DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held remotely via Microsoft Teams on **Tuesday 6 April 2021 at 9.30 am**

Present:

Councillor J Robinson (Chair)

Members of the Committee:
Councillors J Atkinson, J Clare, K Hawley, I Jewell, L Pounder, J Shuttleworth, A Simpson and M Wilkes

The Chair thanked Members and Officers for their support following a recent family bereavement.

1 Apologies

Apologies for absence were received from Councillors A Bell, K Corrigan, C Kay, A Laing, G Richardson, A Shield, F Tinsley and S Wilson.

2 Substitute Members

Councillor L Pounder was present as substitute for Councillor A Laing.

3 Declarations of Interest

The Chair declared an interest in item number 5a) as one of the speakers Mrs E Grimes was Mayor of Durham when he was Mayor of Sedgefield. He confirmed that he would leave the meeting and Councillor Jewell would Chair in his absence.

4 Minutes

The minutes of the meeting held on 2 March 2021 were agreed as a correct record to be signed by the Chair.

Councillor Robinson left the meeting and Councillor Jewell took the Chair.

5 Applications to be determined

a DM/21/00154/VOC and DM/21/00155/VOC - Former Milburngate House, Milburngate, Durham

The Committee considered a report of the Principal Planning Officer with regards to applications for variation of conditions 22 (Framwellgate Peth access strategy) and 24 (Framwellgate Peth junction design) of DM/18/00896/VOC to remove requirement for signalisation and agree junction design; and variation of conditions 19 (Framwellgate Peth access strategy) and 18 (Framwellgate Peth junction design) of DM/18/02924/FPA to remove requirement for signalisation and agree junction design (for copy see file of minutes).

Councillor J Ashby, spoke on behalf of City of Durham Parish Council in objection to the proposal and expressed two main concerns;

a) inadequate signage for safe alternative pedestrian and cycle routes due to the temporary closure of the footpath and,
b) design of the new junction.

In February the Parish Council had expressed concern to the Applicant's representative with regards to inadequate warning signage for the closed pedestrian and cycling footpath, yet no changes had been made. There were no signs, no alternative footways and no central refuge which meant that pedestrians met a dead and were forced to return to the traffic lights St Leonard's school to divert.

The design of the junction which was under construction despite not having planning permission also needed to be improved and restricted to residents and emergencies only. The junction design recognised that right hand turns in and out of the site would be extremely hazardous and drivers would be warned not to attempt to turn right into the development and be expected to drive up to the roundabout at County Hall to return southwards to the entrance to the site. He referred to the same no right turn on exiting the site to travel north up Framwellgate Peth which would lead drivers to the complicated Millburngate roundabout to turn northwards.

Mr Ashby confirmed that there were existing no right turn notices on Highgate that were ignored often enough to cause a real hazard for motorists suddenly finding a vehicle crossing their path. In order to prevent dangerous manoeuvres, something more effective than a no right turn notice was necessary and he suggested a narrow pedestrian refuge or bollards similar to those outside of County Hall. Safe pedestrian/cycle provision was needed to pass across the junction and Mr Ashby suggested raised roadway level with the footpath which would have the additional benefit of acting as a traffic-calming speed hump with road markings. He advised that the Highways Authority had objected to this request as it would cause a safety

hazard with turning vehicles having to slow down, but he suggested traffic calming was a safer alternative.

Mr Ashby confirmed that the Parish Council's Neighbourhood Plan had identified safety issues with the current narrow shared-use pavement. The Parish Council supported the alternative suggestions put forward by Mr Phillips and the City of Durham Trust, which would separate pedestrians from cyclists along this stretch and improve the cycle network. The Parish Council urged the Applicant to revise the details of the scheme to include the safety features mentioned.

Ms E Grimes, spoke on behalf of residents of Highgate and in objection to the proposals. She confirmed that their main concerns had been summarised by Mr Ashby and she advised that people did take the hazardous right turn out of Highgate despite the restrictions in place, which had caused some major accidents. She advised that the Applicant had started the work in January despite knowing that permission had not being granted which raised a lot of questions with regards to accountability and transparency.

