

## **DURHAM COUNTY COUNCIL**

### **AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held in the **Council Chamber, County Hall, Durham** on **Thursday 29 July 2021** at **9.30 am**

#### **Present:**

**Councillor D Freeman (Chair)**

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

Councillors S Deinali (Vice-Chair), D Brown, L Holmes, N Jones, R Manchester, C Marshall, E Mavin and K Shaw

#### **Also Present:**

Councillor M McKeon

#### **1 Apologies for Absence**

There were no apologies for absence.

#### **2 Substitute Members**

No notification of substitute Members had been received.

#### **3 Minutes**

The minutes of the meeting held on 11 June 2021 were confirmed as a correct record by the Committee and signed by the Chair.

#### **4 Declarations of Interest**

The Chair, Councillor D Freeman noted in respect of Item 5c, DM/21/01918/FPA - 8 Laburnum Avenue, Durham, he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application.

The Chair noted, however, that he knew the representative who would speak on behalf of the Applicant and therefore he would take no part in the consideration of that application and would withdraw from the Council Chamber during consideration thereof.

**5 Applications to be determined by the Area Planning Committee (Central and East)**

**a DM/21/00911/FPA - Allotments to the west of 5 to 10 Front Street, Framwellgate Moor**

The Committee noted that the item had been withdrawn.

**b DM/21/00011/FPA - The Paddock and Land To The Rear Of The Paddock, Station Town, Wingate, TS28 5HE**

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the retention of kennels in association with the keeping and breeding of dogs at the site and was recommended for approval, subject to conditions.

The Planning Officer noted the application was for the regularisation of present use, a retrospective application. She noted that the Applicant currently had 11 dogs (Dogue de Bordeaux) at the site, with there being usually two litters of dogs per year, used to replace dogs for showing and to fund the upkeep of the remaining dogs. She noted former Councillor L Pounder had requested the application be considered by Committee, with issues including noise disturbance, highway safety, traffic generation and access.

The Planning Officer noted updates to the National Planning Policy Framework (NPPF), and updated Members as regards the references to paragraphs within the NPPF, namely:

- Paragraph 40 of the report, NPPF Paragraph 213 changed to 219.
- Paragraph 52 of the report, NPPF Paragraph 122 changed to 124, NPPF Paragraph 170 changed to 174 and NPPF Paragraph 180 changed to 185.
- Paragraphs 53 and 67 of the report, NPPF Paragraph 180 changed to 185.

Members were asked to note Condition 1 as set out within the report was no longer required as works had already started on site.

In respect of consultation, the Planning Officer noted that there had been no objections from the Highways Section, or Environmental Health subject to conditions. The Planning Officer explained that Hutton Henry Parish Council had sent two letters of objection to the application, with concerns raised including: noise having a detrimental impact on neighbouring residents and land use, in particular the adjacent cemetery when funerals were taking place; and use of the access road, with some visitors to the kennels reported to have used the incorrect access and knocked at nearby properties, disturbing neighbours. It was added there had been seven letters of objection and seven letters of support received, as summarised within the report.

The Planning Officer noted that the application was considered acceptable in terms of Policy 6 of the County Durham Plan (CDP) and added that the impact on residential amenity was not considered to be unacceptable, subject to conditions. She noted that the application was also considered acceptable in terms of highway safety, subject to conditions, and was also acceptable in terms of the impact upon the visual amenity of the area. The Planning Officer noted that the objections and concerns of residents and the Parish Council had been taken into account, however, on balance it was felt that the concerns were not of sufficient weight to justify refusal of the application and therefore the recommendation was for approval, subject to the conditions.

The Chair thanked the Planning Officer and asked Ms Swainston, the Applicant, to speak in support of her application.

Ms Swainston noted she had kept dogs for a long time, they were part of her life, and noted when she moved to the area with 11 dogs she had needed to have stables built to house them, it being a welfare issue for the dogs. She added that the stables had been constructed so they would look well and not impact upon views and had been placed out of the way to minimise any disruption to neighbours. She added that the pens were not visible, and the stables would not be visible unless a neighbour climbed to look over the fence at the bottom of their garden.

