

**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 13 December 2016** at **1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors G Bleasdale, P Conway, M Davinson, D Freeman, C Kay, J Lethbridge, J Alvey (substitute for J Clark) and L Taylor (substitute for A Laing)

**Also Present:**

Councillor Grenville Holland

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, J Clark, S Iveson, A Laing and B Moir.

**2 Substitute Members**

Councillor J Alvey substituted for Councillor J Clark and Councillor L Taylor substituted for Councillor A Laing.

**3 Minutes**

The minutes of the meeting held on 8 November 2016 were confirmed as a correct record by the Committee and signed by the Chairman, subject to amendments to the comments made by Ms S Wilkinson who spoke at the meeting in relation to Item 5c, DM16/02695/FPA – 16 Nevilledale Terrace, Durham, as follows:

*“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 the back of Nevilledale Terrace was highlighted in a TV documentary as an important contribution to the Conservation Area. It was noted that the development was contrary to Policy E22 of the saved City of Durham Local Plan, and the plans gave a false impression of the finished 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 in his first Design and Conservation report, the Assistant Design and Conservation Officer, Lee Hall stated that “the design of the extension has been very well considered”, yet in his second report he says that “the extension built without the benefit of planning permission is not of the design quality anticipated” and because planning permission was flouted, what has been built is 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 according to the retrospective plans, the salvaged coping stones would be built into the brick wall at heights below those actually in place, however the salvaged copings have been cut up and slices glued and screwed to the exterior of the rear wall and therefore this was a serious 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 roof lantern was to be substituted by a flat roof window on the amended plans, but the two windows, visible above the boundary side wall, remain and these should be replaced by the bifold 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.”*

#### **4 Declarations of Interest**

There were no Declarations of Interest submitted.

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

##### **a DM/15/02129/FPA - 3 Fram Well House, Diamond Terrace, Durham**

The Senior Planning Officer, Chris Baxter 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 demolition of existing building and proposed new build for student accommodation and was recommended for refusal.

The Senior Planning Officer noted that in terms of representations from internal and statutory consultees there had been objections raised by the Highways Section in terms of highway safety and amenity and they recommended that the application was refused. Members noted objections to the application had also been received from Durham University, the Council's Ecologist, Design and Conservation Team and Landscape Team in terms of: no up-to-date bat survey had been submitted with the application; the proposals would lead to less than substantial harm to the conservation area; and there was concerns in terms of the proposal would contradict planning policy.

The Committee noted 75 letters of representation had been received, mostly in objection to the application, including from local residents, the Sidegate and Elvet Residents' Associations, Crossgate Community Partnership, Neville's Cross Community Association, Durham City Neighbourhood Planning Forum, the World Heritage Site Co-ordinator, City of Durham Trust, Campaign to Protect Rural England, Councillor R Ormerod and Roberta Blackman-Woods MP. The main concerns raised included: impact upon the World Heritage Site, Conservation Area and Green Belt; impact on the nearby railway line; impact upon residents; the application not being in accord with planning policy, including the Interim Policy on Student Accommodation; highways safety; and issues in terms of discrepancies in terms of plans and ownership of the entire application site.

The Senior Planning Officer noted that in terms of the principle of development there would be a loss of employment use and the development would not maintain a mixed or balanced community. It was added that the application represented development in the Green Belt, and there were no very special circumstances which clearly outweigh the harm by reason of inappropriateness and other harm. Members noted that Officers felt the development layout and form would be unacceptable and would not preserve or enhance the Conservation Area and that poor vehicular access and insufficient car parking would compromise highway safety. It was reiterated that insufficient evidence had been submitted to ensure protected species or their habitats would not be adversely affected by the proposal and the Senior Planning Officer concluded that accordingly Officers recommended that the application be refused.

The Chairman asked Mr J Lowe, to speak on behalf of the Sidegate Residents Association in relation to the Application.

Mr J Lowe explained that he was the Chairman of the Sidegate Residents Association and that this included Diamond Terrace, the row of houses located adjacent to the application site. He noted that the report detailed reasons for refusal and that while residents were not opposed to the development of the site, they were opposed to the scheme as proposed in the application. It was explained that there was support from the Durham City Neighbourhood Planning Forum in terms of development of a small terrace at the site, and that the long list of objectors to the proposed scheme included both professional officers, the local MP, the World Heritage Site Co-ordinator and the University.