M Phillips City of Durham Trust advised that the main part of the objection was due to the inadequate design of the junction. The shared path was currently 3m wide and pedestrians felt unsafe when cyclists passed them downhill. National guidance was clear that pedestrians and cyclists should be separated where possible.

Mr Phillips shared a presentation and slides which showed the current layout, the proposed layout and also an alternative proposal that he believed was a safer alternative. The Applicant had proposed widening the carriageway to accommodate extra white hatching and lanes approaching the junction. Moving kerbs and drainage would be costly and confine the cycle and footway in a space no more than 3m wide. Mr Phillips suggested that his proposal would involve less realignment of kerbs and provide additional lanes by taking out the wasteful hatching and narrowing the lanes within acceptable limits and this would create a wide separated cycle and walking route. The Applicant had consulted with the Highways Authority and therefore there was no surprise they didn’t object to their proposal, but they had not raised any objections to the safety of the alternative route suggested by Mr Phillips. They had however suggested that the widening of the road was required to address future vehicular demand.

The Committee on Climate Change required a 9% reduction in motor traffic by 2035 through reduced demand and switching to walking and cycling and Mr Phillips questioned why the Highway Authority were planning for motor traffic growth, yet so reluctant to create the conditions to enable many more people to use active travel. The Planning Officer had summarised that the

principle of the narrowing of the carriageway and shared use pavement had been previously accepted, however these permissions were granted prior to the adoption of the County Durham Plan and the Durham City Sustainable Transport Delivery Plan and various other policies.

He referred to the cancellation of the Northern Relief Road in order to justify the change to the junction, but this did not cover the situation adequately because the other matters should be removed. Finally, Mr Phillips asked the Committee to consider how a good quality cycle route could be provided in order to keep pedestrians safe.

The Principal Planning Officer confirmed that temporary cycling provision did not form part of this planning permission and went through a completely different legal process. With regards to the development commencing without planning permission, he advised that this was being handled as a retrospective application and any development started prior to approval was done so at the Applicants own risk. The Planning Authority would not take any enforcement action until the planning process had concluded. The key issue was with regards to highway safety and the Highways Authority had deemed the arrangements to be safe, therefore it had not been expedient for the Planning Authority to take enforcement action.

The Principal Planning Officer referred to the proposed footway and confirmed that it was accepted in principle and had also previously agreed in detail under a discharge of conditions. The revised shared footway had already been through planning and been granted permission, therefore it would not be appropriate to revisit it due to more recent policy changes and the report concluded that it accorded with relevant guidance.

The Highway Development Manager confirmed that as a cyclist he shared a passion with Mr Phillips and wanted to ensure a safe cycle network. Under these circumstances the Highways Authority did have concerns as to whether the signalised junction could be implemented to operate with enough capacity. They had therefore asked for a condition to be placed due to the demand that would be placed on the junction and result in queuing from the rest of the network in Durham, impacting on pedestrian and public transport users.

He responded to the temporary pedestrian signing which had been approved by Network Management Officers and permitted under licence, the signage existed from both directions towards the site from the Garden House and from Milburngate roundabout.

The Highway Development Manager acknowledged that there would be times when drivers would attempt to turn right, but there had been no major accidents on Framwelgate Peth due to the existing no right turn on Highgate.

There had been three rear shunt accidents within five years, but they had related to speeding downhill. The notices referred to by Mr Ashby were legal and enforceable by the police and therefore acceptable.

With regards to erecting bollards in the middle of the highway - the bollards that were in temporary management system were being hit by vehicles and required people to reinstate them. The situation would be monitored and action would be taken however it was felt that that a physical feature would cause more of a problem.

Mr Phillips had referenced a number of documents which had been published more recently however the Highways Authority could not always fully achieve the recommended designs and where there wasn't enough space, as was the case in other areas of the city, they had to balance the situation. The reduction of lanes as suggested, would reduce the capacity and build queues, which would then impact on public transport.