Ms Swainston noted the dogs were highly trained, she had been keeping dogs for 21 years and had been a veterinary nurse. She explained she had shown dogs all over Europe and noted she arguably had the most successful kennel with that breed of dog in the world. She reiterated that the breeding of the dogs was a way of life and that the dogs were not bred primarily for money. She noted she could not see how she could have done anything differently, the dogs had required a home in December.

She explained that the dogs did not bark in general, and all that had been done had been with neighbours in mind. She noted that it was always the intention to apply for planning permission as this was an essential part in terms of obtaining a breeder's licence. Ms Swainston reiterated that the design for the kennels was with the neighbours in mind, with sound monitoring equipment in place. She noted that while the dogs may bark if someone approached them, the stables and pens faced towards fields and therefore no one would be approaching them. She noted the kennels were not a boarding kennel, the dogs were not distressed coming and going, they were settled and she understood the dogs needs. She noted that the Parish Council had made reference to people knocking on neighbours' doors and reiterated their kennels were not that type of boarding kennel, the dogs were effectively pets, bred in order to pay for their upkeep and to be shown.

Ms Swainston noted that she would look to keep the best dogs from litters, and that others may be sold to pay for veterinary bills which could be quite high for Dogue de Bordeaux. She added that while recently there had only been single litters each year, there may be a need to breed more than one litter in order to help pay for such bills. She reiterated that the breeding of the dogs was her passion and that she would not wish to upset neighbours, adding that if there was ever an issue she would be there, the dogs would not be left alone.

The Chair thanked Ms Swainston and asked the Committee for their comments and questions.

Councillor D Brown asked for advice from the Solicitor in terms of the application, in the context of a similar retrospective application previously considered by the Committee that was refused and upheld at appeal, together with another similar application having recently been considered by the Area Planning Committee (South and West) which had been approved. He noted that there was a need for consistency in decision making. The Solicitor – Planning and Development, Neil Carter noted he was not familiar with the details of the appeal, however, in general the Councillor was correct that there should be consistency in decision making as far as they could be, with each application to be determined on the basis of the the material considerations before Members, contained within the report. He noted that Members would be aware that if an application was retrospective, that was not sufficient reason to refuse an application. He asked if Planning Officers could give further information relating to the other applications referred to.

The Principal Planning Officer, Paul Hopper explained that he had been the case officer for one of the applications and was familiar with the case and appeal. He noted that he was not familiar with the case from the South and West area.

He explained that in reference to the first case there were some specific differences between that application and the one before Members and, as noted by the Solicitor – Planning and Development, each application was looked at on its own merits. The Principal Planning Officer noted that this had been the case in this instance and that Planners were satisfied with the controls that would be in place via condition and that there would not be any adverse impact to residential amenity. He noted some of the differences between the applications, including that the separation distance to the nearest residential property was fundamentally different, being much closer in the other application and that the breed of dog was also different. He noted those differences were such to be able to recommend approval of the application before Committee and he noted that there had been a consistent approach taken.

Councillor D Brown noted the comments from the Solicitor – Planning and Development and Principal Planning Officer and, after looking at the application on its own merits, he would move that the application be approved as per the recommendation. Councillor C Marshall noted that a difference between an application being considered at Committee now, compared to the application from around two years ago, was that the CDP was in now in place. He explained that, upon consideration of the report and representations, he would second the proposal for approval.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report, with Condition 1 having been removed.

*Councillor D Freeman left the meeting at 9.51am*

**Councillor S Deinali, Vice-Chair in the Chair**

### **c DM/21/01918/FPA - 8 Laburnum Avenue, Durham, DH1 4HA**

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from C3 (dwellinghouse) to either C3 (dwellinghouse) or C4 (house of multiple occupation) and was recommended for refusal.

