

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, County Hall, Durham on **Thursday 23 January 2020 at 1.00 pm**

Present:

Councillor J Clare (Chair)

Members of the Committee:

Councillors J Atkinson (Vice-Chair), D Bell, J Blakey, L Brown, J Chaplow, G Huntington, I Jewell, S Quinn, G Richardson, J Shuttleworth, F Tinsley, S Zair and M Wilson (substitute for J Maitland)

Apologies:

Apologies for absence were received from Councillor Eunice Huntington

Also Present:

Councillor James Rowlandson

1 Apologies

Apologies for absence were received from Councillors E Huntington and J Maitland.

2 Substitute Members

Councillor M Wilson substituted for Councillor J Maitland.

3 Declarations of Interest

Councillor G Huntington declared a prejudicial interest in item no. 5a) and left the Council Chamber for the duration of the debate and deliberations.

4 Minutes

The minutes of the meeting held on 24 October 2019 were agreed as a correct record and signed by the Chair.

5 DM/19/00260/OUT - Former Addison Auctioneers, The Auction Rooms, Roman Road, Barnard Castle

The Committee considered a report of the Principal Planning Officer regarding an application (landscaping reserved) for demolition of existing buildings and

construction of 1 no. Class A1 foodstore and 1 no. Class A1 retail unit with associated parking, landscaping and servicing, at former Addison Auctioneers, The Auction Rooms, Roman Road, Barnard Castle (for copy see file of minutes).

The Principal Planning Officer gave a detailed presentation which included a site location plan, aerial photographs and photographs of the site. Members had also visited the site earlier that day.

Councillor J Rowlandson, Local Member, confirmed that it was unusual for him to present a positive response to a Planning Officer's report at Committee as he was usually objecting, when attending in his capacity as a local member, however on this occasion, he was confident in the recommendation outlined in the report. The Applicant had worked with the County Council and Town Council to address concerns. The Council had even employed an independent retail planning consultant to review all material produced and had concluded that there would be no sizable effect on the Town Centre. In addition, Councillor Rowlandson had received numerous telephone calls from residents declaring that they wanted to have a choice in Barnard Castle and he therefore supported the Officer's recommendation.

The Chair confirmed that due to the nature of the application, he was happy to increase speaking time from five minutes to six, giving all speakers who had registered, a total of three minutes each.

Ms S Harris, had resided in High Riggs for 43 years. She would have a hole dug a few metres from her back garden followed by months of clearing and building work. She would then have to endure permanent noise including that of delivery vehicles, between the hours of 7.30am – 10.30pm for 7 days a week. Even though it was reduced on a Sunday, the only day she would be free from noise would be Christmas Day.

Ms Harris suffered from breathing problems and allergies which had resulted in asthma. She would be exposed to traffic fumes which would trigger an attack, the symptoms only reduced if she went to a green area. Trees would be removed and not replaced and the assessments with regards to pollution were hypothetical. She questioned who would police the conditions which had been attached and she had doubts about the lighting assessment and suspected her property would suffer from leakage. She also suggested that Stainton Village which was two miles away would suffer from light pollution.

Finally, Ms Harris said that the A688 was wholly unsuitable for this type of development. It was already subject to heavy traffic and would only suffer more should the application be approved.

Mr C Creighton spoke on behalf of Morrisons and in objection to the proposal. He predicted that it would have a harmful impact on the Town Centre. A survey had concluded that 65% of customers combined a visit to Morrisons with a trip to the Town Centre. The Councils report assumed that this development would reduce people travelling out of the area to Bishop Auckland, but he disagreed. The predicted turnout would drop by 35% and have a similar effect to that at Bishop

Auckland Town Centre from the retail development at Tindle Crescent, and similarly Darlington and Stockton. With regards to Morrisons specifically, he acknowledged that the Council had taken their concerns seriously by instructing an independent retail consultant, however he disagreed with their conclusion. The report had stated that if one of the larger multiples such as Boyes, Superdrug or Boots closed, the Town Centre would not be affected, however in his opinion it would make people less likely to visit the Town Centre.

Mr Creighton referred to highway safety concerns which had not been addressed – the footway was not wide enough and there was no road safety audit included in the application to support the conclusion.

The Principal Planning Officer responded to Ms Harris's concerns. With regards to the impact of construction, the Environmental Health Officer had made no objection and a condition was attached which required the approval of a construction management plan, which would control dust and movements to and from the site. Delivery hours had also been subject to scrutiny - the Environmental Health Officer did have concerns with regards to delivery, specifically to Home Bargains for the use pallet deliveries which required forklifts. There was a condition requiring the applicant to submit a delivery management plan.

With regards to the operational impact, the Principal Planning Officer confirmed that there was an existing commercial use on the site which was no longer operational, and an existing agricultural use on the fields. The lighting assessment minimised the use of light and required lights to be turned off outside operational hours. The loss of view was not a material planning consideration but it was recognised that there would be a change in the nature of the site which was not significant enough to warrant refusal. Planting up would take place along the boundaries and an air quality assessment had been submitted. There was no objection from the Environmental Health Officer with regards to air pollution. He assured local residents that if there were any breaches to conditions, they could be reported to the Planning Enforcement Team who would follow up accordingly.

In response to Mr Creighton, the Principal Planning Officer confirmed that a retail planning assessment had been submitted by the Applicant and the Council had appointed an independent planning consultant to carry out an unbiased retail assessment. This had recognised there would be an impact, but it would not be severe and when considering the level of impact, it was deemed to be acceptable.

Finally, a traffic assessment had been scrutinised by the Highways Engineer and the proposed access was acceptable. There was no significant loss of highway safety and therefore no objection had been presented.

The Principal DM Engineer confirmed that due to the restrictive width of the carriageway (6m) on the A688, it was made clear from the onset that the focus was on improving the accessibility given the modest footway on the north side of the road. It was proposed to install a footway around the entry radius from the site onto the road which was 2m wide. After exploratory works by the applicant, there was scope to install a modest width footway along the boundary wall, which would be over a section of 50m to the west, after which the footpath widened out to 1.7-1.8m.

Although there were footway limitations due to the width of the carriageway, the Highways Authority would not agree to reducing the width of the carriageway any further.

The Principal DM Engineer confirmed that the footway issue had been identified from the onset, and in response to the comments on the absence of a road safety audit, the Highways Authority had been fully aware of the principal issues relating to highway safety since the pre application stage. The situation was not ideal but the basis of a refusal had to be considered in context; there was an existing commercial planning use on site and a proposal to significantly improve the existing situation. Although it may be deemed to be a finely balanced decision, the improvement to the footway to the south side was physically all that could be installed to avoid further reduction of the carriageway.

Lady A Hobbs spoke in support of the application. Barnard Castle was traditionally a wealthy area, but unfortunately a lot of people were not wealthy and needed to budget responsibly. This meant that many people were travelling out of the area to Bishop Auckland in order to shop, something they would not be required to do if they had the choice on their doorstep. Barnard Castle was traditionally an area which welcomed holiday makers and day trippers and she disagreed with Mr Creighton and considered that if Barnard Castle lost large group retailers, it would bring back small independent retailers, and bring more visitors.

Mr C Argent, spoke on behalf of the Applicant and confirmed that the application had been under substantive review as well as consultation within the Council. It had been subject to substantial and transparent statutory consultation over the last year. It had received 102 letters of support, which was nearly four times more than the letters of objection. There was significant support at a public consultation event where 82% of the attendees supported the scheme. A similar number were in support of enhancing the retail choice in the Town Centre. In terms of planning justification for the scheme, it should be considered in terms of environment and sustainability.

Morrisons had been built over 20 years ago and was not ideal. The Council had undertaken a household retail study in 2013 which concluded that 59% of the residents shopped in Morrisons and the Town Centre. In 2016 it had declined substantially to 44%, but 90% of those surveyed travelled by car.

The scheme would bring a choice to the people of Barnard Castle - Morrisons had been the monopoly on food shopping for a considerable period of time. While all town centres were different, he referred to Crook which had both Aldi and Lidl and reiterated that Barnard Castle only had a 20 year old Morrisons, which was highly constraining. To allay concerns on impact he pointed out that Lidl did not have a fresh food, fish, meat or deli and the scheme would bring a complimentary offer to the Town Centre, particularly independent shops.