Mr J Lowe continued explaining that while it might seem neither necessary nor even possible to add to the reasons for refusal he would like to make three important additional points, firstly that the application makes no provision for wheelchair users and there were no ground floor bedrooms and no lifts. It was noted that this contravened Durham City Saved Policies Q1 and Q2, while the County Council's own student accommodation policy required such developments to be accessible and appropriate to disabled students, as set out at Paragraph 21.

Mr J Lowe noted that secondly there was the critical issue of the impact of 69 students living in close proximity to Diamond Terrace. It was explained that the Senior Planning Officer's report argued that, although the Applicant had not submitted a management plan to control their behaviour, a condition could be imposed requiring such a plan and therefore refusal could not be justified on the grounds of loss of residential amenity. Mr J Lowe added that even the best management plan could only exercise influence over students on the premises, it could not control their behaviour passing Diamond Terrace as they move to and from the premises. It was noted that the fact that a management plan could not control students off the premises was noted by the Inspector who refused the King's Lodge appeal last year.

Mr J Lowe explained that thirdly the proposal presumed to be able to use, as the only access road for the student blocks, land that does not belong to the Applicant but which is a vital amenity for the residents of Diamond Terrace. Mr J Lowe noted that he was referring to the strip of back gardens that Residents had cultivated and used as a drying ground for over 40 years and added the back lane that provided the only vehicle access to our homes. Mr J Lowe stated that this contravened Durham City Saved Policy H10 that restricted backland development.

Mr J Lowe noted that the deeds of those living at Diamond Terrace gave a right of access using this lane, but it's not a public right of way. Members were asked to note that during the construction phase, Residents would have no vehicle access to their homes, nor would the bin lorries and emergency vehicles. It was added that the County Highways Authority opposed the application on the grounds of safety and amenity.

It was put to the Committee that those reasons clearly illustrated the unsuitability of this constrained site for such a large development, not only would the Applicant have to use Residents' gardens and back lane to the east of the Applicant's property, their plans also show their buildings encroaching on the west within the two metre buffer required by Network Rail to safeguard the embankment of the East Coast Main Line. Mr J Lowe added that in order to create a bit more space between the student blocks and Diamond Terrace the Applicant had moved the buildings further north and thus further into the green belt, with over half the development would be in the Green Belt. It was noted that the Green Belt boundary was designated 30 years after the Applicant's offices were built and very deliberately started at the northern end of the building to provide permanent protection for the open land beyond.

Mr J Lowe noted that Durham County Council prided itself on the quality of its governance, indeed having been awarded "Council of the Year 2014", and urged the Committee to exercise this good governance, to listen to the overwhelming voices of the local people you represent, and to take the clear professional advice of the Council's own Officers. Mr J Lowe concluded by asking the Committee to please refuse the totally inappropriate application.

The Chairman thanked Mr J Lowe and with there being no further speakers asked Members of the Committee for their comments, noting Councillor D Freeman as a Local Member as well as a Member of the Committee may wish to speak first.

Councillor D Freeman thanked the Chairman and noted he did not have much to say as the Officer's report was quite comprehensive and clear in its recommendation for refusal. Councillor D Freeman noted that Mr J Lowe, on behalf of Residents, and other individual submissions had also made it clear they also agreed with Officers and that the application should be refused. Councillor D Freeman noted that the application was contrary to saved policy in terms of highways safety and also Policies Q1 and Q8 in respect of the issues raised by Mr J Lowe as regards accessibility.

Councillor C Kay noted he agreed with the Officer's report and noted the issues in terms of highways safety meant the application should be refused. Councillor G Bleasdale added that she must agree in terms of the highways safety issues having a horrendous time on the site visit and that there were many other opportunities for student accommodation elsewhere in the City. Councillor J Lethbridge noted that the objectors had comprehensively made the case for refusal and the proximity of the proposed development to Diamond Terrace was quite worrying and therefore could not see how this application could be allowed. Councillor J Lethbridge added that the adrenaline inducing reversing of the coach on to the highway during the site visit had confirmed that there were worrying issues in terms of highways safety.

The Senior Planning Officer, noted that in terms of the comments from M J Lowe and Councillor D Freeman regarding Policies Q1 and Q8, he could confirm that the plans had no ground floor bedrooms, though this would be an issue in terms of Part M of Building Regulations though if the Committee wished this to be included as part of the reasons that would be a decision for Members.

