

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Highways Committee** held in Committee Room 2 - County Hall, Durham on **Friday 23 March 2012 at 10.00 am**

### **Present:**

**Councillor G Bleasdale (Chair)**

### **Members of the Committee:**

Councillors J Robinson (Vice-Chairman), B Arthur, A Bainbridge, N Foster, S Hugill, A Naylor, J Shiell, E Tomlinson, J Turnbull and R Young

### **Apologies:**

Apologies for absence were received from Councillors D Burn, D Hancock, D Marshall, J Maslin, P Stradling, L Thomson, R Todd, C Woods and A Wright

### **Also Present:**

Councillor J Blakey, J Lee, J Lethbridge, N Martin, J Shuttleworth and M Wilkes.

### **1 Minutes of the meeting held on 21 February 2012**

The minutes of the meeting held on 21 February 2012 were agreed as a correct record and signed by the Chairman of the meeting subject to the inclusion of the following wording in Item No. 3 (Stanhope Ford), paragraph 8, where comments attributed to the Fire Brigade Community Service Team should have stated *“that the service would be supportive of implementing a method of closing the Ford to road users during flood conditions, outside of the current seasonal closure procedure, if it was to remain open”*.

### **2 Declarations of interest, if any**

There were no declarations of interest in relation to any items of business on the agenda.

### **3 Durham Gate Speed restrictions and access restrictions - Report of Corporate Director, Regeneration and Economic Development**

The Committee considered a report of the Corporate Director, Regeneration and Economic Development which detailed objections received to a formal consultation on the proposed traffic regulation orders controlling access restrictions at Durham Gate, Thinford (for copy see file of Minutes).

The Committee were informed that due to an administrative oversight, objectors to the proposals had not been invited to present their objections to the Committee during initial consideration of the issue. Necessary measures had been taken to extend the legal notification and objection period to enable objectors to prepare the grounds for their objections.

The Committee were informed that the development at Durham Gate would generate demand for access from car drivers, public transport users, cyclists and pedestrians given the mixed use of industrial, commercial and residential for the site. It had been estimated that up to an additional 7,000 car trips per day, 525 pedestrians trips per day and 680 public transport trips per day could be made to the development in addition to the current traffic on the network. The associated increased traffic levels would result in Thinford roundabout being signalised and the central island and approaches reengineered. The Committee were shown a number of slides, detailed in the Appendices to the report, which showed the direction and flow of traffic together with the proposed traffic regulation orders.

The Committee noted the objections of Green Lane Residents Association detailed in the report who had worked with developers, officers of the Council, the Cabinet Portfolio holder and local member with regard to a number of concerns relating to the development. The Business Manager advised the Committee that the residents association had sought to restrict vehicular use of Green Lane by way of a suggested prohibition of entry, except for access, at the junction of Green Lane and Enterprise Way.

The residents association had also objected to the proposed 'No Entry' at Enterprise Way, the restrictions at York Hill Road and the amended speed limit on the grounds that the installation of a bus gate had been omitted from the final development proposals. The residents association had commented that there would be potential for 'rat running' through Green Lane to and from the development and had argued that the restriction on York Hill Road would divert traffic to Green Lane.

Durham Constabulary had objected the proposed 'no entry' restrictions on the grounds of enforceability.

James Burtenshaw, Secretary of Green Lane Residents Association informed the Committee of the resident associations objections detailed in the report, which included:-

- the validity of the traffic models used by consultants to evaluate junction operation;
- concern that there were no access restrictions proposed for Green Lane;
- the removal of a bus gate from the development which enabled rat-running to take place;
- access to Enterprise Way would be the principle access to the development;
- the internal road layout linking Enterprise Way and the development would also encourage rat running;

Mr Burtinshaw informed the Committee that over and above these issues the residents association objected to the restriction of cars and light vehicles at York Hill Road junction as it was contrary to Highways policy and encouraged undesirable journeys and created rat-running.