With regards to other details, planning conditions were attached to minimise disruption to local residents. There were major sustainability benefits associated with the scheme. The NPPF required planning decisions to proactively reduce the need to travel and people were travelling 20 miles by car. The scheme would

create 60 local jobs which was of significant benefit. If the scheme did not go ahead, unsustainable shopping patterns would continue. The application should be approved for the delivery of a high-quality scheme for Barnard Castle which was the principal town in the Teesdale area. The Town Centre had consistently been assessed as being viable and he asked the Committee to consider sustainability and environmental factors when reaching their decision.

Councillor Shuttleworth referred to recent TV programmes in relation to the decline of the high street and he considered that if the application was approved, smaller independent retailers would disappear, as they had in Crook and Bishop Auckland. He agreed that people should have a choice but considered that the scheme would destroy Barnard Castle Town Centre and therefore he could not support the application and moved refusal of the application.

Councillor Brown asked to see the location of the new bus stops and was interested in whether they would be inside or outside of the 30mph speed limit zone. She had concerns for highway safety in the absence of a pedestrian island. The Principal Planning Officer confirmed that they were yet to be agreed and although they had not yet been finalised, they would be within 400m from the site entrance. The Principal DM Engineer confirmed that they would be determined taking highway safety into account.

Councillor Brown also had regard to the disruption of residents and felt it excessive to have deliveries at 8am on a Sunday when they store did not open until 10am.

Councillor Tinsley asked the Principal Planning Officer to confirm the distances between the existing houses to the west of the Home Bargains development and asked whether there were any details with regards to the timing or amount of deliveries. He queried the methodology of the retail impact assessment and asked if new surveys taken in addition to the information from 2013 and 2016.

The Principal Planning Officer confirmed that he did not have details of expected deliveries, but the closest point was 7m to the corner of the property at Prospect Place and the distances ranged went up to 17m. There would be some level changes but still a substantial elevation and it was proposed to be fencing and additional landscaping along the boundary. This was not considered to be an overriding factor to refuse the application.

Councillor Tinsley commented that the decision came down to retail impact. He accepted the sequential test in that there were no sequentially preferable sites located within the Town Centre, but if this was the most preferable site, he noted that it would offer no positive benefit in terms of attracting additional footfall within the Town Centre area.

With regards to retail impact, given it was a different offer to what was available elsewhere, the comparison impact was not so significant to warrant refusal but he did consider the convenience impact was significantly more of a concern. Morrisons consultants had identified 35% impact upon the town centre and this would challenge the commercial viability of the store and the Town Centre - of which 65% of trips included trips to the high street. The Councils consultants had

identified 19%. The cumulative impact of the store underperforming by 20% was in his view, enough to challenge the commercial viability of the store. The turnover and profitability would be reduced by 40% and therefore without the Morrisons store, which was the anchor for the Town Centre, there would be a significant impact. When compared to Crook, there was no out of town retailing - the new Aldi and Lidl in Crook were located within the Town Centre, hence why the centre was performing well.

Councillor Tinsley also had concerns about deliveries, there would be dock levellers within 20m of existing residential properties, operating reverse warning alarms at unsociable hours of the day. The Principal Planning Officer confirmed that there were 2 dock levellers on the Lidl store, and condition with regards to the Home Bargains store as they operated a different delivery schedule which included the use of pallets and forklifts.

Councillor Tinsley moved refusal of the application as on balance, the impacts were significant and demonstrable, and enough to pass the NPPF test.

Councillor Richardson confirmed that he had never expressed an opinion on the scheme, although he was aware that it was in the pipeline. There were some negative impacts, faults with roads, footpaths, bus stops and proximity to the Town Centre. Nevertheless, Morrisons in Barnard Castle was always packed with people when he visited. He disagreed with visitors having to pay parking charges as he believed the car park was historically gifted. Overall, Councillor Richardson believed the scheme would benefit Barnard Castle and he was pleased with the 90 minutes free parking which was being offered.