Councillor D Freeman moved that the application be refused for the reasons as set out in the Officer's report and also in terms of being contrary to saved Policies Q1 and Q8 in respect of accessibility; he was seconded by Councillor C Kay.

## **RESOLVED**

That the application be **REFUSED** for the reasons as set out in the Officer's report and in being contrary to saved Policies Q1 and Q8 in respect of accessibility.

**b DM/16/02537/FPA - Land at Holly Street, Durham, DH1 4DE**

The Senior Planning Officer, Chris Baxter 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 construction of 60 bedroom student accommodation and was recommended for approval, subject to conditions.

The Senior Planning Officer noted that the site had been redundant for 30 years or more and noted nearby listed buildings at Hawthorn Terrace. Members noted the change in levels from Holly Street down to John Street and were shown proposed elevations that took this into account.

In terms of representations from internal and statutory consultees there had been no objections raised. The Committee noted 15 letters of representation had been received, mostly in objection to the application.

The Senior Planning Officer noted that in terms of the principle of development there would an impact on the Conservation Area, however, in weighing this impact against the benefits of developing the site it was felt on balance that development was acceptable. It was noted the application represented development on a brownfield site, in a sustainable location in line with the National Planning Policy Framework (NPPF) and the high quality of the scheme meant that the development would enhance the Conservation Area and the setting of the listed buildings. The Senior Planning Officer added that the scheme included improvements to the footpaths and would create a turning head at John Street enabling vehicles, including refuse wagons and delivery vans, to be able to turn around rather than having to reverse out on to the main highway. Members were asked to note the high concentration of students in the area, 91% and the Senior Planning Officer concluded by noting the recommendation was for approval of the application, subject to conditions.

The Chairman asked the Committee Services Officer to read out a statement on behalf of one of the Local Members, Councillor N Martin, who was unable to attend the meeting.

*"I wish to urge the Committee to turn down this application on several grounds. Firstly the proposal is contrary to the Interim Policy on Student Accommodation referred to in para.42 of the report. In particular this policy states that "new Purpose Build Student Accommodation (PBSAs) should demonstrate need".*

*In para.70 of the report the applicant asserts that "there is an acknowledged shortfall in student accommodation". The context of this assertion implies that this is the current situation and as such the assertion is simply false.*

*For instance the nearby “Village @ The Viaduct” has been half empty for two years according to the Council Tax collection office of the Council, and the latest development at Chapel Heights was still advertising 30% of its spaces after the end of the summer term this year.*

*In addition, there are at least another 2,200 beds currently in construction, 1,000 with a firm intention of construction by the university on Mount Oswald, and a possible extra 1,000 in that area on top.*

*Para.77 of the report says, somewhat vaguely, that “The planning statement submitted with the application does provide information in relation to the need for additional student accommodation which refers to the University Residential Accommodation Strategy 2012”, but the report then fails to assess the quality of the assertion and seems just to accept it.*

*As I hope I have demonstrated that assertion of need is false and so the application fails to satisfy the Interim Policy on Student Accommodation in this regard. Secondly, there is the impact on residential amenity.*

*Para.87 of the report makes the astonishing statement that “behaviour associated with students often gets exaggerated along with [its] frequency and magnitude”. As the local member, and having held a senior position in the University dealing with such matters, I can tell the committee that this is a statement that is not based on evidence. Is the officer aware of the numbers of calls being made to the police on late night noise issues or on the number of formal anti-social behaviour notices issued to properties in the area?*

*Simply to dismiss the cumulative effects on local amenity of increasing student numbers in such an unevidenced manner is more than a little disappointing.*

*Thirdly and finally, there is the issue of balanced communities. This is addressed directly in para.50 of the NPPF and is referred to in para.76 of the report. The comment from the Spatial Planning Policy Team and the officer writing the report give the impression that this issue of a balanced community can go either way, but surely the emphasis must be on not making matters worse. Indeed, this view is one taken by the Neighbourhood Planning Forum in its own response.*

*In summary, the Committee should reject this application citing specifically conflict with para.50 of the NPPF, the Interim Policy on Student Accommodation in relation to need and Policies H13 and H16 of the Saved Local Plan in relation to impact on the amenity of residents”.*

The Chairman thanked the Committee Services Officer and asked the other Local Member for Neville’s Cross, Councillor G Holland to speak in relation to the Application.

