

**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 12 June 2018 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors J Blakey (substitute for I Cochrane), G Bleasdale, D Brown, K Corrigan, M Davinson, D Freeman, A Gardner, K Hawley, P Jopling, J Maitland (substitute for A Laing), R Manchester and O Temple

**Also Present:**

Councillor L Mavin

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Clark, S Iveson and J Robinson.

**2 Substitute Members**

Councillor J Blakey substituted for Councillor I Cochrane and Councillor J Maitland substituted for Councillor A Laing.

**3 Minutes**

The minutes of the meeting held on 8 May 2018 were confirmed as a correct record by the committee and signed by the Chairman.

**4 Declarations of Interest**

Councillor A Gardner declared an interest in Item 5a as an employee of Durham University, noting he would speak and then leave the meeting and take no part in the decision. The Solicitor – Planning and Development, Neil Carter noted that based on what the Member had said this was a matter for the Councillor in terms of wishing to leave the meeting.

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

**DM/18/00747/FPA – 7 St. Joseph's Close, Gilesgate, Durham, DH1 2JA**

The Planning Officer, Paul Hopper, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from C3 (dwellinghouse) to C4 (house of multiple occupation).

The Planning Officer noted there had been no objections from statutory consultees, however, an objection had been made by: Durham Constabulary, via their Architectural Liaison Officer, Local Members, Councillors E Mavin and L Mavin; and 11 letters of objection from local residents. It was explained that reasons for objection included: detriment to residential amenity through noise and disturbance; an imbalance in terms of the demographic of the cul-de-sac, predominantly elderly at the current time; impact upon waste collection and litter; drainage; devaluation of property prices in the area; and in terms of the planning application not having been publicised widely within the locale.

The Committee were referred to the report which set out the relevant planning policies in terms of the application and explained that the application was in an area with a density of 9.3% student properties within 100 metres, being less than the 10% threshold set out within the Council's Interim Policy relating to student properties. It was added that the Noise Action Section had noted that while not likely to constitute a statutory nuisance, there could be an increase in noise levels from the application which could have an adverse impact upon residential amenity. The Planning Officer noted that the Highways Section had noted no objections, with adequate parking both at the site and nearby on the main road at the entrance to St. Joseph's Close.

*Councillor K Hawley entered the meeting at 1.07pm*

The Planning Officer concluded by noting that in terms of saved Local Plan Policies H9 and H13 that a single house of multiple occupation (HMO) would not unbalance the area and that the recommendation was for approval, subject to the conditions as set out in the report.

The Chairman thanked the Planning Officer and asked Local Member, Councillor L Mavin to speak in relation to the application.

Councillor L Mavin thanked the Chairman for the opportunity to speak in objection to the application as a Local Member.

She noted that she felt the application was contrary to Policy T1 of the saved City of Durham Local Plan (CODLP), in that it would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property. She added that she also felt the application was contrary to CODLP Policy H13 which states that planning permission would not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Councillor L Mavin explained she also felt the application was not in accord with CODLP Policy H9, in terms that the sub-division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that it does not adversely impact on other planning considerations. She added that in this instance there was impact on CODLP Policy T10 which states that vehicle parking off the public highway in a new development or redevelopment should be limited in amount, so as to promote sustainable transport choices and reduce the land take of development.

Councillor L Mavin noted the issue of HMOs was well documented within the City, with the 2016 Interim Policy on student housing having been in an attempt to gain back some control. She added that the Durham Constabulary Architectural Liaison Officer and many local residents had objected to the application, to which many residents were unaware, save for a letter attached to a lamppost near to the application site. Councillor L Mavin asked the Committee respectfully to refuse the application.

The Chairman thanked the Local Member for her comments and asked the Architectural Liaison Officer, Durham Constabulary, Steve Drabik to speak in objection to the application, having 5 minutes to address the Committee.

The Architectural Liaison Officer noted his role within the Police was to object to applications that would have serious impact upon residents, and while there was no objections to individual students, there were a number that wished to live outside of university controlled halls of residence in years 2 and 3 of graduate courses and that they would use the level of freedom in terms of comings and goings from a property, after 10-11pm at night, and there was the potential in terms of additional rubbish in the street, especially at the ends of term. He added that there could be potential issues in terms of student residents not being security conscious and noted the Police, along with groups such as the City of Durham Trust had lobbied in terms of planning policy, with the Interim Policy on student housing coming in to effect too late for some areas of the City. He concluded by noting that the impact of a HMO in a quiet cul-de-sac of mostly elderly residents was felt to be massive and contrary to CODLP Policy H13, as previously explained, and also in terms of transport policies, with the road being very narrow and in terms of parking provision.

The Chairman thanked the Architectural Liaison Officer and asked the Highways Development Manager, John McGargill to address the points raised by objectors.

The Highways Development Manager noted that data suggested that around 15% of students in Durham had cars, and that the property had 6 students and 2 car parking spaces, equating to a 30% provision of car parking space. He added that he was not aware of any issues in terms of the cul-de-sac, with room to park and the additional public parking, uncontrolled, that was located at the end of street approximately 40 metres from the property and therefore the Highways Section offered no objections to the application.

The Planning Officer noted that in terms of publicising the application, neighbour notification letters had been sent and a site notice had been erected, greater than the statutory duty on the Authority, though a local resident had explained on the visit to the site that she had not received the letter. He added that issues in terms of CODLP Policies H9 and H13 had been set out within the report, alongside the Interim Policy on student housing.

The Chairman thanked the Officers and asked Robyn Craig on behalf of the Agents to the applicant to speak in support of the application, having 5 minutes to address the Committee.

Ms R Craig read out a statement on behalf of the Agent that would be managing the property should the application be successful:

"In relation to the proposed planning application at 7 St Josephs Close, I would like to outline the benefits we, at Nicholas Humphreys Durham, feel this application will bring and hopefully ease any concerns raised. Firstly, my company Nicholas Humphreys Durham, currently advertise over 80 properties for students. I personally manage around 30 of these and will be managing 7 St Josephs Close. I have managed properties in Durham for the last 3 years, and over these 3 years, have managed close to 90 tenancies consisting of hundreds of students. These have all gone without incident, crime, anti-social behaviour or otherwise. For each property managed by us, tenants sign a contract that has multiple clauses regarding the treatment of the property, the gardens and the neighbours and their properties; any conduct that would breach these clauses would result in removal from the property. I always ask my tenants to engage with their neighbours if possible, to build positive relationships and add to the community, rather than ostracise themselves from it. For all our properties, I personally introduce myself to all neighbours and make clear that I am available to contact anytime, day or night, to alleviate any concerns neighbours may have during the tenancy. The majority of the properties I manage are on Marshall Terrace, Wakenshaw Road, Bradford Crescent and Laurel Avenue so I am very familiar with the Gilesgate community. Most of my immediate family are still local to Gilesgate and I am there most days. Currently in Durham we are seeing a huge increase in large blocks of self-contained studio flats earmarked for students and, with the closure of the Durham University Queen's campus in Stockton, this is leading to a shortage of affordable student housing. For example, the three blocks closest to 7 St Josephs for the coming academic year are currently priced at £130 per week to £250 per week, per student. We will be looking to achieve £75-£80 per person per week in a property that, although shared, will be far more spacious and finished to a very high standard.

This will therefore increase the students' disposable income that can be spent in the local area and Durham City and, more importantly, increase the quality of their lives and experiences in Durham so they speak highly of their time here and return multiple times in the future."

The Chairman thanked the speakers for their comments and asked the Members of the Committee for their comments and questions.

Councillor J Blakey apologised for not being able to attend the site visit, though noted she was familiar with the area. She explained that her concerns were similar to those raised by the Police in terms of the location not being suitable for such an application and while she was not against students in the right location, she felt they would not contribute to this local community and that the application should be refused.

Councillor A Gardner noted he worked at Durham University at one of the larger colleges, with over 580 students and noted he felt it hard to accept the applicant's agent's assertion of no incidents in terms of students in his properties. He added he felt the issue and debate around HMOs was important and noted the proactive work of the University in terms of the issues such as the environment, recycling, litter, especially at the end of term. He noted it was important not to "tar all students with the same brush" in terms of engaging within communities and noted the property seemed to be ideal for third year or post-graduate students.

Councillor A Gardner added that he was disappointed with the comments from the Architectural Liaison Officer, in the context of the number of unlicensed HMOs, not all being located within Gilesgate, and that the Police could have been more specific. He added that he had visited the site at 7.30am and the issues in terms of parking did not seem any different than any other street within the rest of the county. He noted that in terms of noise and disturbance that the University worked with landlords and community in terms of any issues. Councillor A Gardner noted he agreed with the Officer's recommendation as set out in the report.

*Councillor A Gardner left the meeting at 1.20pm*

Councillor P Jopling noted her concerns in respect of adding 6 18-19 years olds into a residential area with mostly elderly residents. She noted cases closer to the City where students moved into a number of properties and permanent residents would move out. She understood that the vast majority of students behaved very well, however, they may have a few drinks and this could lead to increased noise levels, a disturbance for the elderly residents. Councillor P Jopling added she felt the development was wrong for this particular area.

Councillor D Freeman noted that the Police had saw fit to object to the application and added he felt that issues tended to be underreported and that HMOs had severe impacts. He added that there was a number of empty bed spaces in HMOs and therefore could not see an argument in terms of demand.

He noted the figure of 9.3% in terms of student density in the area, noting some doubts that had been raised in the past in terms of the figures from Council he noted from his experience that the University had shown little interest in the students that were outside of their accommodation. Councillor D Freeman noted that he felt the application was contrary to CODLP Policies H9 and H13 in terms of damage to local residential amenity and would support any move to refuse the application.

Councillor K Corrigan noted she had listened to the comments from the Local Member and read as regards the local residents and on that basis she would be happy to move a recommendation for refusal.

Councillor O Temple noted the difficulty in that there would not be many areas where residents would welcome HMOs and students, recalling when he was a Durham student many years ago having great difficulty in finding a property. He noted that each planning application should be looked at on its own merits and he explained that when visiting the site he had noted how quiet the street was, with a number of bungalows and elderly residents. He noted that you would not have to be a bad young person as such to disturb such elderly residents simply by coming home late from a night out. Councillor O Temple noted he could not recall the last time Durham Constabulary had attended a Planning Committee to object to an application and they had noted they felt residential amenity would be affected, in terms of CODLP Policy H13. He added that the “fear of crime” was also an issue that would likely be more of an issue with elderly residents. He seconded the recommendation for refusal.

The Planning Officer noted that the Council Tax data had been accepted as the best way to measure student density and be accurate and reliable and noted the fear of crime was a material planning concern.

The Solicitor – Planning and Development noted the information from the Police in terms of crime and disorder were relevant material planning concerns, though there had not been any specific issues associated with this particular location, if so, was there evidence specifically in this area. In terms of the Interim Policy on student housing, he noted this policy tried to strike a balance in terms of residential properties and HMOs, hence the 10% threshold density, and clearly in this case the density of 9.3% was less than the 10% threshold. The Solicitor – Planning and Development noted the “thin end of the wedge” argument, in that if one C4 application was accepted then this could lead to more applications. However, he added that this may or may not happen, and that the application for determination was the one presented by Officers and each application should be determined on its own merits. The Solicitor – Planning and Development noted that if Members felt there was sufficient adverse impact upon residential amenity, and fear of crime, then it would be for Members to frame their motion in those terms.

The Chairman asked for any further information from those Members proposing refusal.

Councillor K Corrigan noted she felt the application was contrary to CODLP Policy H13 in terms of the impact on character of the area would be significantly adverse, as well as on visual amenity. The Solicitor – Planning and Development noted the argument in terms of residential amenity, though was not sure in terms of visual amenity. Councillor O Temple noted it had been clear from the site visit that the gardens of the residents of the area were maintained with a great level of care, and added that as an HMO it was likely that garden would not be maintained to the same standard as the others in the area. He added that the Police had mentioned patterns of issues such as litter and furniture left at the ends of terms and this would make the property further out of step with the character of the area.

The Chairman recalled conditions being mentioned in relation to student living in the property as mentioned by the Agent and asked Ms R Craig if she could elaborate. Ms R Craig noted that currently the property was vacant, however, once tenants were in place then steps would be taken. Councillor O Temple noted that if already in ownership could maintenance of the grass not be undertaken to bring the property more in line with the surrounding area. Councillor J Blakey noted she found it unlikely that 19-20 year old students would carry out such work to the grass and garden and added that any local data the Police had for the area would have been useful for the Committee. The Chairman noted while no specific statistics had been mentioned the fear of crime had been mentioned by Members of the Committee.

Councillor K Corrigan noted she also felt the application was contrary to National Planning Policy Framework (NPPF) paragraph 69 in terms of creating “safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion”. She added that she felt the application was also contrary to NPPF paragraph 56 in respect of “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”. The Solicitor – Planning and Development noted that paragraph 56 was not necessarily applicable for a change of use application with no design changes.

Councillor D Freeman noted refusal based upon CODLP Policy H13 and Paragraph 69 of the NPPF and therefore also H9, with the application being contrary to the previous two policies. Councillor K Corrigan added that the application was also contrary to NPPF Part 11 in terms of planning decisions aiming to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development.

Upon a vote being taken the Committee:

**RESOLVED**

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

The application being contrary to NPPF Part 11, NPPF Paragraph 69 and saved City of Durham Local Plan Policies H9 and H13.

The introduction of a 6 bedroom HMO into the residential cul-de-sac would have a significant and adverse impact upon the residential amenity of surrounding occupiers particularly by reason of increased noise, disturbance and fear of crime contrary to policies H9 (Parts 2 and 3) and H13 of the City of Durham Local Plan, paragraph 69 of the NPPF in respect of creating safe environments where the fear of crime does not undermine quality of life or community cohesion and paragraph 123 in respect of protecting the amenity of adjacent residential occupiers.

The development would have a detrimental impact on the character, appearance and visual amenity of the property and the immediate area due to concerns about satisfactory maintenance of the property as a result of the transient nature of the occupiers contrary to the aims of policies H9 (Part 2) and H13 of the City of Durham Local Plan.

*Councillor A Gardner entered the meeting at 1.50pm*

## **6 Report on Appeals Allowed**

The Chairman asked the Team Leader - Central and East, Alan Dobie to give an update report on the appeals allowed, contrary to the Council's decision (for copy see file of minutes).

The Team Leader - Central and East noted that from the report presented to the Committee at its last meeting in relation to performance, Members asked for further breakdown of the appeals allowed in terms of decision maker and type of application.

It was explained that there had been seven appeals allowed from nineteen cases and of those seven, three were determined by Officers under delegated powers. It was noted those three cases related to the erection of a first floor extension to a dwelling, the felling of a Tree Preservation Order (TPO) tree and the erection of a six bedroom HMO.

Members noted in terms of Committee decisions, one application was refused by the Committee in line with the Officer recommendation of refusal, for an infill extension to a dwelling. The Team Leader - Central and East noted that two applications were refused by the Committee contrary to Officer recommendations of approval, relating to extensions to a dwelling and an apartment development. It was added the final appeal was against non-determination of an application for a domestic outbuilding. It was noted that the decisions taken by the Planning Inspectorate were taken on board and fed back into the decision making process accordingly.

The Team Leader - Central and East concluded by noting there was no set pattern in terms of the appeals being allowed, with a range of cases and being both decisions under delegated powers and by Committee and it was highlighted that it was important for any decision to be soundly based and justified upon material planning grounds.

## **RESOLVED**

That the report be noted.