

CITY OF DURHAM PARISH COUNCIL

Stephen Ragg, Interim Clerk,
c/o Room 103, Floor 1, County Hall, Durham City, County Durham DH1 5UF
Telephone 0191 383 3827 email stephen.ragg@durham.gov.uk

10 September 2018

Ms Susan Hyde
Development Management Team
Room 4/86-102 Planning Department
County Hall
Durham City DH1 5UL

Dear Ms Hyde

Planning application DM/18/02372/FPA, Tower Cottage, The Avenue, Durham DH1 4EB

I am writing to object to the above planning application on behalf of the Parish Council. We are pleased that the expected decision level is Committee. To be certain of this, we request it be considered by Committee as set out in the Council's Constitution.

Our grounds for objection are non compliance with policies E21, E22, E5A, E14, U13, H13 and Q8 of the saved policies of the City of Durham Local Plan. The applicant does not cite any policies in support of his proposals.

Conservation area and heritage assets

The County Council's own Conservation Area Assessment¹ for the Crossgate sub-area of the City of Durham Conservation Area lists Tower Cottage as a non-designated heritage asset and adds (page 140)

[These] buildings are not statutory listed but do make a positive contribution to the character and appearance of the conservation area, and through the planning process could be identified as non-designated heritage assets. There is a presumption in favour of preservation of these structures.

The agent's description of the property² when it was offered for sale was of a *"...period detached house in an elevated position with views overlooking Durham City. This historic property, on one of Durham's best known roads, has great character and flexible living space. ... It would now benefit from some updating and offers scope to create a spacious, landmark home in an exceptional setting in central Durham."*

Saved Policy E21 states that the council *"will preserve and enhance the historic environment of the district by:*

1. *Requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site; and*

1 <http://www.durham.gov.uk/media/10734/Durham-City-Conservation-Area-Crossgate/pdf/DurhamCityConservationAreaCrossgate1.pdf>

2 http://residential.bradleyhall.co.uk/admin/uploads/files/B102_TOWERCOTTAGE_F012A_340MATLAM_30-email.pdf

2. *Encouraging the retention, repair and re-use of buildings and structures which are not listed, but are of visual or local interest."*

Saved Policy E22 states that the council *"will seek to preserve or enhance the character or appearance of the conservation areas within the City of Durham by:*

1. *Not permitting development proposals which would detract from the character or appearance of the conservation area or its setting. All development proposals should be sensitive in terms of siting, scale, design and materials, reflecting, where appropriate, existing architectural details;*
2. *Not permitting the demolition of buildings which contribute to the area's character. Permission for the demolition of any significant building will not be granted until a detailed scheme for appropriate redevelopment of the site has been approved;*
3. *Protecting trees, hedgerows, landscape features, views and undeveloped areas which contribute to the character or appearance of the area and its setting;*
4. *Requiring a sufficient level of detail to accompany applications for development to enable an assessment to be made of its impact on the conservation area. In addition the council will also implement schemes for the enhancement of conservation areas where appropriate and as resources permit."*

Demolition of Tower Cottage would be contrary to both of these policies, each fully compliant with the NPPF, since the proposed new houses are not an improvement on Tower Cottage, which would be demolished to provide garden space. Tower Cottage should be retained and, as the agent implied, updated, as Saved Policy E21 encourages.

Page 150 of the Conservation Area Assessment actually includes this photograph of the garden of Tower Cottage and the associated paragraph reads: *"Within The Avenue, Crossgate Peth, Farnley Hey and St Johns Road the plot sizes associated with the larger properties has led to the evolution of mature gardens containing trees shrubs and planting. These side and front gardens, mostly bounded by brick and stone walls, create an area that has a distinctive, quiet, garden suburb character. Unfortunately, the removal of boundary walls from frontages to properties in The Avenue and Farnley Hey Area has been disruptive to the character and appearance of the streetscene."*



Tower Cottage retains its boundary wall, but the planning application would see its removal along the frontage with The Avenue.

We concur with this assessment, which the applicant's *Design, Access and Heritage Statement* makes no reference to. The view from The Avenue, particularly the higher part by the gate, opens

out across to the trees behind May Street, and, in winter, the whole Viaduct area. The applicant's proposals would block this vista.

Saved Policy E5A states that *"development proposals within settlement boundaries that detract from open spaces which possess important functional, visual or environmental attributes, which contribute to the settlement's character or to the small scale character of an area, will not be permitted."*

Saved Policy E14 states that *"in considering proposals affecting trees and hedgerows the council will:*

- 1. Not permit development which would result in the loss of ancient woodland; and*
- 2. Designate tree preservation orders as necessary; and*
- 3. Require development proposals to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible And to replace trees and hedgerows of value which are lost; and*
- 4. Require a full tree survey to accompany planning applications when development may affect trees inside or outside the application site."*

The supporting text adds

Trees have too often in the past been lost as a result of new development. Trees on or adjacent to development sites should be treated as a site constraint from the earliest stage of the design process and their retention and integration into the development should be an objective in drawing up proposals. To ensure that this is properly carried out the Council will require a tree survey to be provided with planning applications which grades each tree's physical condition. The Council will then take account of the species, age, rarity value and visual importance of the tree and determine whether it should be retained.