Councillor G Holland noted that the proposal to build yet another student hostel in Holly Street posed the questions: when is this going to stop; is there a need for it; and does it accord with the Council’s present planning policies and recent interim policy on student accommodation?

Councillor G Holland explained that the division that he represented, and the city in which he lived, was drowning under the wave of studentification, as the university expands to enhance its position and income. Councillor G Holland explained in giving an example of one outcome he would quote directly from a letter sent to a resident who was expressing deep concern at the uncontrolled conduct of students in the city centre and the awful impact it was having on her life. Councillor G Holland noted he believed the resident was told by a senior university officer:

*“It is the Council who are the authority that deal with refuse collection and inappropriate dumping of rubbish. It is the police who are the authority that deals with anti-social behaviour.”*

Councillor G Holland added that this was the clearest statement yet that the University has simply left student conduct in our city to others and that the people of this city and this authority, must carry the total burden, and it was too much.

Councillor G Holland noted that the concept of balance and the concept of need were important and were embodied in the Council’s important interim policy on student accommodation. It was added that the Committee should weigh this in the balance when they made a decision today and that in other university cities this concept is already informing decision taking and also informing Appeal Inspectors as they reject plans for yet more student hostels.

Councillor G Holland continued by explaining that in the absence of a Town Council the Durham City Neighbourhood Planning Forum (DCNPF) speaks for the residents on planning matters and noted that it had urged both the Officers, and thereby Committee, to reject this application. It was noted that in their report, the Officers had set aside the DCNPF’s opinion, yet the reasons for rejecting the application are strong.

Councillor G Holland noted that firstly, the Authority must ensure that Durham City has mixed and inclusive communities as required by NPPF paragraph 50 with the County Council to seek to ensure that balance, with the proposal only making things worse. It was added that secondly, the Council must demonstrate a 'need' for yet another PBSA and that this was not an arbitrary demonstration, a take it or leave it situation, it was a requirement.

Councillor G Holland continued and noted that the Council has not established any 'need' for yet another PBSA to add to the plethora of PBSAs already present in the city, or already with planning permission, and had left the proof of 'need' to the developer, which he felt hardly an independent source of guidance.

Councillor G Holland explained that recent academic research based on Durham City makes it abundantly clear that there was no 'need' for this type of accommodation at all and indeed it was counterproductive to the needs of the University and certainly to the needs of the city.

Councillor G Holland explained that the research now allowed a clear mathematical analysis of 'need', based on actual data from 3 university cities, including Durham. Councillor G Holland added that this analysis has not been used and therefore 'need' has not been adequately established and therefore Paragraph 70 in the Officer's report was wrong.

Councillor G Holland noted that thirdly he would refer Members to the impact of this PBSA on residential amenity; the impact would in fact take things from bad to worse. Councillor G Holland noted he had already outlined the uncontrolled nightly disturbances in what had been called the "wild west of Durham City", abandoned by the University and by our over stretched Police force.

Councillor G Holland considered that the proposed student hostel had no place in Holly Street and that C3 residential accommodation certainly did have a place, would be welcomed, and that was what the Council should be seeking in order to achieve balance for this location.

Councillor G Holland added that the Committee may be concerned that to refuse this application would leave the Authority open to an Appeal and one that the Council could not reasonably defend, in recent years Committee Members have all been confronted by that concern. Councillor G Holland noted that he would quote from a recent determination by an Appeal Inspector at Leeds faced with a very similar situation when he supported a Committee decision to refuse permission for a PBSA:

*"I conclude that the proposal would be located in an area with an existing excessive concentration of student accommodation that has had, and continues to have, a significant detrimental effect on the balance and well-being of the communities in that area.*

*The proposal would further increase that excessive concentration and exacerbate the current imbalance in the local population. It would add to many of the adverse social and other effects that flow from that imbalance, including effects on the physical health and well-being of members of the community regularly affected by noise, disturbance and antisocial behaviour; on the availability of housing for occupation by families and other sectors of the population."*

Councillor G Holland explained that Durham City, and especially the part of the city where the application site was, faced precisely the same pressures as Leeds. It was added that unless there was action to arrest this downward spiral then, within the near future, we would see the demise of Durham City as a place to live, work and enjoy. Councillor G Holland referred to Paragraph 60 in the Officer's report, and its repetition in Paragraph 103 that tacitly accepted this vision of a city now beyond retrieve. Councillor G Holland stated that this was not good enough.