Finally, Councillor Richardson expressed concern that Morrisons had telephoned Members of the Committee to make sure they had received and read their email communications. He moved the recommendation to approve the application.

Councillor Atkinson considered the benefits of the scheme to outweigh the disadvantages. He was concerned about taking shopping away from town centres, but the stores offered very different products and he disagreed that there would be any significant impact and seconded the motion to approve.

Councillor Blakey considered the Town Centre would suffer significant detriment and result in empty stores similar to Durham City. Some of the retail units had been trading there for years and it would be sad to lose them.

Councillor Jewell commented that this was not a simple decision to make, he had sympathy with the residents, but also with those in favour. The comments had become polarised in that the scheme would have a big effect on Morrisons and the town centre, but it was much wider than that. Shops were affected by the internet and online shopping and delivery service. He would be sad to lose Barnard Castle but progress and development would be made and there would be knock on effects, but if it did have a detrimental effect, which he wasn't sure about, but the Town Centre would have to look for an alternative offer.

Councillor Chaplow referred to the jobs which would be provided by the scheme and the locals who had to travel out of Barnard Castle for work. She supported the scheme as she supported employment.

Councillor Zair agreed that the consumer should have choice but had seen the effects of out of town shopping in Bishop Auckland Town Centre which was now faced with 19-20% empty stores, when the national average was 11-12%. He considered the scheme would have a detrimental effect on Barnard Castle Town Centre.

Councillor Quinn commented that Morrisons were a business and stores were not faithful to areas – the store at Shildon had closed a few years ago.

The Chair summed up the debate and added that this was a different situation to Bishop Auckland and there were shoppers already travelling from Barnard Castle are to Tindle Crescent. There was a fear that if the application was approved, it would significantly damage the Town Centre however, the Committee had heard the Local Member was in favour and there had been a lot of public support for the scheme because it would be much cheaper for people to shop there.

Resolved

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the provision of £6,000 for offsite ecological mitigation and subject to the conditions outlined in the report.

6 DM/19/03226/FPA - Land to the rear of 13 Bede Road, Barnard Castle

The Committee considered a report of the Principal Planning Officer regarding an application for the erection of a dwelling (demolition of workshop) to the rear of 13 Bede Road, Barnard Castle (for copy see file of minutes).

The Principal Planning Officer gave a detailed presentation which included a site location plan, aerial photographs and photographs of the site. Members had also visited the site earlier that day.

Councillor Rowlandson, Local Member, confirmed that the application had received 16 objections and he was disappointed that the Town Council had approved it without having heard residents' concerns. There were existing issues with the access, the junction onto a busy road with restricted visibility due to parked cars. This was a garden and a garage, not a brownfield site and residents were concerned about the effect on their amenity, given the size of the proposed residential building.

Mr Maughan, local resident, asked if he could share three documents with the Committee, but the Chair confirmed that they were unable to be circulated at such late notice. He confirmed that should anyone wish to circulate information it had to be received in good time. Mr Maughan confirmed that he had not been given

sufficient notice of the hearing and had only received one of the items earlier that day. The Chair asked him to sum up the content of the information in his speech.

Mr Maughan confirmed that he had lived in the area for 19 years and was acting on behalf of 16 other local objectors. Their main objection was that Barnard Castle Town Council had made the decision to support the application 10 days prior to the deadline for objections. The Town Council had not therefore considered the objectors responses as part of their decision and he wanted the application to be deferred in order for them to reconsider their submission. He questioned the fairness of the decision making process.

Furthermore, Mr Maughan confirmed that a covenant existed on the site, which restricted the size of a dwelling, and this proposed dwelling exceeded that. He queried whether the Committee could therefore make a lawful decision.

Mr Maughan argued that the site was not large enough to be defined as Brownfield as per the Town and Country Planning regulations. It was also misleading to describe it as a workshop and a yard - it had been used as storage since it had been purchased by the applicant and prior to that was used as a garage and a garden.