There was no justification for car and light vehicle restriction, due to the fact that traffic data had confirmed that 127 cars and light vehicles would be diverted per hour at the peak of the morning. This would equate to two vehicles per minute and the group could not see the need to divert them from the western approach access.

The knock-on effect of the restriction would mean that diverted cars and light vehicles could choose to travel up the A167 roundabout and travel back down York Hill Road. This would have no effect on York Hill Road and it would increase longer undesirable journeys.

Mr Burtinshaw commented that the residents group supported the original proposals to restrict Heavy Goods Vehicles which would protect York Hill Road, however, the addendum to this would significantly impact upon Green Lane.

The residents association had provided a suggested replacement to schedules 1 and 2 of the traffic order which in terms of schedule one, would prohibit left turns by heavy goods vehicles from Meadowfield Avenue into York Hill Road. Schedule 2 would prohibit a right turn by heavy goods vehicles from York Hill Road East into York Hill Road West. Both suggested replacements to the schedules would accord with the original transport assessment made in September 2008.

The Chairman thanked Mr Burtinshaw for his presentation and invited Ms Ros Pluck who addressed the Committee on behalf of Durham Constabulary who had objected to the 'no entry' restriction on Enterprise Way and was based on the grounds that the constabulary consider it 'unsatisfactory' that compliance could only be achieved by signage.

Ms Pluck expressed concern of the double-sided no-entry and wished to separate residential and commercial traffic. The constabulary indicated that they would support other measures such as rising bollards which the Fire Service could also use. A back-to-back 'no-entry' would be difficult to enforce and the Constabulary requested that the Council consider other appropriate measures. Should the Council pursue the arrangement as indicated at present the constabulary would seek transgression from the law as it would set a potential road safety risk at the location.

The Business Manager informed the Committee that the no-entry issue at the location had been discussed at length. The Fire Service were not keen on the potential use of a rising bollard and the resultant technical issues that can arise once installed.

Councillor Foster, local member and Cabinet Portfolio Holder for Regeneration and Economic Development informed the Committee that he appreciated the work of the Green Lane Residents Association and Council officers. The development itself would create many jobs. The aim of the development was to keep industrial, commercial and housing as separate as possible. Councillor Foster acknowledged the concerns of Green Lane Residents Association of increased traffic on Green Lane and traffic numbers. As a local member for the area, Councillor Foster had insisted on careful monitoring of this area, hopefully on a quarterly basis. Councillor Foster also asked that officer work jointly with the Police and Fire Services on the 'no entry' restriction.

Councillor Tomlinson agreed with the comments of the Police in terms of policing the no-entry and expressed concern at the use of rising bollards given the issues that can arise.

### **Resolved**

That the recommendations contained in the report be approved and that necessary measures be taken to review the operation of the scheme during the first six months and provide an update to the Highways Committee as appropriate.

#### **4 Unc. Rotary Way, Durham - Petition 110 - Report of Corporate Director, Neighbourhood Services**

The Committee considered a report of the Corporate Director, Neighbourhood Services which provided details following a request for a pedestrian refuge at Rotary Way which had been referred to the Highways Committee by the Overview and Scrutiny Management Board (for copy see file of Minutes).

The Committee were informed that Council had received a petition which requested a reduction in the speed limit to 40mph on Rotary Way, Pity Me and a re-design of the highway to include a pedestrian refuge. A representative for the Corporate Director, Neighbourhood Services had provided a response to the petition organiser. An appeal to the response was considered by the Overview and Scrutiny Management Board, in accordance with the Council's petition scheme. The Overview and Scrutiny Management Board recommended that an equality impact assessment before any scheme the outcome of these deliberations be shared with the Highways Committee.

The Strategic Highways Manager informed the Committee that the request for the refuge was turned down due to the unsuitability of the road for a pedestrian refuge and that it would encourage use of a trampled path through private land.

Should any improvement be made to this area it should be in the form of a link footway on the north side of the road between the Hag House Farm junction and the Hag House roundabout.