Councillor G Holland concluded by noting that to protect the city he was asking the Committee to reject the application as it conflicted with Paragraph 50 of the NPPF, the Interim Policy on Student Accommodation in relation to need, and Policies H13 and H16 of the Saved Local Plan in relation to impact on the amenity of residents.

The Chairman thanked Councillor G Holland though pointed out he was not comfortable in terms of anonymous letters purporting to give a statement on behalf of another party, in this case the University, without the party being present to have the opportunity to comment on the statement. The Chairman noted that the statement may be correct, though equally it may be incorrect and therefore Members would need to be aware of this in terms of their decision making.

The Chairman asked Mr R Cornwell, Chairman of the Durham City Neighbourhood Planning Forum (DCNPF) to speak in relation to the Application, noting there would be an accompanying slideshow for Members to refer to in addition.

Mr R Cornwell thanked the Chairman and confirmed he was the Chair of the DCNPF and added that the DCNPF was the body designated by the County Council to draw up a Neighbourhood Plan. Mr R Cornwell explained that the DCNPF wanted a city with attractive and affordable places to live, with a vision for a sustainable population mix to meet the needs of all local residents. It was added that this was rooted in the NPPF, Paragraph 50 which sought to create sustainable, inclusive and mixed communities. Mr R Cornwell explained that the application site was one that the DCNPF had earmarked for 22 dwellings for older people, or for young professionals or young couples starting out, and was listed in the Council's Strategic Housing Land Availability Assessment (SHLAA) update for 2014 for 22 dwellings, with an earlier planning permission being for that number.

Mr R Cornwell noted that the Planning Practice Guidance (PPG) stated that the need to provide housing for older people was critical and that was true for this part of the City. Mr R Cornwell explained that the DCNPF had checked statistics and 33% of permanent residents living in this part of Durham City were retired, with 11% being over the age of 75. It was added that the site in question could help, being near to shops and public transport, important for people who may no longer be driving. Mr R Cornwell noted a second quote from the PPG stated that plan makers should consider options which would support both the needs of the student population as well as local residents before imposing restrictions, with the Council having done just that and approved the Interim Student Accommodation Policy just eight months ago.

Mr R Cornwell noted that there was a boom in building student blocks: Chapel Heights and the Gilesgate development having come on stream this year, and work being underway on another seven sites: Berendsen Laundry; Sheraton Park; County Hospital; The Gates; Lower Claypath; Keiper Court; and Renny's Lane. It was added that the University could grow from around 15,000 students in Durham City in the current academic year to about 20,000 before additional accommodation would need to be approved. Mr R Cornwell noted that by contrast, the needs of local residents had clearly not been met, in that virtually every brownfield site in Durham City that could and should be developed for "family housing" or other forms of accommodation for long-term residents had instead received approval for yet another PBSA.

Mr R Cornwell explained that Saved Policy H16 stated that a proposal should be approved if it would not lead to a concentration of student accommodation such that it would adversely detract from the amenities of existing residents.

Mr R Cornwell added that the amenities were affected and there was a need to rebalance, with trade falling off during vacations and local businesses, aside from coffee shops, could not thrive.

Mr R Cornwell noted there was the problem of student behaviour and while there may be on site management; this could not control students when they were out and about. It was added that the Officer's report stated, totally without evidence, that this "often gets exaggerated" and Mr R Cornwell noted there was evidence of noisy parties, urinating, vomiting or littering; and drunk and disorderly arrests, all set out in the DCNPF submission. Mr R Cornwell noted that just last week he had received an e-mail from the Police University Liaison Officer, Rebecca Carey, in which she had said: *"In the week before term ends, the beat team will be carrying out extra patrols and working half-night shifts on some nights to try and minimise disruption to residents"*.

Mr R Cornwell noted that the Interim Policy has three things that the applicant was required to demonstrate:

- a) That there is a need for additional student accommodation;
- b) It would not result in a significant negative impact on retail, employment, leisure, tourism or housing use or would support the Council's regeneration objectives.
- c) Consultation with the relevant education provider.

Mr R Cornwell added that if the applicant had offered evidence on any of these, then you could decide whether their arguments held water, however, they had not addressed these issues and that was not just the conclusion of the DCNPF, it was also that of the Council's own Spatial Policy Team. Mr R Cornwell mentioned this as he noted it had been left out of the Officer's report. It was added that the comments of the Spatial Policy Team in terms of viability were also missing, those comments casting doubt on the Viability Report, with the DCNPF sharing those doubts, again having been set out within the DCNPF submission. Mr R Cornwell noted that the site might be more profitable as a student scheme, adding that indeed the applicant had made no secret his preference for the scheme that would deliver the highest financial returns. Mr R Cornwell noted that the whole point of planning controls were to moderate a "market forces" approach.

Mr R Cornwell concluded by noting that the Committee needed to refuse the application in the interests of a sustainable, inclusive and mixed community and referred to a list of reasons and policies set out on within his slideshow that he suggested may be of use, contrary to: NPPF Paragraph 50; NPPG Paragraph 021; Saved Local Plan Policy H16; and the Interim Policy on Student Accommodation.

The Chairman thanked Mr R Cornwell and asked Ms N Allan, Planning Agent for the applicant to speak in relation to the Application.

Ms N Allan thanked the Chairman and the Committee and informed Members that the applicant was a local individual, based in Newcastle and that residential use for the site was already established.

Members noted that the PBSA would be ran by a management company and their responsibilities would be taken seriously, with a permanent presence on site. Ms N Allan highlighted that there were no objections from any of the Technical Officers, indeed with the highways section having pointed out the improvements that would be brought about as a result of the scheme, including a turning head for John Street. It was added that Historic England had not offered any objections to this application and Ms N Allan added that the appropriate weight must be given to the benefits of the scheme and to each of the relevant plans and policies. Ms N Allan noted that saved Policy H16 did not represent a requirement to demonstrate need, rather the Interim Policy on Student Accommodation set out the requirement to demonstrate need; however this Policy should be afforded less weight than the saved Local Plan.

Ms N Allan stated it was wrong to say that the applicant had not demonstrated need. She noted that within the applicant's statement in response referred to changing Government legislation and the lift in student numbers, with 2,000 coming from the Stockton campus, and the University's desire to expand. It was added that even with the existing extant permissions, and developments such as at Mount Oswald, the predicted demand would not be met. Ms N Allan noted positive meetings with the Deputy Director of Estates and Buildings at Durham University, Mrs Harvey Dowdy where no objections were raised which was to note, given the context of other applications and developments, such as the previous item, where the University had submitted formal objections. Ms N Allan noted that therefore it was not a case of if, rather how and where the required additional student accommodation would be created. Members were reminded that a 22 house scheme had previously been approved for the site, and the proposals within the application were of a similar scale and Ms N Allan asked if the student density was 91% in the vicinity would it not be better to have students in this existing student area and to have them in managed accommodation. Ms N Allan noted that poor quality Houses in Multiple Occupation (HMOs) were not good for the City and that therefore it was preferable to have good quality PBSAs and to allow terraced properties to remain in the general mix.

Ms N Allan noted that the design had been iterative, with significant amendments having been made based upon the recommendations of Officers, and the design having a positive impact upon the Conservation Area and the nearby Listed Buildings. Ms N Allan added that during public consultation, the owner of the bungalow adjacent to the site had noted that he had no objections to the proposed development.

Ms N Allan added that the key issue here was to balance the policies. In the case of there being less than 5 years' worth of deliverable housing there was a presumption in favour of granting permission unless the adverse impacts significantly and demonstrably outweighed the benefits; as the site was rare in the City, being brownfield and sustainable, in accordance with Officers' recommendations and the NPPF that the Committee approve the application.

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

Councillor P Conway noted that it was a finely balanced argument in terms of the application and noted the careful wording within the Officer's report. Councillor P Conway added that an application site never looked at its best on a dark, dank, dismal morning such as this, when visited by Members; however, Councillor P Conway noted he had known this site for over 35 years. Councillor P Conway explained he felt the site was ideal for affordable housing and noted how often Members' aspirations in terms of this in the past had been countered with a statement along the lines of "the extant permission business case does not stack up". Councillor P Conway added that why not make a judgement on this and why not stand up in this respect. Councillor P Conway accepted that the façade and design would clearly enhance the area, including the Conservation Area; however, he added that while design was an important aspect, it was only superficial and cosmetic, with the substantive point being the use for a site. Councillor P Conway noted that the Committee had heard an argument contrary to the Officer's recommendation from the Local Members and Mr R Cornwell of the DCNPF and Councillor P Conway noted he felt that the argument for need had not been substantiated .

