition that the works be carried out within 3 months.

The Chairman noted the Local Members for Neville's Cross, Councillors G Holland and N Martin were in attendance to speak in relation to the Application and asked Councillor G Holland to begin.

Councillor G Holland noted that colleagues may have been puzzled why what appeared to be a small and parochial planning application had found its way to Committee and that both Local Members would attend Committee to speak about it.

Councillor G Holland added that the reason, however, was important. It was explained that in the beginning the property was just another House in Multiple Occupation (HMO) which the owner had decided to expand to include more students and thus increase the income from the property. The application for that work had been approved under delegated powers because it had apparently differed little from the hundreds of other such applications in the city centre.

Councillor G Holland explained that as the building progressed it became ever more obvious that the build was not following the approved plans and there was outcry from the local residents as what they saw emerging was, in their eyes, unacceptable. It was added that the extension as built was the wrong size, inappropriate in style and had disfigured the setting of the late Victorian Terrace.

Councillor G Holland noted that the test had to be whether this particular extension, which had been built without the benefit of planning permission, now met the demands of Policies E6, E22, Q1, Q9 and H9 of the saved City of Durham Local Plan, Article 4 relating to Conservation Areas in Durham City, and Policy 7 in the NPPF.

Members noted that Policy E6 placed constraints in a Conservation Area and was designed to protect the special features of Durham City, seeking to avoid reflective surfaces such as glass or plastic. It also requires the use of external building materials which are the same as, or are sympathetic to, the traditional materials in an historic city or an individual street. Councillor G Holland added that this arbitrary extension failed to meet those constraints and therefore it failed the test of E6.

The Committee noted that Policy E22 addressed the Conservation Area and in its first section it stated that the Council would not permit development proposals that would detract from the character or the appearance of the Conservation Area or its setting. It was added that all development proposals should be sensitive in terms of siting, scale, design and materials, reflecting existing architectural details. Members noted that the policy also demanded a sufficient level of detail to accompany applications to enable an assessment to be made of its impact on the Conservation Area. Councillor G Holland added that this never occurred. Councillor G Holland noted that in his opinion this application had failed the test of Policy E22 and that from the outset there had been inadequate detail to recognise the changing land levels, which were already well known, and yet which half way through construction made it clear that the original plans must founder. It was added that what followed was arbitrary and insensitive to the setting of the property in Nevilledale Terrace. The Local Member explained that the site was now over massed and discordant with the adjacent buildings with the flat roof that does not recognise the sloping roofs in all other adjacent properties, also being discordant. Councillor G Holland added that he felt that the aluminium flashing was unacceptable in a Victorian terrace and that the extension was a botch up and however much you fiddle at the margins you could not meet the design criteria demanded by Policy E22.

Councillor G Holland noted that Policy Q9 lead to a similar conclusion, requiring that the design, scale and materials were sympathetic to the main dwelling and to the appearance of the area. It was added that all the evidence made it clear that they were not and therefore the application failed the test of Policy Q9. Councillor G Holland noted at the application also failed the test of Policy H9, which was not mentioned in the Officer's report. It was explained that H9 was dedicated to HMOs and extensions to those properties and confirms that such developments must not adversely affect the amenities of nearby residents and were of a scale and character, both with their surroundings and with any neighbouring residential properties. Councillor G Holland noted that quite simply, it was not.

Councillor G Holland noted that the Officer did touch on NPPF Section 7 within the report but had failed to develop the concept. It was explained that this part of the NPPF demanded good design and added that the Government attached great importance to the design of the built environment. Specifically, Paragraph 64 stated clearly that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and the quality of an area and the way it functions. Councillor G Holland noted those were the exact words and as the development failed Section 7 Paragraph 64 of the NPPF, the application should be rejected.

Councillor G Holland noted that the problem that confronted the Committee was that the present situation, and the retrospective application, were the result of poor procedures at an earlier stage and a lack of control during construction. It was noted that added to this, the developers themselves failed to follow correct procedures or take advice. Councillor G Holland explained that the decision had to be based on Planning Policies rather than sentiment or the feeling that the development was too minor to bother about. Councillor G Holland noted you cannot cherry-pick the weight that you give to our Policies.

Councillor G Holland concluded by reiterating that he felt the application clearly failed the test of Local Plan policies E6, E22, Q9 and H9 and it also failed the Government's directive in Section 7, Paragraph 64 of the NPPF and therefore the Committee should reject the retrospective application and seek a more suitable structure in its place.

The Chairman thanked Councillor G Holland and asked Councillor N Martin to address the Committee.

Councillor N Martin noted he had a number of questions in relation to the application. Firstly he asked "when was a Conservation Area not a Conservation Area", adding that he did not believe that there was such a thing as a "part-Conservation Area". Councillor N Martin noted that the idea that one part of a Conservation Area did not look as pretty or did not matter was incorrect; rather development should enhance an area.

Councillor N Martin noted that the Officer had noted within the report and in reference at the previous application that each application was dealt with on its own merits and therefore the application would not be setting a precedent.

Councillor N Martin asked what was meant by "discourage the use of uPVC", adding did this mean that there was no force in planning terms and what reason was there for the use of uPVC, given that the original application stated no uPVC to be used.

Councillor N Martin added that the original application stated that materials must be approved by Planning Officers, however, the choice of bricks used was not submitted to Planning and therefore he asked what the response would have been from Officers in that regard.

Councillor N Martin asked at what point do planning permissions mean something, adding he suggested to the Committee that it was perhaps reckless that the choice of brick to be used was not submitted to Planning Officers.

Councillor N Martin noted that the Council had issued letters to some areas within the City noting that residents needed to have a certain type of window or paint type and concluded that the Council must say planning permissions and the Conservation Area mean something and refuse the application.

The Chairman thanked Councillor N Martin and asked Mr N Rippin to speak on behalf of Roberta Blackman-Woods MP in relation to the Application.

Mr N Rippin thanked the Committee for the opportunity to speak on behalf of Roberta Blackman-Woods MP, who was unable to attend the meeting. Mr N Rippin noted that the MP had met with residents and it had been noted that there was a great deal of resistance in terms of this application. It was added that the MP thanked the Conservation Officer who had agreed to meet with her on site and discuss the issues. However, it was explained it was not felt that the retrospective application was suitable, for the reasons and Policies as stated by the Local Member, and also the MP did not feel that the application would pass on appeal and therefore should be refused. Mr N Rippin explained that the MP had noted the application sought a very different scheme than that previously approved, with a significant height difference and unsuitable materials being used in terms of uPVC, brick type and aluminium trim. It was added that it was not felt that the application mitigated the harm to the historic street and the property was within the Conservation Area and was a non-designated heritage asset. It was noted that the character assessment of the area would be rendered out-of-date if the application was approved.

Mr N Rippin added that it had been noted that of the 30 letters in support of the application, several were from other local landlords and others were from students, with none of them setting out any material planning reasons why the application should be approved. It was added that on the whole the letters in objection were from local residents or from local community groups that had the interests of the city at heart. It was noted that tourism was an important part of the economic plan for the city and any additions needed to be sensitive and enhance the area. It was noted that approval would set a dangerous precedent and Members were reminded that Durham contained a World Heritage Site. It was added that there was already an existing permission and if the extension had been constructed in line with that approval then there would not have been an issue, with Members being asked to resist developer creep. It was explained that the MP understood the need to upgrade properties over time, however, such alterations and additions should be respectful of the Conservation Area and the surrounding properties and accordingly she would hope that the Committee refuse the application.

The Chairman thanked Mr N Rippin speaking on behalf of the MP and asked Ms S Wilkinson, a local resident to speak in relation to the Application, noting that there were a number of slides that would be shown while the resident spoke.

Ms S Wilkinson noted that the City of Durham Trust, the Local MP, Local Councillors and residents all supported the refusal of the application. It was added that a TV documentary had noted that developments within a Conservation Area must enhance the area. It was noted that the development was contrary to Policy E22 of the saved City of Durham Local Plan, and the report gave a false impression of the extension with the current height being 4 metres, with the existing permission being for a height of 3.5 metres. It was added that to state that the proposed 3.7 metre height was very similar to the former wall was not true, it was an increase 70 centimetres. Ms S Wilkinson added that Assistant Design and Conservation Officer had noted that the original design had been very well considered and added now it appeared as if the original was not of good design. Ms S Wilkinson added that Members would have seen on site the height of the extension and the fact that it was not stepped in height, unlike other properties in the street. It was explained that the salvaged coping stones were below the correct levels and this was a breach of Policy E22 and the NPPF. Ms S Wilkinson noted that the Article 4 Direction imposed in 2007 was to prevent this type of erosion of the Conservation Area. It was added that only one of the supporters was a resident of Nevilledale Terrace.

Ms S Wilkinson noted that the applicant had not approached the Council in terms of the brick type used, the lantern was not in keeping with the flat roofs used on extensions in the area and it was added that the windows had not been replaced with bi-fold doors. Accordingly, Ms S Wilkinson noted that the application was not in accord with saved City of Durham Local Plan Policy E6. Ms S Wilkinson noted that the wall should only be 3.5 metres and that there should be a parapet to shield the view from the street and the aluminium trim was not in keeping with the area, and should use glazed coping stones. Ms S Wilkinson concluded by explaining that residents would ask that the Committee refuse the application.