The Committee were informed that the road was derestricted with a 60mph speed limit in force. There had been no records of personal injuries or traffic accidents reported in the last five years. Traffic surveys had been undertaken at the location on two separate days. Seven pedestrians had been observed crossing the road between the hours of 8.30 a.m. to 9.00 p.m. on a Friday and three pedestrians had been observed crossing the road between 0.40 a.m. to 8.45 a.m.

It was considered that there was sufficient time for pedestrians to cross the road. Of the pedestrians who crossed the road during these times, none had been observed to have any form of disability. It was not routine practice to locate pedestrian refuges on derestricted roads. Furthermore, the Council didn't wish to condone the use of the footway which lead into a shop car park and loading area.

Councillor Martin addressed the Committee as the resident who had proposed the scheme by way of a petition. Councillor Martin distributed a map of the immediate area and indicated a number of key points, which included a bridal path, the proposed Council crossing and the various routes that pedestrians had to undertake. Councillor Martin informed the Committee that the width of the road was wider than normal, and wider still at the entrance to the Hag House Farm. Cars were travelling, at speed, in both directions and anyone crossing the road at present had to wait for a gap in traffic in a hatched area in the centre of the road. He commented that he would like to see some form of protection introduced for anyone crossing the road.

Councillor Martin also commented that whilst the original petition requested that the speed limit on the stretch of road be reduced to 40mph, there was a view that a reduction to

50mph would be acceptable and be consistent with other reductions in speed limits on similar stretches of both the A690 and A167.

Councillor Martin questioned the accident statistics provided by the Strategic Highways Manager and commented that an accident had taken place near to the location two months ago.

In terms of the alternative proposal, Councillor Martin considered that the proposal would not be practical and would treble the distance any pedestrian route to the nearby Arnison Centre development. The proposed area had zero visibility around one curved section of the roundabout and this was considered a serious concern, particularly for anyone waiting to cross the road with a buggy, pushchair or wheelchair.

The introduction of a pedestrian refuge was a viable option, which would also act as a traffic calming measure in some respects. Residents were also willing to make a contribution towards the costs.

Councillor Tomlinson felt he was unable to make any form of judgement given some of the issues raised at the meeting, commenting that a first person perspective of the physical layout of the area was essential. Councillor Tomlinson also queried potential costs to install a pedestrian refuge. The Committee were informed that each refuge would cost somewhere in the region of £20,000 and total around £40,000 for this option. The Committee were informed that a protected right turn would also need to be designed for residents exiting Hag House Farm.

Councillor Naylor was in agreement with Councillor Tomlinson's comments and suggested that the Committee undertake a site visit so they can see at first hand, the issues raised at the meeting.

Councillor Wilkes, local Councillor for the area, commented that the footpath was extremely narrow and anyone crossing found themselves almost stepping into the road prior to being able to cross it. The area was also hedged with lots of trees, existing foliage was dense and overgrown. Councillor Wilkes referring to the bridleway opposite the junction of Hag House must be used by more than the occupants of the given its well-trodden nature. Councillor Wilkes informed the Committee that he was aware that at least two residents in the area were not fully able bodied persons and these people would not have been captured in the survey.

The Strategic Highways Manager informed the Committee that there had to be a compromise didn't wish to give motorists too much visibility. It was accepted that bridleway and its use. Of those people observed crossing the road, hadn't stopped in the middle of the road concerned that if a refuge is put in the middle of the road it would cause a danger.

Councillor Turnbull commented that if any refuge built in the middle of the road, similar to the refuge built on the A690 considered them to be very dangerous, encouraged people to cross at the wrong point of the road.

## **Resolved**

That a decision be deferred on the issue and that the Committee carry out a site visit prior to any decision being made.

## **5 Closure of Footpaths - St Marys Close, Bishop Auckland - Report of Corporate Director, Neighbourhood Services**

The Committee considered a report of the Corporate Director, Neighbourhood Services which proposed an enhancement scheme for the area of St. Mary's Close, Bishop Auckland, a small cul-de-sac which consisted entirely of aged persons bungalows with two adopted footpath alleyways through neighbouring houses and central footpath traversing a grassed area (for copy see file of Minutes).