Councillor P Conway noted that there were three elements in the interim policy when considering this application: need; consultation; and appropriateness. Councillor P Conway noted there had been no engagement by the University on this application, no statement having been submitted, and referred to the previous Chancellor of the University having noted that "the market would sort what was needed" in terms of student accommodation. Councillor P Conway noted that it appeared that the University could be seen as being careful where they made comment on planning applications, and added that he felt that it was important for the University to engage and comment on student accommodation applications.

Councillor P Conway added that he felt NPPF Paragraph 50 and also Part 8 of the NPPF referred to the role of neighbourhood planning forums and that saved Policies H13 and H16 had clear metrics with the application being contrary to those and Policy T10 and cycle spaces. Councillor P Conway added that the argument as regards sustainability did not really stack up as the proposals were for student accommodation and therefore he was minded to refuse the application.

*Councillor C Kay left the meeting at 1.55pm.*

Councillor D Freeman noted he largely agreed with Councillor P Conway and shared the concerns he had raised. Councillor D Freeman agreed the main issue was that of need, with the applicant having believed they had demonstrated a need and Councillor D Freeman believing that they had not. It was added that Members were more than aware of the expansion of the University and, through this Committee and the County Planning Committee, Members were aware of the issues in terms of student accommodation. Councillor D Freeman noted around 4,200 student places in the pipeline that would be enough to soak up the need and the idea that PBSAs would take out the students from the stock of terraced housing was not realistic; they were different markets. Councillor D Freeman noted that some PBSAs were not full and this demonstrated that this type of development was not needed in the current market.

Councillor D Freeman added that it was stated that the area had a 91% student population density and the Officer's report as much as said the area cannot be saved and therefore the correct attitude would be for the Committee to approve the application.

Councillor D Freeman added he felt there was an argument for development on the site, however, not this particular scheme. Councillor D Freeman noted it had already been commented upon how the application could be seen as contrary to saved Policies H13 and H16; however he too had concerns as regards the cycle storage, with the plans showing students would need to negotiate 3 doors and 3 turns to access the storage area, contrary to Council Policy. Councillor D Freeman noted the bin storage location at the front of the building and added that this would be only required to be accessed once a fortnight and that, should Members be minded to vote in approval of the application, he felt this was an area that should be looked at again.

Councillor G Bleasdale noted she would not repeat the comments made by the other Members, just to note she too was against the approval of the application.

Councillor J Lethbridge noted with interest the comments of Councillors P Conway and D Freeman and he too had known the site for many years, having walked past the site when he was younger with a satchel on his back. Councillor J Lethbridge added that upon visiting the site it had looked forlorn and derelict with the site being depressing to see cloaked in mist and vapours. Councillor J Lethbridge noted the Officer's anodyne way within the report (although he stressed he was not criticising the Officer) and added that he would prefer the noise of children playing rather than silent streets. Councillor J Lethbridge added that students were attracted as if by a magnet to the area and felt that the area was a desert in a special sense that while on site, Members saw few people and those they did were very young and Councillor J Lethbridge noted he felt quite ancient when he got off of the coach. Councillor J Lethbridge noted he agreed that there needed to be balanced communities and felt this application was not going down that line. Councillor J Lethbridge noted the implied criticism of the University "sitting on its hands" and agreed they should be part of the debate. Councillor J Lethbridge added that he agreed with the comments of Councillor P Conway and would support rejection of the application.

The Chairman asked the Senior Planning Officer to comment on some of the points raised by Committee Members.

The Senior Planning Officer noted in terms of need, the applicant, as part of their submission, had put forward a strong case in terms of need and added that Officers felt that the application was in compliance with the criteria in the Interim Policy. In respect of cycling and cycle storage provision, the Senior Planning Officer noted that the Highways Section had been comfortable with the scheme.

The Solicitor - Planning and Development, Neil Carter noted the interaction of various policies in determining this application and stressed the need to determine the application against the saved Local Plan policies unless other material considerations applied.