The Planning Officer noted the property was a mid-terraced property, set out over three floors, within the viaduct area of Durham city centre. She explained that the property was within the Conservation Area and was also in an area subject to an Article 4 Direction which operated to remove permitted development rights for changes of use from C3 dwellinghouse to use as a C4 House in Multiple Occupation (HMO). It was explained that the proposal would allow for the property to have either use, C3 dwellinghouse or C4 HMO over a 10 year period, with the flexibility to change between those uses over the 10 year period without the need for further permission. The Planning Officer noted the application had been referred to Committee by Councillor L Brown, who considered that Policy 16.3 required clarification in view of the outcome of a recent appeal decision.

Members were referred to photographs of the property and street, and floorplan showing the existing and proposed layouts, with the main dining area proposed to become a bedroom and the existing utility room proposed to be a dining area.

The Planning Officer noted updates to the National Planning Policy Framework (NPPF), and updated Members as regards the references to paragraphs within the NPPF, namely:

- Refusal Reason 1, amended from Paragraph 127(f) to read Paragraph 130(f) – also referenced in paragraphs 62 and 68 of the report and within the City of Durham Trust comments at paragraph 35 of the report.
- Paragraph 70 of the report, NPPF Paragraph 108 changed to 110.
- Paragraph 73 of the report, NPPF Paragraph 91 changed to 92.
- Paragraphs 40 of the report, NPPF Paragraph 213 changed to 219.

Members were asked to note that, subsequent to the publication of the Committee report, videos had been submitted by the Applicant in respect of evidence of noise implications. The Planning Officer noted they had been viewed, however, it had not resulted in a change of recommendation for the application. She added that one of the videos did show an instance which could be construed as anti-social behaviour, however, it was not felt sufficient to change the recommendation.

In respect of consultation, the Planning Officer noted that there had been no objections from the Highways Section or Environmental Health as regards the application subject to conditions. She added that the City of Durham Parish Council had objected to the application on the basis of the application being contrary to CDP Policy 16 and as insufficient evidence had been provided in terms of hardship the Applicant was claiming. It was explained that two letters of objection had been received, together with an objection from the City of Durham Trust.

It was noted that four letters of support had been received, with a summary of the representations being set out within the report.

The Planning Officer noted that the principle of the development could not be supported as it was contrary to CDP Policy 16 and insufficient information had been received to demonstrate that any of the exception criteria listed in Policy 16 applied. She noted that the application was considered acceptable in terms of residential amenity and highway safety. The Planning Officer noted that in respect of other issues, devaluation was not a material planning consideration.

The Planning Officer noted that while the proposals were satisfactory in terms of residential amenity and highway safety, the Applicant had failed to demonstrate compliance with CDP Policy 16, specifically that the percentage of HMOs already present in the area was greater than 10 percent whilst below 90 percent, and that the change of use of an existing C3 dwelling to HMO would add to the imbalance of the existing community towards being dominated by HMOs. She added that whilst the Applicant's concerns in relation to the ability of the property to be used for the current permitted use as a C3 dwelling were noted, based on the limited information supporting the application to demonstrate that, Officers considered that the development would present significant conflict with the requirements of Policy 16 of the CDP. The Planning Officer noted that therefore the recommendation was for refusal.

The Chair thanked the Planning Officer and asked Parish Councillor S Walker to speak on behalf of the City of Durham Parish Council, in objection to the application.

Parish Councillor S Walker thanked the Committee for the opportunity to speak in relation to the application. She explained the Parish Council objected to the application and fully supported the Officer's recommendation to refuse the application without delay. She noted that the application had been called to Committee because of the dilemma it has caused to the Members of the City of Durham Parish Council and the concerns that it had raised about the future development of the city. She noted that the overpowering presence of the University in the city centre was taking its toll, with thousands of former residential properties, affordable houses whose families had sustained the city for many generations, had been consumed by landlords and converted into C4 HMOs. Parish Councillor S Walker noted that those residents that had remained had become marginalised and isolated in streets that had lost their residential identity. She explained that the Parish Council knew, from the many letters it received, that the conduct of students, with few responsibilities and no viable constraints from the University or the Police, was causing great distress to many of the few remaining residents.