The Committee were informed that the scheme had been devised to benefit those people living in the area and would produce an amenity communal planted area within the grassed area, thereby enhancing the experience and living conditions for residents as well as providing additional garden areas for a number of properties. The works would necessitate the closure of certain footpaths. The first stage planning approval to change the use of public highway to that of a landscaped garden area had been achieved. The next stage of the process was to consider stopping-up the highways under Section 257 of the Town and Country Planning Act. Consultations had been carried out with all households in the immediate area and the local members. No negative comments had been received from the resident's consultation.

The Committee were informed that the Council have discretionary powers to carry out a stopping-up which had been advertised and resulted in one objection being received from the Open Spaces Society. The development could not proceed with the area being stopped-up. The Committee were advised of the statutory process that had been undertaken.

Councillors Lethbridge and Lee, both addressed the Committee in support of the scheme and informed the Committee that much work had been undertaken over a long period of time in partnership with Dale and Valley Homes, the local Area Action Partnership, Police and officers of the council. There was a clear determination and desire by all concerned to improve and enhance this particular part of the estate and provide some form of tranquillity and pleasantness for the residents in the area.

Ms Jo Bird, representative from the Open Spaces Society, who provided initial objections to the scheme addressed the Committee, highlighting a number of issues, namely that the Open Spaces Society objected to the proposed extinguishment of footpaths on the grounds that the paths may only be extinguished if they are not needed. Ms Bird commented that the council had not provided any evidence to justify this, regardless of who was using the footpaths. The fact that the consultation was limited did not take into account people from the wider area who used the footpaths as short cuts. Ms Bird also commented that the closure were being sought to combat antisocial behaviour, a matter which the police should have been encouraged to resolve. Ms Bird was of the view that closing the footpaths would not solve any problems and would simply move issues on elsewhere if the location was lost.

Ms Bird informed the Committee that she was of the view that Section 257 of the Town and Country Planning Act was being incorrectly used and that Section 118 should be applied. Ms Bird had attempted to contact the council's Legal Services for advice but had struggled to get any form of response, despite numerous attempts. Ms Bird referred to a similar case where the Local Government Ombudsman had found a local authority guilty of maladministration because of incorrect use of the law and had sought guidance from the Council's Legal Services Team. Ms Bird had repeatedly queried the procedure since March 2012 and maintained that many basic questions had remained unanswered. Ms Bird commented that the plan accompanying the papers differed from the plan circulated at the consultation stage.

In her view, the case had been handled extremely poorly, that the extinguishment should be considered under Section 118 rather than Section 257 and urged the Committee not to make the order outlined.

Councillors Arthur, Naylor and Shiell sought clarification that the correct legal advice had been provided, given the representations Ms Bird had made.

The Legal Advisor informed the Committee that officers were comfortable that the correct procedure was being used. A request was being considered that a public right of way be stopped up, planning permission having been granted for a change of use. The representations made to the Committee by Ms Bird asserted that a change of use did not constitute development for the purposes of the Town and Country Planning Act 1990. However, this was not the case, as Section 55 of that Act includes within the definition of development the making of a material change in use of any land. The Committee were advised that they needed to be satisfied that it was necessary to stop up the footpath in order to enable the development to proceed in accordance with planning permission.

On that basis the Committee agreed with the representations made by the local members and given the fact that they were satisfied that the legal process had been followed correctly.

### **Resolved**

That the recommendations contained in the report be agreed.

## **6 Application for Village Green Registration - The Green, Esh Winning - Report of Head of Legal and Democratic Services**

The Chairman informed the Committee that following consultation with the Head of Legal and Democratic Services, the item had been withdrawn due to an issue with the statutory procedure and would be considered at a future meeting of the Committee.

## **7 Such other business, as in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration**