

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 9 July 2019** at **1.00 pm**

Present:

Councillor I Jewell (Chair)

Members of the Committee:

Councillors G Bleasdale, D Brown, I Cochrane, B Coult, M Davinson, D Freeman, K Hawley, A Laing (Vice-Chair), R Manchester, J Maitland and L Pounder

Also Present:

Councillors J Blakey, S Dunn and M McKeon

Prior to the start of the meeting a resolution was passed for Councillor Jewell to chair the meeting. Nominated by Councillor Laing and seconded by Councillor Pounder.

1 Apologies

Apologies for absence were received from Councillors J Clark, K Corrigan, A Gardner, S Iveson and J Robinson.

2 Substitute Members

Councillor P Jopling substituted for A Gardner and Councillors I Jewell, J Maitland and L Pounder for Councillors S Iveson, J Clark and K Corrigan respectively.

3 Minutes

The minutes of the meeting held on 11 June 2019 were agreed as a correct record and signed by the Chair.

4 Declarations of Interest

Councillor I Cochrane declared a prejudicial interest in item number 5 c) on the Agenda and confirmed that he would therefore leave the Chamber before the debate and deliberation of the application.

5 Applications to be determined

a DM/19/01369/FPA - 21 Church Street, Coxhoe, Durham

The Committee considered a report of the Planning Officer which consisted of an application for the change of use from a Clinic, to a hot food takeaway at ground floor level and office at first floor level, at 21 Church Street, Coxhoe (for copy see file of minutes).

The Planning Officer confirmed that Members had visited the site earlier that day and gave a detailed presentation of the application site, including site location plans, site photographs and aerial photographs of the site.

The Planning Officer confirmed that since the report had been published two further objections had been received, one from a local resident and one from MP Blackman-Woods.

Ms K Simpson on behalf of Coxhoe Parish Council addressed the Committee in objection to the application. She confirmed that a high number of concerns had been expressed at a recent meeting and were mainly in relation to noise, highways and impact on local businesses. Coxhoe already had several takeaway establishments and an additional one would not only have an impact on other well-established hot food takeaways, but it would impact on surrounding traders. The Parish Council worked alongside businesses to improve services however it was not felt that the locality would benefit from another hot food takeaway.

Councillor Blakey, Local Member, confirmed that the area had benefitted significantly over the years with a lot of support from the AAP and investment by local businesses. Coxhoe had a high street which offered a wide range of services and a pleasant shopping experience. She had counted eleven hot food establishments within half a mile.

Councillor Blakey referred to the reference to highway safety as contravening the County Durham Local Plan and she was surprised at the lack of comments from Durham Constabulary as she was aware of 100 anti-social behaviour reports surrounding youths causing major disturbances at a hot food takeaway no more than 50 yards from the application site.

Councillor Blakey referred to the impact on the environment should the application be approved and it was clear that without rear access, waste would need to be disposed via a small passageway in between the two properties. She queried the frequency of the waste collections and wondered how long would bins be left out on the high street with decomposing food waste before being collected.

Finally, Councillor Blakey summed up that the development would be no benefit to the high street and she could only anticipate the impact it would have on other businesses in the area. She hoped the Committee would agree with her and refuse the application.

Councillor Dunn, Local Member, confirmed that this was the central part of the high street and had a different character to the other areas, and also different hours of business. Shops in this area did not go beyond late afternoon. There were already more than enough hot food takeaways on the high street, and this was not the right type of business to replace a former baby clinic.

In addition Councillor Dunn shared concern about the storage and disposal of waste. To the rear of the property was a small yard with no rear exit. The wall abutted the church yard and there was a narrow passageway in between the two properties which was not big enough for a large commercial bin. He assumed therefore that the waste would be stored in multiple domestic sized bins and this combined with the fumes from the extraction unit at the rear of the property, would affect both residential properties at either side of the application site.

Councillor McKeon, Local Member, indicated that the previous use and the proposed use demonstrated the incompatibility in this part of the high street. She fully agreed with the objections with regards to highways safety and environmental impact on neighbouring residents and businesses, however she also wished to draw attention to the abutting church yard. This was a church yard which contained common wealth war graves and the proposed development was not appropriate.

Ms McDonnell was objecting as a local resident and business owner and advised that she was at risk of losing both should the application be approved. Coxhoe had a successful high street and Ms McDonnell would normally support development that would add to the vibrancy and mix of the area, however this proposal would only have a detrimental impact. Not only would it affect the residents who live at either side of the property, but also the businesses in the immediate vicinity. There was a successful bridal boutique that would undoubtedly suffer due to the smells emitted from a hot food takeaway.

No extractor would remove all of the odour and in addition there were two other businesses which sold soft furnishings, clothes and accessories – they were also at risk of closing or relocating. This proposal would have a detrimental effect on the economy as it would drive businesses away.

Ms McDonnell added that she was aware that the applicant had already secured a tenant which had signed a 3 year lease and she queried the logic behind a change of use to a hot food establishment.

Referring to parking issues, Ms McDonnell confirmed that there were existing problems which had been well documented at public meetings. There were issues with funeral vehicles gaining access to the Church and people regularly misusing the two disabled bays. Ms McDonnell confirmed that she had personally reported antisocial behaviour and littering from large groups of youths and she added that they used appalling language and behaved in an intimidating manner. She often had to clean up waste and sweep the footpath on a morning. To approve another takeaway would increase waste, parking issues, antisocial behaviour and she envisaged three businesses being forced to close.

The Planning Officer responded to the comments first by confirming that Members had queried the issue of waste disposal on the site visit earlier that day. She had been unable to contact the Applicant however, she had contacted the Councils refuse and recycling team who confirmed that there were various size commercial waste bins and at least two of them would fit down the small passageway between the properties.

Councillor Jopling stated that she had personally experienced the issues of having a commercial property with little or no outdoor bin space and had been required to submit a waste management plan. She admitted she did not know the area well, but she sympathised with the objectors and could not see how the proposal would aid regeneration in the area.

Councillor Coult had visited the site and echoed concerns with regards to bin storage. Although it had been confirmed that a smaller size commercial waste bin could be provided, there was no information with regards to how much waste would be generated and how many bins would be required. There was no guarantee the small yard to the rear would be able to store all of the bins and she also wondered how often they would be emptied and how long they would need to be left on the high street on the day of collection.

In response to a question from Councillor Davinson the Central and East Planning Team Leader confirmed that the first floor office space would have access to the yard via the same exit door as the takeaway.

Councillor Maitland queried whether commercial waste bins containing food waste would be emptied more often than domestic bins and the Central and East Planning Team Leader replied that a bespoke arrangement which met the requirements of the business would be agreed and therefore if required, collections could be more frequent.

Councillor Freeman referred to a recent Council press release which had made reference to the emerging County Durham Plan 'getting tough on takeaways'. There was a lot of information included on why this stance was being taken but the significance was that they did not contribute to any health benefits as outlined in the CDP. He referred to Policy S5 of the City of Durham Local Plan which permitted food and drink uses providing there was no significant impact on the amenity of the nearby occupants, however he failed to agree with that on the basis there were nearby shops at risk of closure. Furthermore Policy 10 was permitted should there be no adverse effects on neighbouring properties, and for the previous use there had been very little, but a hot food takeaway would produce odour, noise and waste which had not been fully addressed, as there were outstanding issues with storage and disposal methods.

Councillor Brown considered the proposal was contrary to Policy S10 and Paragraph 127f of the NPPF and therefore proposed a motion to refuse the application.

Councillor Davinson queried the absence of a waste management plan and the Central and East Planning Team Leader confirmed that there was no condition attached, but if Members were minded to do so, a condition could be added.

The Highway Development Manager addressed the Committee with regards to the matters raised. The property had existing permission which was likely to attract parking. Upon considering the application, he had to offset the impact against the existing permission. As the Committee had heard, the majority of the businesses in this particular part of the high street did not operate beyond 5.00 p.m. whereas the vehicle increase as a result of the development would be in the evening. The parking demand associated with the existing premises when offset against the proposed change of use would not result in a significant impact.

The Planning Development Solicitor referred to the motion put forward by Councillor Brown and was provided with grounds for refusal as follows;

- The proposal would result in an unacceptable impact on the amenities of nearby occupants through noise, odour and disturbance arising from the proposed use

- The proposal made substandard provision for access and waste management
- The proposal would be out of keeping with the character of the area by the nature of the proposed external alterations.

Councillor Jopling seconded the recommendation to refuse.

Resolved

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

- The proposal would result in an unacceptable impact on the amenities of nearby occupants through noise, odour and disturbance arising from the proposed use, makes substandard provision for access and waste management and would be out of keeping with the character of the area by the nature of the proposed external alterations thereby being contrary to policy S10 of the City of Durham Local Plan and paragraph 127f of the NPPF.

b DM/19/01234/FPA - Land to the East of Unit A, Damson Way, Dragonville, Durham, DH1 2YD

The Committee considered a report of the Planning Officer which consisted of Demolition of former garage and construction of link road (between Renny's Lane and Damson Way). Construction of new retail unit (Use Class A1 with ancillary A3) and construction of signalised junction (A181 Sherburn Road and Damson Way) (for copy see file of minutes).

the Senior Planning Officer confirmed that Members had visited both application sites earlier that day and he gave a detailed presentation of the application, including site location plans, site photographs and aerial photographs of the site.

The Senior Planning Officer reported two late representations, one from DCC regen which confirmed that the proposal would ease traffic on Dragon Lane, and provide the benefit of a further retail unit, and a second objection from a resident at Coronation Terrace with regards to the impact on the value on property.

Ms Howarth representing Belmont Parish Council confirmed that they did not oppose to the principle of a link road. The Parish Council recognised the increase in commercial and customer vehicles due to the development of the retail park, and they had welcomed financial contributions towards a relief road over the years by previous applications.

They also did not object to the additional retail and café unit that would be created and they accepted the conditions with regards to its construction.

Belmont Parish Council understood the aim of the scheme, however their concerns were centred on the proposed junction at Damson Way / A181, due to the widening of the road and its close proximity to the existing residential properties. The design required the removal of a long-established, healthy and mature tree belt, which currently provided a barrier for noise and pollution and had been a significant benefit to residents over the years. If the scheme worked as proposed, it would divert a considerable volume of traffic and encourage vehicles to use the Damson Way link road.

The Parish Council could not comprehend how the increase in vibration levels could be described in the report as insignificant. The current layout included a long bend in the road which assisted in speed reduction. This would cease to exist should the layout proposed be accepted. Ms Howarth suggested the retention of the current route with the addition of traffic signalisation, would make the junction fit for purpose.

It was a concern that in the report the adverse impact was dismissed as having slight to negligible increase in air and noise pollution from the increase in traffic flow. The report also referred to the impact on the appearance of the area following the removal of the trees, yet their protection qualities were much more significant.

The Parish Council did not oppose to improvements to the road network but they had a duty of care to local residents and they considered that banning HGV's from using this road would help mitigate some of the adverse effects. The Parish Council confirmed that in the air quality assessment, there had been an admission that air quality would improve at the Dragon Lane junction, so conversely it would increase by diverting the traffic to the Damson Way junction.

Ms Howarth accepted that there would be traffic congestion benefits with the associated relief road, but the Parish Council had a duty of care to existing residents and in conclusion, the exclusion of HGV's from using the junction would help mitigate some of the adverse effects. This was not in terms of weight limits, but in terms of reducing the amount of air pollution from standing vehicles.

The Parish Council considered the application contrary to Policy T1 of the Durham Local Plan and asked for it to be refused.

Mr Harris confirmed that as a resident of Coronation Terrace, he would be massively affected by the proposal. The report was misleading with regards to the impact of noise.

It stated that the increase would be less than 3 decibels and acceptable, but in fact it would double and be significant. There was also no mention of the noise following the removal of 34 mature trees and hedgerow, which acted as a natural barrier and he questioned whether this was deliberately omitted.

A single traffic survey had been carried out during a quiet period and was not a true representation of the noise or levels of vehicles at peak times of the day. The acoustic fence was an afterthought and at 2m high, it would have no protection from 4m high HGV's.

Mr Harris confirmed that 40 years ago there were no vehicle movements into the industrial estate as it was then a no through road. There were now 5000 vehicles per day travelling through, which he considered a result of poor planning decisions, and this would double over ten years to 10000, through a gap between residential properties which had not been designed as a road. Drivers would realise that the link road could be used as a rat run to avoid three sets of traffic lights and it would therefore rise much quicker than anticipated.

Mr Harris stated that he had been advised by Highways that the signals were designed to avoid queuing southbound, however he had questioned what mitigating measures were in place for when there were stationary vehicles adjacent to Coronation Terrace, which was unanswered.

Mr Harris believed that he would be left with stationary vehicles outside of his property, causing noise and vibration, spilling out toxic fumes, increased vehicle speeds as a result of the new road layout, street light pollution, vehicle light pollution, a severe visual impact due to the installation of the fence, and severe access difficulty. This had been deemed a slight impact on amenity, but would be severe.

Mr Harris stated that items suggested by himself and Belmont Parish Council had been dismissed without any further analysis. Assumptions had been made by the Planning Officer with no consultation with local businesses and he stressed that should the application be approved, residents would be left with a legacy that they did not choose or deserve.

Mr M Phillips objected on behalf of the City of Durham Trust on the basis that the proposal was putting vehicles before cyclists and pedestrians.

Mr Phillips gave a detailed presentation which included a suggested alternative cycle route. He confirmed that the design of the proposal put motorists first, at the cost of pedestrians or cyclists and breached Policies including the Durham City Sustainable Delivery Plan and the County Durham Strategic Cycling and Walking Delivery Plan.

The Council proposed diverting the route along the new link road to avoid Dragon Lane and Renny's Lane, however this route needed to be retained and improved for residents who lived in the Gilesgate Moor area.

Mr Phillips referred to the National Cycle Network Route and confirmed that achieving a good link to the city centre was important as the DT model suggested that the cycling could increase from 1% to 15% in future or 22% by the uptake of ebikes. This would reduce car dependency in the area.

The application had been submitted prior to the preparation of detailed drawings for the cycle route so the Committee lacked the information needed to assess the cycle and walking route. For example it was not obvious from the plans that pedestrians would have to share the footpath with cyclists. The proposed route involved three crossing points on Damson Way as there would not be a continuous pavement on either side. The City of Durham Trust had suggested the new link could be redesigned with the footway on the east side and only one crossing would be needed. This would reduce conflict between pedestrians, cyclists turning towards the A1M underpass and motor vehicles coming from McIntire Way.

Mr Phillips described the proposal as poor design and featuring a substandard shared cycle/footway of 2.24m. Although there was a land constraint, carriageways as narrow as 6m were permitted, even by use of HGV's, however the Council had chosen to compromise the pedestrian/cycle provision in order to avoid reducing the carriageway.

The A181 junction involved 2 signalised crossings although the latest design guidance recommended single stage crossings. This would require extra time allocated to the crossing phase, but under the Council's own policy, they should have considered a single stage.

He asked the Committee to defer the application in order to revise plans which complied with the Council's sustainable transport policy.

The Highway Development Manager responded to the suggestion of a signalised junction at the existing access point and confirmed that the reason for its design was to ensure a safe approach to the signalised junction, which allowed enough visibility on approach.

With regards to the prohibition of HGV's, he confirmed that due to the commercial nature of the area, a large number of vehicles would be diverted to the very congested Dragon Way, which was also a scheme which would not be supported by Durham Constabulary.

The Highway Development Manager confirmed that the reason for the design is that it gave a safe approach to the signalised junction, visibility, oversee signals ahead, to see the back of the queue. There had been a suggestion that an HGV prohibition could be applied to Damson Way, however this was a commercial area and those vehicles would be diverted to an already congested area of Dragon Lane. He had been advised that Durham Constabulary had expressed that they would not support an HGV restriction.

The Highway Development Manager then responded to Mr Harris with regards to ambiguity on the extent of queues at the junction on the A181. He confirmed that extensive modelling had been undertaken by an independent transport consultant, not just on the present but in 2029. There was an expectation that approximately 10 vehicles on Damson Way in 2029. If the queues extended beyond that, they could be controlled by the installation of traffic detectors, which would activate the green light if vehicles extended further.

Referring to the suggestion that speeds would increase due to the removal of the bend, the Highway Development Manager confirmed that there was no evidence to suggest speeds would increase, most vehicles slowed down on approach to a junction.

Finally, the Highway Development Manager confirmed that while the cycle provision was not the ideal solution due to the width restrictions, other designs had been considered and this was most efficient. Responding to the suggestion of moving the crossing to the east side, he confirmed that this would result in having to increase the size of the island and push the development further into the tree belt, creating a detrimental effect by doing so. The final design had a relatively free flow of traffic from the left turn of the roundabout on to Damson Way and therefore moving it to the east would potentially increase traffic lengths, which the Committee had heard was not desirable.

The Senior Environmental Health Officer confirmed that with regards to the Parish Councils request to retain the tree belt. He confirmed that against common perception, the trees did very little in terms of preventing noise. Calculations had been carried out to confirm that for the trees to create a noise barrier, they would have to be of significant density, which was not the case at this location. In response to the concerns about air quality on Damson Way, the assessment had confirmed that there would be a slight increase, but it was within the recognised limitation and therefore could not substantiate an objection.

In response to the concerns Mr Harris had with regards to the 3-decibel increase, the Senior Environmental Health Officer confirmed that due to the way the noise was calculated it would not be detectible to the human ear.

This was due to this being a very noisy area already. Mr Harris had also queried the methodology of the survey, however it had been carried out according to the appropriate national guidelines.

With regard to the acoustic fence, although it was not a requirement and he acknowledged that it would not reduce any impact to the first floor windows or from HGV's, a 2m fence would reduce the noise somewhere in the region of 5 decibels. He reiterated however that the assessment had confirmed the noise levels were not going to increase.

Mr Foster, spoke in support of the application and on behalf of the applicant, Durham County Council. From an economic development perspective, the provision of an additional access road at this location could be seen as a significant positive. The Dragonville Estate was very successful in both retail and commercial businesses, with many employers in the area and there were further developments in the pipeline. The proposed transport intervention was to ensure the ever increasing traffic and congestion would be addressed for the long term, for businesses in the area and for those who were considering relocating. Finally, he gave his full support to the application as it was an essential scheme for the industrial estate to continue to prosper.

Councillor Bleasdale moved the recommendation for approval, which was seconded by Councillor Laing.

Resolved:

That the application be **APPROVED** subject to the completion of an internal transfer of funds to the Council's ecology section to secure the following:

- £4,525 is required to be used towards off-setting biodiversity impacts from the development in accordance with the framework identified Durham County Council's Local Biodiversity Compensation Strategy;

and subject to the conditions outlined in the report.

Councillor Cochrane left the meeting at this point and did not return.

c DM/19/00171/FPA - Land at Mill Hill, North West Industrial Estate, Peterlee, SR8 2HR

The Committee considered a report of the Senior Planning Officer which consisted of the construction and operation of gas powered generators for the provision of flexible energy generation, on land at Mill Hill, North West Industrial Estate, Peterlee (for copy see file of minutes).

The Senior Planning Officer gave a detailed presentation of the application, which included site location plans, site photographs and aerial photographs of the site.

Councillor Laing queried the implications of operating the gas generators and the Senior Planning Officer confirmed that they did produce a noise but were contained within an acoustically sealed container.

Councillor Jopling asked how the conditions were monitored and the Senior Planning Officer confirmed that the developer would need to seek an environmental permit and any complaints would be investigated by the Environment Agency or the Councils Environmental Health Team.

In response to a query from the Chair, the Senior Planning Officer confirmed that the generators were not uncommon in County Durham but were typically situated on landfill sites.

Councillor Laing moved the recommendation for approval, which was seconded by Councillor Davinson.

Resolved:

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the provision of;

- £40,294 for offsite biodiversity mitigation works

and subject to the conditions outlined in the report.