She noted that to arrest the clear impact that the studentification of the city was having on local residents there was a sting of policies within the CDP and Neighbourhood Plan that had been designed to ensure harmonious and balanced neighbourhoods for the city, as far as that was now possible. She added that those plans and policies had been hard-won and now could not be forfeit.

Parish Councillor S Walker explained that as the proposals were for the conversion of a C3 dwelling into a C4 HMO, it must be considered under part three of Policy 16 of the CDP. She noted that part of the policy sought to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity. She added that it made clear that change of use to a C4 HMO would not be permitted if, including the proposed development, there were fewer than 90 percent or greater than 10 percent of the total number of residential units within 100 metres of the application site that were exempt from Council Tax charges. She noted in this particular case within 100 metres, and including 8 Laburnum Avenue, 72 percent of properties were Class-N exempt student properties. She added there were 143 properties within 100 metres of the application site, with 102 currently benefiting from Class-N exemption and therefore it was abundantly clear that the application was contrary to Policy 16, as the Officer had rightly highlighted, and must be refused. She noted that Policy 16 did make exceptions to those measurable criteria and clarifies that a change of use to an HMO would not be resisted if, for instance, there was evidence of unsuccessful active marketing of a property as a class C3 dwelling with at least one recognised Estate Agent, at local market levels over a continuous period of at least 12 months, or where an Applicant can provide evidence that the policy restriction was causing severe personal hardship. Parish Councillor S Walker noted that in this case the Applicant had only been able to demonstrate that active marketing of the property had begun three months ago and whilst the Applicant had stated that anti-social behaviour relating to nearby students HMOs had created an intolerable situation, the Parish Council did not believe that the evidence that had been brought forward to convince the Committee sufficiently met the requirements as set out in Policy 16, as evidence which confirms policy restriction was causing severe personal hardship. She noted that advice from the Council's own Planning Development Manager made it clear that sufficient evidence, as per the terms of the Policy, would constitute something similar to a registered Doctor's medical note or otherwise, none of which had been provided by the Applicant.

Parish Councillor S Walker noted it was therefore an especially delicate situation and while every application needed to be judged on its own merits, approval of the application, without the necessary evidence to support and exception under Policy 16, would set an extremely dangerous precedent in the city offering landlords and developers alike a loophole that could further exacerbate the issues already described for permanent residents. She concluded that therefore it was of the utmost importance that the Committee supported its own Officer's recommendation and refuse the application.

The Chair thanked Parish Councillor S Walker and asked Mr Smith to speak on behalf of the Applicant in support of the application.

Mr Smith explained that Mike and Caroline Costello had lived at 8 Laburnum Avenue for 33 years and had raised four children there. He noted that the street in 1987 was very different to how it was today and explained that Mr Costello had campaigned tirelessly for the control of HMOs in the area and was now hoist by his own petard. He noted that the Applicant's Statement at Appendix 2 to the Design and Access Statement supported the application, however, the Applicant wished to thank the Committee for enabling him to emphasise some key points.

Mr Smith explained that historic, unrelated, uncontrolled HMOs in proximity to the property had eroded the area's residential amenity, with many of the Applicant's friends having moved from the street due to the difficulties they had endured. He added that, for the Applicant, living in the property had become intolerable and regrettably he had decided to move away. Mr Smith added that it was highly unlikely the Applicant would be able to sell the property for market value for use as a family home, with those enquiring having been investors looking to buy the property to let as an HMO. He informed Members that there had been absolutely no interest from families, which was unsurprising as Officers set out that 72.7 percent of the residential properties in the area were Council Tax exempt and therefore HMOs. Mr Smith added that the Applicant's home was adjacent to HMOs on all sides.

Mr Smith noted that at the Parish Council's meeting about the application, it appeared that the Parish Council could not support the application under the rigorous application of Policy 16. He added there did seem to be acknowledgement that the Policy could trap families, like the Applicant's, in areas where there was already a high percentage of HMOs within a 100 metre radius of a property and where the 90 percent threshold was not exceeded. He continued that this was why the Applicant felt that the policy had an inherent inflexibility allowing the Council to grant consent for changes to use as an HMO in such circumstances.

Mr Smith noted that regrettably the Applicant did not have the time or the finances, being 76 years old, to be able to show a full year's active marketing that he is unable to sell the property as a family home, however, it was clear from the marketing exercise to date that there was no interest whatsoever, at market value or not, to purchase the property as such. Mr Smith explained that accordingly, it was perfectly reasonable that the Applicant to ask for a change of use for the property to sell as a dual use as a family home or an HMO.

He explained that strategy would give the Applicant the flexibility to sell and also allowed the Council to impose controls that would minimise the potential for proposed use of the property to compound the problems caused by high concentration of HMOs in the area. Mr Smith noted that was very important to the Applicant to ensure the remaining families' amenity was not harmed further. He added that there was no area of the City where the 90 percent threshold of the policy was exceeded. Mr Smith noted that if the Council robustly defended that threshold without exception, there would be families trapped in areas of high concentration, unable to sell their homes, financially disadvantaged, and where there was severe detriment to everyday family life.

Mr Smith noted Planners had done their duty by following policy to the letter and recommending refusal, and he explained he was in attendance today to ask, on the Applicant's behalf, the Planning Committee to show some leadership and compassion. He noted that if Members believed Policy 16 was designed to trap elderly residents in their home against their will and prevent their heirs from collecting their inheritance to the point that those houses degrade to the point of dereliction then they must refuse the application. He added, however, that he would respectfully request that the Committee could accept that the Council's HMO policy does not provide exemptions in the commentary, as explained in the supporting documents that would allow it to grant consent, or that the policy was flawed in its drafting and material considerations should dictate that the Council should approve the application as a departure from the Development Plan.

Mr Smith explained that Planners were very concerned about creating precedents, and that was a worry, however there were dozens of people in Durham in a similar position to the Applicant. He added the policy was flawed, one street judged upon the makeup of others and that in the Applicant's case a street that did not exist until 10 years ago. Mr Smith noted that he was not proposing that Members changed the policy, but that each and every similar case comes before Committee for scrutiny. He added that it was the job of the Committee to see through the charlatans posing as residents and examine the history of those applicants.

Mr Smith noted many would have as good a case as the Applicant, but none would have better. He asked that the Committee grant the application, not to create a precedent, but to right a wrong.

The Chair thanked Mr Smith and asked the Committee for their comments and questions.

Councillor K Shaw moved the Officer recommendation for refusal, he was seconded by Councillor E Mavin.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **REFUSED**.

*Councillor D Freeman entered the meeting at 10.10am*

### **Councillor D Freeman in the Chair**

#### **d DM/21/01351/FPA - Land to the South of Bradyll Street, Kelloe, DH6 4PL**

The Planning Officer, George Spurgeon, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was to restore land to agricultural by removal of old house foundation, planting, hard standing and temporary demountable pens, and was recommended for approval, subject to conditions.

The Planning Officer noted the proposals included temporary demountable pens, however, as they would temporary features that would regularly be removed they were not considered to amount to development. He noted that the report, at Condition 6 contained a typographical error with a start time for works of no earlier than 8000, which should have read 0800.

Members were referred to site plans and asked to note the site was within the countryside, outside of the settlement boundary, with the village of Kelloe to the north. It was explained to the north, south and east there were open fields, with the Applicant's existing agricultural business to the west, which had been approved as part of a scheme submitted in 2014.

The Planning Officer explained that a similar application for the site was refused earlier in the year, however, that application had also proposed the addition of an agricultural building and Officers had been concerned that there was no justification for the new building on the site.

With reference to aerial photographs, the Planning Officer explained the site sloped up quite significantly from the north to the south of the site, and while the photographs showed the site to be covered in vegetation, the Applicant had removed all vegetation and modified site levels across the site to create three plateaus, although not to an engineering level that amounted to development. Members were also asked to note Raisby Quarry to the edge of the aerial photographs.

The Planning Officer referred to photographs of the site, showing the access, adjacent existing agricultural business and proximity to existing housing, the nearest properties being 1 and 2 Bradyll Street, the latter approximately 50 metres away. Members noted other photographs taken from the site, including looking towards the Applicant's existing agricultural enterprise and downhill and north towards Kelloe.

The Planning Officer noted updates to the National Planning Policy Framework (NPPF), and updated Members as regards the references to paragraphs within the NPPF, namely:

- Paragraphs 42 and 46 of the report, NPPF Paragraph 127 changed to 130.
- Paragraph 50 of the report, NPPF Paragraph 180 changed to 185.
- Paragraphs 54 of the report, NPPF Paragraph 108 changed to 110.
- Paragraph 59 of the report, NPPF Paragraph 174 changed to 179.
- Paragraph 60 of the report, NPPF Paragraph 178 changed to 183.
- Paragraphs 66 of the report, NPPF Paragraph 175 changed to 180.

Members were asked to note a site plan showing the existing agricultural business, application site and cross-section showing the slope of the site. The Planning Officer noted that initially it had been proposed that the entire middle plateau of the site would be covered by hardstanding, however, Officers had sought an amendment to reduce the amount. It was explained there were two public rights of way across the site, namely Footpath 13 and Footpath 14. It was noted a proposed cross-section showed that the site would be excavated to a depth of 750mm and topsoil would be imported to the same depth.

In respect of consultation, the Planning Officer noted that the Coal Authority had confirmed that the application site fell within the defined Development High Risk Area and their records indicated that fissures, associated with past coal mining activity, were present on the site and they posed a potential risk to surface stability and users of the site. It was noted the Coal Authority requested pre-commencement conditions requiring a scheme of intrusive site investigations and remedial work as a consequence.

The Planning Officer noted the Highway Section and Environmental Health offered no objections to the application, with the Contaminated Land Section recommending a suitably worded informative to be included as regards unforeseen contamination. He explained Officers from the Landscape Section had noted the site was in a prominent elevated position and added that, if the principle of proposals were deemed acceptable, a suitable landscaping scheme should be secured by condition in order to assimilate the hardstanding into the surroundings.

Members were asked to note that the Public Rights of Way Team had offered no objections as the amended site plans showed the positions of the two public rights of way and they would be protected during the works by harris fencing and stiles would be installed at both ends to allow continued access along Footpath 13. The Planning Officer noted the application had been advertised by way of a site notice, with no objections having been received. He added the application had been reported to Committee by request of Councillor M McKeon, a Local Member, due to concerns as regards highway safety and residential amenity.

The Planning Officer noted that CDP Policy 10a permitted development within the countryside provided it was necessary to support an existing agricultural enterprise, the Applicant having an existing agricultural enterprise directly to the west of the application site. He added that the Applicant had explained as regards the lack of progress with the existing business, with grass seed not having taken up as anticipated due to poor weather, and therefore was not yet suitable for grazing for animals. He reiterated that Officers had sought amendments to reduce the size of the proposed hardstanding from 350 square metres to 160 square metres, to greater reflect the storage needs of the Applicant. Members were asked to note that, taking those matters into account, the application was felt to be broadly in accordance with Policy 10 of the CDP. The Planning Officer noted that as the proposals were considered acceptable in principle, a condition was proposed to secure details of a landscaping scheme and that with such a condition it was not felt the proposals would have an adverse impact on the character and appearance of the landscape.