With regards to highway safety, neither Victoria Road nor Bede Road were acceptable routes, there was a traffic island and bus stop within 10m of the junction off Bede Road, which was regularly used by school children from the three local schools. The Highways Authority had accepted that there was restricted visibility, which therefore impacted on highway safety. The access road was not appropriate for the increased number of vehicular movements a 5 bedroom house would create.

Finally, Mr Maughan referred to the restrictions on building within a conservation area and although the report claimed the house would be relatively well concealed and acceptable, it was behind a four foot hedge. He referred to at least three houses which had been refused planning permission for dormer windows even though they were concealed behind walls 8-10 feet high.

The Solicitor explained that although the Town Council were consultees, they were not the decision maker and the Committee were in receipt of the full information in order to determine the application accordingly. With regards to the covenant, she advised that this was not a material planning consideration and had to be addressed outside the remit of this Committee.

The Principal Planning Officer confirmed that the issue regarding whether or not the land was Brownfield was not the overall determining factor. The NPPF promoted assessment of a site in all context to determine sustainability. Each individual application was assessed on its own merits and this site was linked to Barnard Castle Town Centre and readily accessible to shops and amenities. Some change of use had occurred, but it could be described as a garden/ancillary which was divorced from a residential dwelling. The Design and Conservation Officer had offered no objection, it met separation distances, and would cause no significant loss of amenity.

The Principal DM Engineer described the site as backland development, typical of urban areas in rear lanes. It was satisfactory due to the low number of trips the development would convey, an NPPF based refusal could not be justified as there was already an existing building use which could generate movement. It was clear it would not be suitable for two dwellings, hence the applicant had put forward one single dwelling. The Highways Authority could not sustain an objection to the proposal.

Mr Harper confirmed that he bought the land in March 2019 as a workshop, it had not been used as a garden since the previous owner passed away. There was a building used for storage and he referred to a heap of expensive stone which was not rubbish, but material used for building. He lived local and knew some of the objectors personally - he did not want to cause upset amongst residents. Mr Harper was well aware of the problems on Bede Road and had therefore ensured that there was enough room for 7/8 vehicles to park on site. He was renowned for high quality work and confirmed that he was even prepared to retarmac the lane as a gesture of goodwill.

Mr Harper confirmed that he was unaware that a covenant existed and would make his own enquiries following the Committee. This was the right house for the area and in addition to those objecting, a lot of people were pleased that he had purchased the land. It was never going to be an allotment, it was too expensive of an investment and natural development. Mr Harper said that objections were very similar and may have come from the one source.

With regards to the gable windows, Mr Harper confirmed that he would omit them if people were strongly opposed. He was not a ruthless developer but had instead chosen to build one dwelling on a site that was large enough for two or three houses.

Finally, Mr Harper said that he was willing to liaise with local residents who had issues. He had a good reputation and they could be assured that any issues would be resolved and the development and road would be left immaculate. The Chair was grateful that the Applicant was willing to meet with objectors.

In response to questions from the Chair, the Principal Planning Officer confirmed that it was clear from the plans that there was more than enough space for vehicles to park. With relation to the design of the building, Design and Conservation were particular in areas such as Barnard Castle and were satisfied with the scheme, subject to the control of building materials.

Councillor Brown noted the hours of operation and felt that 7.30 am was a little early on a Saturday morning and wondered if the developer could speak to the residents about this.

Councillor Tinsley had viewed the objector comments on the Councils online portal and was content having heard the comments from the Principal DM Engineer. This was backland development in close proximity to services, it was an effective and efficient use of Brownfield land and an ideal development site. He supported the recommendation and moved approval.

Councillor Richardson questioned what grounds the Committee could refuse the application and the Solicitor confirmed that it was clear from the report that the Council did not consider there to be any grounds to refuse. Councillor Richardson confirmed that he and Councillor Rowlandson had received a lot of calls and whilst he could offer sympathy to the residents, as he suspected, there were no grounds in which the application could be refused.

Councillor Atkinson confirmed that he agreed with Councillor Tinsley's comments and he was also grateful that the Applicant was willing to cooperate with objectors. He seconded the motion to approve.

Resolved

That the application be APPROVED subject to the conditions outlined in the report.

Signed.....
Chair of the meeting held on 20 February 2020