The question of ancient woodland does not arise. There is however no sign that the trees on this site have been treated as a site constraint to be retained and integrated into the proposed development, but are seen instead as an inconvenient obstruction to be removed. There is a tree survey, but it was carried out in December 2016, 21 months ago, before the development proposals were drawn up. It gives a high value to most of the trees, particularly the weeping willow reference T7/495. It carries an important caveat in bold text **"Trees have the potential to support a range of wildlife including protected species such as nesting birds and roosting bats.**

Assessment of the trees on site with regard to potential use by such species is outside the scope of this report."

The applicant's Bat Survey included this note under *Additional Species Groups*: *"A tawny owl was heard during the dawn survey. The garden trees and shrubs also provide potential foraging and nesting opportunities for a variety of bird species."* and notes as a Direct Development Impact *"Loss of trees and garden shrubs potentially used by foraging and nesting birds"*. While the aforementioned Bat Survey has been carried out, no corresponding bird survey or mitigation measures are proposed. **Saved Policy E16** addresses this issue and says in the supporting text

“where species occur, development proposals will be required to identify any significant nature conservation interest that may exist on or adjacent to the site and to either avoid or to minimise any adverse effects on nature conservation as a result of the development.” and “The Council will seek the advice of English Nature about development proposals that may affect protected species or their habitats.”

All three of these saved policies are also fully compliant with the NPPF. The garden setting of Tower Cottage was a major feature of the agent’s brochure. It is a major asset to the property and it enhances the whole area. Saved Policies E5A and E14 provide two further reasons to refuse this application, and the measures described in Saved Policy E16 need to be taken.

Unstable land

The submission by the residents of 42 The Avenue raises a reasonable suspicion that the proposed site of the three new houses is unstable land (their adjoining property suffered a high degree of subsidence in the late 1990s and they still carry extra subsidence insurance). The Coal Authority interactive map at <http://mapapps2.bgs.ac.uk/coalauthority/home.html> indicates that this is a Development High Risk Area.

This brings **Saved Policy U13** into play. It is fully compliant with the NPPF:

“Development on unstable land will only be permitted if it is proved that there is no risk to the development or its intended occupiers or users from such instability or that satisfactory remedial measures can be undertaken.”

The supporting text adds

“Instability may be caused through the effects of underground activities, unstable slopes or ground compression. Where instability is known or suspected the developer will be required to provide a specialist investigation and to propose adequate remedial measures, where appropriate, as part of a planning application.”

Consequently this planning application needs to be paused until this specialist investigation and the remedial measures have been provided. If and when this has been done we may need to make a further submission.

Residential amenity

Currently there are parking bays on The Avenue in front of where the new houses are proposed. Removing these would take away at least 29.4m of parking which amounts to five or six cars. Tower Cottage has a single-car garage and space on its driveway for at least two more. It does not qualify for any residents’ parking permits and the loss of these parking spaces cannot be offset.

The applicant says that “The primary access from the adjacent side lane to the existing Tower Cottage is very impractical.” In fact it served the previous owner well for more than half a century, and the existing owner has widened the access to his property. It is not impractical, let alone very impractical, and to assert otherwise is unsupportable.

The comment from the Highways Development Management is only concerned with the off-street parking and does not address the issue of the loss of on-street parking. These parking bays are quite heavily used and there is not the space nearly to accommodate five extra cars, particularly in the University terms when students bring their cars to Durham. Furthermore, the recently opened Indian restaurant Club Mumbai, adjacent to Tower Cottage, is proving to be more popular than its predecessor and its modest car park cannot fit in all of its customers' cars, so they too park on this stretch of The Avenue.

Saved Policy H13 says that

"Planning permission will 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."

This is now felt to be overly prescriptive in its use of the phrase *significant adverse effect*, but it remains clear that residential amenity is an issue that can and should be used when assessing planning applications.

Saved Policy Q8 says that

"The layout of new residential development will be required to:

1. [...]
2. *Provide adequate amenity and privacy for each dwelling, and minimise the impact of the proposal upon the occupants of existing nearby and adjacent properties; and*
3. *to 10. [...]"*

In its impact on the ability of existing residents to find a parking space in the vicinity of their homes this proposed development is adversely affecting the amenity of those residents.

Privacy

Saved Policy Q8 (see above) also requires new development to provide adequate privacy. While this is now felt to be partially compliant with the NPPF, this is because the supporting text sets a specific standard of 21 metres separation, which is now felt to be too prescriptive. However, the distance in this case is only 7 metres, and clearly that is too close.

Conclusion

The application as it stands comprehensively fails the tests in the saved policies of the City of Durham Local Plan and consequently should be **refused**.

Our Chair, Roger Cornwell, lives close to the proposed development and has declared an interest in this matter. Consequently it falls to me to sign this letter of objection.

Yours sincerely



Vice-Chair, City of Durham Parish Council Planning Committee