In terms of residential amenity, the Planning Officer noted that the earthworks would likely generate additional traffic movement and it was explained that those movements would be for a limited duration and there were two conditions, one to restrict the hours of work, and a second to secure details of a Construction Management Plan (CMP) that would reduce any potential disruption to acceptable levels that would not warrant refusal of the application. It was reiterated that the Highways Section had offered no objections and the Public Rights of Way Team offered no objections subject to the conditions within the report. It was noted that the Ecology Team had expressed disappointment that the site had been cleared of vegetation, however, they offered no objection as the proposed use for grazing and creation of a wildflower meadow constituted a net biodiversity gain. The Planning Officer concluded by reiterating the comments from the Coal Authority in terms of conditions, noting a proposed condition referring to surface water drainage and asked Members to note the recommendation was for approval, subject to the conditions as set out within the report.

The Chair thanked the Planning Officer and asked Local Member, Councillor M McKeon to speak in relation to the application.

Councillor M McKeon thanked the Chair and Committee and noted she was disappointed with the Planning Officer's presentation, while well given, as it had not mentioned the enforcement history on the site, which was quite substantial. She noted that a few years ago a Stop Notice had been put on the site in respect of the previous application as while it had been allocated for agricultural use it had been used for tipping. She noted the activity had been undertaken under the guise of agricultural use, however, thousands of tonnes of soils had been imported and aggregates removed to the land the Applicant was now applying for planning permission for. She explained those activities had caused considerable disruption to the villages of Kelloe and Coxhoe, with dozens of dumper truck movements per day for a period of months. She added that had destroyed the road surface and drainage to the remaining properties in Old Kelloe and made the properties hellish to live in. She noted families had moved out of the village, some of those families having lived in the village since before the original Kelloe had become Old Kelloe and explained that gave an impression of the atmosphere the site had created.

Councillor M McKeon noted the extant permissions had been abused time and time again, and other businesses operating from the site included a waste transfer station immediately behind two of the properties. She added that with waste being dumped, stockpiled and burnt, it had caused a nuisance for the villages. She explained another business selling paving had been operating from the site and that people had also been living in caravans on the site without planning permission.

Councillor Mc Keon explained that the existing applications had been a blight on the villages of Kelloe and Old Kelloe and had been the cause of constant noise, nuisance and detritus. She added it would be totally unfair and unreasonable to have an impact upon the highways and residential amenity for existing residents if the application before Committee were granted. She noted that, in relation to the highways access, she had some real concerns as regards how the conclusion had been made. She reiterated that the last time the Applicant used the site there had been dozens, if not hundreds, of trips of heavy goods vehicles (HGVs) going through Kelloe and Coxhoe and this had caused mayhem for those living there.

Councillor M McKeon noted she wished it had been possible to have a site visit so that she could have shown Members the roads in the area. She explained that Kelloe was similar to many of the villages between the coast and Durham City, in that it was well populated, however, difficult to get to being remote, a product of the mining heritage of the area. She noted the village was hard to get to from the east or the south, where the application site was, and it was causing her concern. Councillor M McKeon added that the roads on that side of the village were old country roads, many effectively single-track, and the approach to the site was on the bus route for the 57, 57a and 58 services. She noted that, as many Members of the Committee would know, she was one of the most vocal bus users in the County and she could tell Members that those routes were one of the most hair-raising experiences, with winding country roads and the relatively high levels of traffic. She added the roads themselves were bumpy, not in a great condition and explained that if more HGVs were placed on those roads, to the volume that she assured Members there would be, it would be completely inappropriate and irresponsible.

She explained it was the main route between Kelloe and Cassop, Quarrington Hill, Trimdon, Thornley, Peterlee, Wingate and Wheatley Hill. She added a number of those villages shared a GP Group with Kelloe, with the surgery at Kelloe only operating half of the time, so many residents from Kelloe needed to attend their appointments at those other villages. She added that a number of children from Kelloe attended schools in the other villages and that therefore the volume of traffic was greater than one might expect on a typical country road. She suggested not to add any further HGVs on to those roads. She noted that the route she had described was one of the routes, with there being two other potential routes. She explained one, from the east, through Quarrington Hill, which would pass another hamlet, Church Kelloe, a thin, single-track, unadopted road which had dangerous turns that frequently saw accidents.