Mr Mason spoke on behalf of the Applicant, confirmed that the design team had started out with a fully signalised junction, the process had taken 18 months with rigorous interrogation from Highways Officers. The final design was much simpler and safer having considered various modelling and design functions. Introducing bollards or a narrow island was considered to be unacceptable in terms of safety. The decision to start work on the site early was not taken lightly, it had been made on balance following consultation with the Highways Authority. The design was in a position where it was technically acceptable and the Applicant wanted to take advantage of the reduced traffic due to lockdown.

Mr Mason referred to the temporary approved signage, they had engaged with a third-party traffic management specialist. With regards to the shared cycle and pedestrian footway, they had not deviated much from the original approved plans.

The Chair reminded Members that they had to consider the application in front of them and not consider alternative proposals.

Councillor Wilkes recognised the concerns of residents when the original application came through, this development was going to be owned by Durham County Council who should not authorise work without planning permission, it sent out the wrong message to residents and brought the Council into disrepute.

He asked whether the proposals put forward by Mr Phillips would be safer than the one put in front of the Committee as there were various CDP policies that he believed were not being adhered to. The Council should be

making sure cyclists were able to travel through the city with ease in order to reduce the amount of vehicles and air pollution.

The Highway Development Manager confirmed that the shared use pedestrian and cycle lane had permission and therefore they were considering the junction itself. There had been suggestion of a raised table giving priority for pedestrians and cyclists to cross in front of vehicles, meaning that vehicles would have to stop if anyone was crossing, however it was not the safest design in all situations. As previously mentioned the accidents that had been reported were rear shunt accidents due to the incline and should vehicles who were travelling down a steep gradient have to suddenly stop, this would be more dangerous. It was safer for cyclists to slow down rather than vehicles having to stop.

Councillor Atkinson confirmed that the Highways Authority would be monitoring the situation and if he believed that action would be taken if it was found to be unsafe, he would support it.

The Highway Development Manager responded to a question from the Chair with regards to the capacity modelling of the junction and confirmed that there was no issue with capacity and reiterated that the design of the junction was safe.

Councillor Wilkes queried whether reducing the speed limit from 40 mph in this City Centre location would mitigate the potential for rear shunts and then make the alternative proposal safer, slowing down traffic approaching the junction.

The Solicitor advised that the Committee should focus on the application before them and not seek alternative proposals. Should the Committee find the application to be acceptable then it should be approved and if not, it should be refused. She added that in response to comments on the retrospective nature of the application, it should not be afforded any weight in determining the application as it was not a material consideration.

Councillor Wilkes confirmed that there was also an option to defer the application in order to look at a more suitable option.

Councillor Clare agreed that the Committee had to determine whether the application before them was acceptable or not. With regards to the temporary signage, it was not relevant to the application and the retrospective nature of the application was not uncommon and the Committee had to regard this as an application with no history.

He confirmed that Mr Phillips' proposals were always sensible and that the Committee would be aware of the dangers of shared pedestrian and cycle

routes and he urged the Applicant to look at widening the carriageway as per the new guidance coming through, however planning permission for the cycle and walking route had already been granted and it couldn't be changed.

With regards to the suggestion for a raised junction or barrier, he considered a junction could never be totally safe and therefore the Committee had to consider whether the design was safe enough. A raised platform would slow traffic down but it would also increase the potential for rear end shunts and a barrier would increase the likelihood of vehicles driving into it. He supported the Highways Authority and although it was not a perfect junction, it did meet necessary planning considerations to be acceptable. It would not be acceptable to defer the application if it already met the acceptability test. He moved the Officer's recommendation to approve the application, seconded by Councillor Atkinson.

Councillor Wilkes moved a motion to defer the application pending further discussion with the Applicant, who was essentially the County Council. He believed that the Committee should be seeking to slow down traffic in a City Centre location and make the road safe for pedestrians and cyclists, seconded by Councillor Simpson.

Upon a vote being taken the motion to defer the application was **LOST**.

Resolved

That the applications be **APPROVED** subject to the conditions outlined in the report.

The Chair informed the Committee that he would not be standing at the forthcoming local elections and thanked Members and Officers for their support during his term of office.