The Chairman thanked Ms S Wilkinson and asked the Principal Planning Officer to respond to some of the issues raised.

The Principal Planning Officer noted that policies had an element of interpretation and that the detailed assessment had been undertaken, in addition to seeking advice at a high level from within the Council's Design and Conservation Team, and it was felt with the amendments proposed within the application would make the extension acceptable. It was added that there was not a requirement to enhance a Conservation Area via legislation, rather to "preserve or enhance" and therefore in this case it was felt to preserve. It was explained that while Officers had not had the opportunity to comment on the brick type, now the application was assessed, looking at the range of materials used and those in the area and it was not felt there was sufficient detriment to warrant a refusal recommendation. The Principal Planning Officer added that there was also the fall-back position in terms of the existing permission. It was reiterated that Officers recommended that the application be approved.

The Chairman thanked the Principal Planning Officer and asked Ms J Atkinson to speak on behalf of the Applicant.



Ms J Atkinson thanked the Committee for the opportunity to speak and noted she was not a planning expert, and that in terms of the development an experienced architect was involved at the pre-planning stage however he had become distracted due to a personal matter which Ms J Atkinson felt she could not speak further on. Unfortunately there then had been a discrepancy in terms of the height of the development. Ms J Atkinson noted there had been a number of rather personal attacks as regards the application, however, once the discrepancy had been noted the Planners and Officers from Design and Conservation had been contacted and discussions took place as regards amended planning. It was noted that the Head of Design and Conservation had met with the MP in this regard and Ms J Atkinson noted that student housing was always an emotive issue, with Members well aware of this. Ms J Atkinson did note and thank those residents that did make the effort to speak to her and chat as regards circumstances behind the situation and offer their support, though noted that the atmosphere of intimidation was such that they did not feel they were able to come forward in terms of publicly supporting the application. Ms J Atkinson thanked those who had offered gifts of scones and flowers, with their gestures being very kind. Ms J Atkinson also thanked the Council's Planning and Heritage and Design Departments for their help and asked the Committee if they would support the Officers' recommendation for approval. Ms J Atkinson noted that there was not a large difference in comparison to the approved permission, the extension did not overlook any other properties and the application would preserve the quality of the Conservation Area.

The Chairman thanked Ms J Atkinson and asked Members of the Committee for their questions and comments on the application.

Councillor A Bell noted he had attended the site visit and with his building experience the development was not the best extension in the world, however, he did not feel that a drop of four courses would alter or improve the situation. Councillor A Bell added that he understood that the uPVC lantern was considered obtrusive and noted that the reduction of four courses may not be sufficient, however asked if the fall-back position of the previously granted permission or another application may be more suitable.

The Principal Planning Officer noted to work to the previous permission would require at least some demolition or alteration to the roof and while this may require substantial construction works the applicant may wish to go back to this permission should their application be refused.

Councillor A Bell noted that the alterations to remove four courses of bricks would likely still be substantial, and added that surely the building inspector should have been "on the ball" and he did not feel the changes were warranted.

Councillor C Kay noted he was sorry to hear as regards the situation with the applicant, and noted he held a different view to that of Councillor A Bell.

He noted that he felt the removal of four courses of brick was significant and he also felt that a "Conservation Area was a Conservation Area" and the aluminium trim used was not acceptable in such a location, it was more suited to starter units at an industrial estate.

Councillor C Kay noted that the condition set out in the report stipulated that works be undertaken within 3 months and added that he may be cynical as regards whether they would be and wondered whether it was not possible to say put it back as it should be.

Councillor P Conway noted that the application seemed to be trying to make the best of a bad job; however, he felt that even the original application that was approved was not in keeping with the area. He added that he felt that the works did jar with the rest of the back street and that if the original permission had come to Committee and there had been an opportunity to discuss the issues fully then this situation may not have arisen. Councillor P Conway added that he did not know why it had not been called in initially and noted he agreed with Councillor A Bell in that building inspectors should have perhaps been “keeping an eye” on works. Councillor P Conway noted he was minded, given that the original permission had already been approved, to go back to the original position.

The Chairman asked if there were any Members wishing to make a proposal in terms of the application. Councillor P Conway asked if Planning Officers could comment on some of the points made by Members.

The Principal Planning Officer noted he was not sure what else could be added in terms of the report, presentation and representations made, however, reiterated that the application represented a compromise position negotiated between the applicant and Planning with recommendations from the Design and Conservation Team. It was added that in terms of approval or refusal, the applicant could go back to the original position, or appeal any decision to refuse the application, should Members be minded to refuse the application.

Councillor A Bell noted he felt that the Committee were stuck between a rock and a hard place, with Councillor P Conway mentioning the possibility of going back to the original approved permission, however he did not feel that was necessary and that the building inspector should take some responsibility.

Councillor A Bell moved that the application be approved; he was seconded by Councillor J Clark.

Upon a vote being taken the motion was **lost**.

The Chairman asked whether any Members wished to move to the contrary in respect of the application.

Councillor C Kay noted that the previous permission was granted and was deemed to not detract and he felt that the application would adversely impact.

The Chairman noted that a decision would need to be made and that if the Committee disagreed with the recommendation then the Members must propose and vote accordingly, citing with relevant policy reasons for refusal. Councillor C Kay noted that reasons would as be per the NPPF and saved Local Plan Policies, with the application detracting from the Conservation Area.

The Chairman reiterated that policies would need to be listed, together with reasons why the application was contrary to them in order for the Committee's decision to be robust should an appeal against it be made.

Councillor B Moir noted that on that basis the decision would be based upon: Policy E6 of the saved City of Durham Local Plan and retaining the character of the Conservation Area; Policy Q1, in terms of the design and layout; Policy Q9 in respect of alterations and extensions to residential properties; and Policy E22 preserving the Conservation Area.

The Solicitor - Planning and Development, Neil Carter explained that the development was not built in accordance with a permission that was already in place. The application before Members was a retrospective application not for the works as carried out, rather for what would be retained, 20 centimetres higher than the permission already in place. The Solicitor - Planning and Development added that if Members were minded to propose the refusal of this application then they would need to identify what harm would be caused by the proposals in the application, what it was that would be unacceptable when compared to the extant permission already in place.

Councillor B Moir noted that the original position had been agreed under delegated powers and from the comments made it appeared that the Committee did not accept the aluminium trim in principle and the objectors had noted that 3.5 metres in height was acceptable, with the proposal being 3.7 metres and therefore this was not acceptable in terms of Policy E6.

Councillor J Robinson noted the original permission was granted under delegated powers and the views of Members seemed to be such that it may be preferable to defer the application until the next Committee to see further details of the original application as he felt that there was insufficient information on that at present.

The Chairman noted if Members felt that there was a need to defer the application then it would need to be proposed and seconded.

Councillor P Conway noted that if Councillor J Robinson was proposing deferral he would second this and look to have an application back at a future Committee.

Councillor J Robinson moved that the application be deferred; he was seconded by Councillor P Conway.

## **RESOLVED**

That the application be **DEFERRED**.

**d DM/16/03056/FPA - Seaham Grange Farm , Stockton Road, Seaham**

The Planning Team Leader (Central and East), Sarah Eldridge 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 Officer advised that Members of the Committee had visited the site that day and were familiar with the location and setting. The application was a detached new dwelling to replace previous existing barn and was recommended for refusal.

Members noted that an agricultural barn had been on the site and had been in the process of conversion into a dwelling, under permitted development rights, when the structure collapsed. Accordingly, an application was submitted in terms of a new detached dwelling on the site. It was explained that the area contained a small cluster of properties, and that the site was within the green belt. The Planning Team Leader noted that the applicant ceased works on the site and effectively all that remained was a concrete pad. It was explained that the footprint of the proposed building was the same as the demolished agricultural building and the shape, size and massing was identical to the proposals that would have been undertaken under permitted development.

The Committee noted that there had been no objections from the statutory or internal consultees on the application and there had been 2 letters of support from local residents, wishing to see the site developed as a family home.

The Planning Team Leader noted that the issue was whether the proposal was acceptable in principle. It was reiterated that the agricultural building did have permission for conversion to residential use; however this application was for the replacement of a building. Members noted that the site was now open and therefore the proposals represented development in the green belt and represented an adverse impact. The Planning Team Leader noted that in all other aspects the proposal was acceptable; however, as the application represented development within the green belt the recommendation was for refusal.

The Chairman asked Mrs Proctor, the applicant, to speak in relation to the Application.

Mrs K Procter explained that she and her husband had bought the property around a year ago, with the intention to convert it to a family home. She added that during the process of removing the asbestos roof and timbers, the building had collapsed. It was noted that it had been unavoidable and the collapse had been dangerous. Mrs K Procter added that they had contacted the Planning Department subsequent to the collapse and were told to stop building and resubmit the application.

Mrs K Procter explained that they did not want to do anything different to the previous conversion application, simply to have a family home. It was added that they were from Seaham, with family living in the area and their children attending the local school.

Mrs K Proctor concluded by explaining she and her husband were not developers, were not building the property for the money, rather as a family home, investing their life savings and should the application not be approved they would lose everything.

The Chairman thanked Mrs K Proctor and asked Members of the Committee for their questions and comments on the application.

Councillor J Robinson noted that this application reinforced his view of the foolishness of planning law, with the last application having been built not in line with permission and with this application where the applicant has come to the Council to get the right permission in place. Councillor J Robinson noted the recent Planning Inquiry which was lost in terms of 300 houses, a large development, and this application was for a single dwelling, already part of a small developed area. Accordingly, Councillor J Robinson felt that there was a special argument and as there had been no objections to the development he felt the Committee should be pragmatic and go against the Officer's recommendation.

Councillor P Conway noted he supported Councillor J Robinson in terms of being a special circumstance, with the site being bound by other properties on three sides, with no visibility of the "green belt", and a number of residential properties in the area. It was added that he could not imagine standing in any position in the nearby green belt and there being potential harm from this proposed development and therefore felt there were special circumstances. Councillor P Conway added that the current state of having an empty plot was "hurtful to mine eye" and in fact felt the development would enhance the area, accordingly he would support approval of the application.

Councillor A Bell noted the crazy situation in terms of the permitted development, then the collapse and the application having to come before Committee with a refusal recommendation. In terms of requiring a special circumstance, Councillor A Bell noted that while the original conversion was of an agricultural building to a residential property, could it be considered that the development was a continuation of the building works that had started when the structure collapsed. Councillor A Bell noted he too supported approval of the application.

The Solicitor - Planning and Development noted that while building works had begun in terms of the permitted development, conversion of a barn, any future works would constitute a new development and would require planning permission and the refusal recommendation from Officers was due to the development being inappropriate development within the green belt, with the NPPF stating there was harm by reason of inappropriateness, and it would be for Members to decide whether this harm was outweighed by any other circumstances, such that very special circumstances could be said to exist.

Members were reminded that there was no closed list in terms of what potential circumstances could outweigh the harm, for example the personal circumstances of the applicant were a material planning consideration and Paragraph 88 of the NPPF stated:

*“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the green belt. ‘Very special circumstances’ will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.*

Councillor J Clark noted that this application highlighted the importance of site visits, adding that simply looking at the report there appeared no reason to believe the application should go forward. However, going on site and seeing the context of the site, how it sat with the existing buildings, Councillor J Clark noted her support for what fellow Members had said in terms of approval on the basis of: the personal circumstances of the applicants; the development caused no additional harm to the green belt; and that if the site was not development then this would constitute harm to the other nearby residents and negatively impact upon amenity.

Councillor C Kay felt that the site was in fact brownfield as there had already been development on the site and that while Members accept the Planners’ views, common sense would say it was the same development as before and the development was not “out in the wilds of Wannie” and therefore he would support and move approval of the application.

The Chairman noted that the Committee must work on the principles of the Planning Policies in place, as the Planning Officers did, and if Members felt they did not support the view of Officers then they must give the reasons why and refer to the relevant policies to support that view.

Councillor B Moir asked if the comments from Members of the Committee had identified yet, for the purposes of a proposal for approval, the special circumstances that would outweigh the harm to the green belt, reiterating the unfortunate collapse of the agricultural building, a commercial disaster and a personal devastation.

The Chairman noted he felt the Committee was almost there, with Councillor P Conway having noted he felt the development would enhance the green belt and the amenity of the nearby residents.

Councillor J Robinson noted he proposed that the application be approved, noting the special circumstances in terms of: the personal circumstances of the applicants; the development being at the edge of the green belt; the development would enhance the area; was near to other built up areas; and not causing additional harm to the green belt; outweighed any perceived harm to the green belt. Councillor P Conway seconded the proposal for approval adding; if Councillor J Robinson was in agreement, that there would be harm to the amenity of the other residents should the development not take place. Councillor J Robinson agreed.

The Planning Team Leader noted that should Members vote to approve the application, it would be subject to the normal conditions in such applications, such as timescales, approved plans, suitable materials and to also remove further permitted development rights, and asked if the Committee would also agree for those conditions to be determined by Officers under delegated authority from the Committee. Members agreed in terms of the delegation of conditions to Officers as suggested.

Councillor J Robinson moved that the application be approved; he was seconded by Councillor P Conway.

**RESOLVED**

That the application be **APPROVED** subject to conditions to be agreed by Planning Officers.