She added that she, together with former Councillor S Dunn had worked to secure improvements and safety features to that road, it was nowhere near good enough or safe enough for HGVs from out of the area to use, the improvements being to reduce the risk of accidents for those that lived in the area and knew the roads well. Councillor M McKeon noted that both of those routes would still take the bend past The Davy Lamp public house, which was right next to the entrance to the school. She noted, like with many schools, there was a parking problem outside of the school and HGVs coming through the village at those times would cause chaos and mayhem.

She noted the third route would take HGVs through the whole of the Front Street in the village, which had been used previously, and that would cause further traffic chaos, air pollution and resentment. She explained that the Committee would be imposing on Kelloe the type of activity that would earn another community a relief road, adding she felt the application would turn the Front Street into a motorway.

Councillor M McKeon noted there was another planning application in Kelloe for a café, and residents of the village were very excited for it, there not being many service businesses in the village. She added that there was no community centre, and while there was the church, club and school, there was not a community hub and she hoped that the café could become such a community hub, in the way Claypath Deli had become for their local residents in Durham City. She noted that the café would not only be impacted upon from the application in terms of the view, which was currently spectacular, but also in terms of the HGVs going past all the time.

She explained that every Councillor would have a site like the application site in their area, with a number of applications being submitted, causing a lot of enforcement concerns, with many e-mails from residents being received. Councillor M McKeon concluded by noting that she hoped the Committee would not impose upon the people of Kelloe something they would not wish for their own residents and reject the application.

The Chair thanked Councillor M McKeon and asked Officers to respond to the points raised.

The Planning Officer noted that the Local Member was quite correct, there had been a number of enforcement complaints on the site that the Enforcement Team had investigated previously. He noted the latest related to an existing agricultural building where it had been claimed that a paving manufacturing business was operating, with investigations ongoing in that regard. He noted that, in respect of the current application being considered, it would not be refused on the assumption that the Applicant would not comply with the conditions, the Authority would work on the basis that there were the controls to secure details of the construction working times.

He noted the appropriate route would be to investigate, and take enforcement action as appropriate, if the Applicant was to not comply with conditions.

The Principal DM Engineer, David Battensby explained that when looking at road safety, Officers carried out a risk assessment with all such applications and was the basis on which Highways put forward their comments in relation to how an objection could be sustained if an application was taken to appeal. In terms of the highways network, the Principal DM Engineer noted the roads were capable of taking HGVs. He noted that the roads through Kelloe were rural roads, however, he noted they were lightly trafficked currently and had relatively low levels of HGV usage. He added therefore an increase in HGV usage would seem quite high in proportion to what was there at present, however, it would still be low in terms of what was considered the proportion of HGVs to normal traffic. The Principal DM Engineer noted that next to Bradyll Street there was an existing sewage works which generated HGV traffic and added that in order to sustain an objection to the application, Officers would have to be confident that there would be a significant road safety issue generated from the HGV traffic from the application site. He explained Officers did not feel there would be a significant road safety issue and there were conditions required in terms of the movement of vehicles, limiting them to certain periods during the day, and the CMP would also be utilised in order to control which directions those vehicles would be using the highway network. He explained that through that mechanism, HGVs would be directed through the most appropriate routes, minimising the risk in terms of road safety.

The Chair thanked the Officers and asked the Committee for their comments and questions.

Councillor E Mavin noted that while he did have sympathy with the Local Member, he did not feel there were any grounds to refuse the application and therefore he would move approval. He was seconded by Councillor L Holmes.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report, and the amendment to the typographical error relating to start time of no earlier than 0800 at Condition 6.