It was added that the relevant policies were H16 and H13 and that the other relevant material was Interim Policy on Student Accommodation and it was for Committee to decide upon the weight to be given to these policies, although the Interim Policy on Student Accommodation was not part of the Statutory Development Plan and therefore ought to be afforded less weight than the saved Local Plan policies.

The Solicitor - Planning and Development added that he advised caution in terms of refusing the application in terms of the Interim Policy itself, rather if Members were minded to refuse it should be based upon their interpretation of the application being contrary to H13 and H16 of the saved Local Plan with the Interim Policy being complimentary to that. The Solicitor - Planning and Development explained that NPPF Paragraph 50 referred to the planning policy process rather than determining applications and therefore was not relevant to decision making on planning applications.

The Solicitor - Planning and Development added that Paragraph 14 of the NPPF imposed a presumption in favour of sustainable development where the Local Plan Policy was silent or out of date, however the Officers' position was that Policy H16 was not out of date. It was added that NPPF Paragraph 14 set out that there was a presumption to grant unless the disbenefits significantly and demonstrably outweighed the benefits. The Solicitor - Planning and Development added that, as with most planning applications, there was still the need to balance benefit against disbenefit, however, it was felt by Officers in this case that the benefits were greater. Therefore, even if the applicant was correct that paragraph 14 was engaged, the difference was one of emphasis only i.e. starting from a presumption in favour. Councillor M Davinson noted visiting the site and it was clear to him that the site needed development however not this particular scheme and added that an issue that should be raised was that of the fence enclosing the site, which was broken in places and presented a potential hazard in terms of a fall from a significant height.

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

The Chairman asked for the reasons why the application was contrary to relevant plans and policies and asked that Councillor D Freeman return a note that had been passed to him by a Member of the public prior to stating such reasons. Councillor D Freeman duly handed back the note.

Councillor D Freeman noted Policies H13 and H16 of the saved City of Durham Local Plan and that the application was contrary as the development would impact on the character and amenity of residential areas and not protect the balance within the local community, with 91% student density further development would further disrupt the balance. Councillor D Freeman noted that the Interim Policy was important, and while Officers state that the applicant had shown need, he along with Councillors P Conway and the Local Members did not feel that the applicant had demonstrated need.

Councillor P Conway added that the lack of demonstration of need, in terms of the Interim Policy was complimentary to the reasons in terms of saved Policies H13 and H16 in proposing refusal. Councillor P Conway added that the impact on residential amenity and retail within the areas were also factors as he recalled in the past going along this area to the Colpitts Hotel passing 2 or 3 shops, where now there were none, and therefore the development was not sustainable. Councillor P Conway added that in terms of Policy Q8, the minimum distances between developments were not met; therefore the application was contrary to this policy.

The Solicitor - Planning and Development was concerned about reliance being placed on the threefold criteria of the Interim Policy, when Officers had already set out why they felt those criteria had been met. He therefore asked the Planning Team Leader to comment upon this.

The Team Leader – Central and East, S Eldridge noted that the applicant in their supporting information had supplied calculations both quantitative and qualitative that had satisfied Officers in terms of need, especially in the context of the delivery timescales of the other developments within the pipeline of site for student accommodation.

The Chairman noted that the information from Officers was such that the Committee had the information to make a decision in terms of need. Any refusal based upon this issue was very weak.

Councillor P Conway did note Members had cited the Interim Policy and the need argument as complimentary to the argument in terms of being contrary to saved Local Plan Policies. Councillor P Conway noted there was some difficulty in terms of NPPF Paragraph 50 as there had been no communication from the University on this scheme, while the Agent for the applicant stated there was input, the Committee had not seen this information.

At the invitation of the Chairman, Ms N Allan noted there had been discussions with the University, recent changes in their policies, and that the University has not objected to this application while they had objected to the proposed scheme in the previous item and to other schemes in the recent past. Ms N Allan added that it was not just the opinion of the University or the applicant that there was a need for such development; on the evidence presented it was also the view of the Council's professional Officers that need had been demonstrated.

The Chairman noted that there had been a motion to refuse the application and it had been seconded and asked Members to vote.

## **RESOLVED**

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

Due to the overconcentration of students in the area, substandard separation distances and failure to demonstrate need, the proposed development will result in an unbalanced community and have an adverse impact on residential amenity of existing residents which fails to comply with policies H13, H16 and Q8 of the City of Durham Local Plan and the Council Interim Policy on Student Accommodation.