

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, County Hall, Durham on **Thursday 20 October 2022 at 9.30 am**

Present:

Councillor G Richardson (Chair)

Members of the Committee:

Councillors A Savory (Vice-Chair), E Adam, V Andrews, J Atkinson, D Brown, L Maddison, M McKeon, S Quinn, M Stead and L Brown

1 Apologies for Absence

Apologies for absence were received from Councillors N Jones, D Oliver and S Zair.

2 Substitute Members

Councillor L Brown was present as substitute for Councillor N Jones.

3 Declarations of Interest

Councillor Savory declared an interest in item 5a DM/22/01910/FPA - 35 Gateways, Wolsingham, Bishop Auckland as she was the elected member for the area and a member of Wolsingham Parish Council.

The Chair, Councillor Richardson declared an interest in item 5b DM/21/04249/FPA - Site of former St Peters School, Main Road, Gainford as this was located within his division. He confirmed that Councillor Rowlandson was to speak on the item to provide the Committee with the members point of view.

4 Minutes

The minutes of the meeting held on 22 September 2022 were agreed as a correct record and signed by the Chair.

5 Applications to be determined

6 DM/22/01910/FPA - 35 Gateways, Wolsingham, Bishop Auckland

The Committee considered a report of the Planning Officer which provided details of an application for change of use from public highway to private drive at 35 Gateways, Wolsingham, Bishop Auckland, DL13 3HW (for copy see file of minutes).

J Reed, Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photographs and photographs of the site. He confirmed that the application had been made in retrospect.

L Ackermann, Legal Officer asked Councillor McKeon as she attended after the presentation had started whether she could make a decision on the item based on the information that she had heard. Councillor McKeon confirmed that she could.

Councillor Savory addressed the Committee as local member and stated that many residents had raised concerns regarding the change of use to private drive and noted that the applicant had already commenced work. She explained that there were three turning heads on the estate strategically placed to allow vehicles to turn and were used by residents as well as HGVs and emergency vehicles. She stated that the public, including parents and children walking to school, used the routes regularly and that removing one of the turning heads would increase the highway safety risk to pedestrians, particularly children and the elderly. She highlighted the property had a garden that the applicant could have used to create additional parking as an alternative option to removing a portion of the highway and was concerned that by approving this application, it would set a precedent. In her opinion, the application was morally wrong.

S Pilkington, the South West Team Leader appreciated the difficulties with retrospective applications but confirmed there had been no objections from Highways due to no impact on highway safety. With regards to the remaining two turning heads, he clarified that they served a different purpose to the one in question and believed approving the application would not set a precedent.

The Chair was familiar with the site and the history of the property and agreed that that the works already undertaken by the applicant had caused a great deal of concern with residents. He advised that the applicant had removed the manhole covers that had been installed by the water authority and had replaced them with covers to fit in with his driveway. He was disappointed that planning had recommended the application to be approved and felt strongly that it would set the wrong example.

Councillor Stead felt a site visit would have been helpful for the item, particularly given the application had been made in retrospect. He stated that

he had viewed the location on Google maps and observed that driveways appeared short and that it was difficult to see the footpaths. He asked how much of the land belonged to the applicant and whether he owned the manhole covers. The South West Team Leader clarified that the applicant did not own the turning circle, nor did the council and that ownership was unknown but that the applicant had served the correct notice for ownership.

The Chair explained the background of the road and that it had been adopted by the council. J. Robinson, Principal DM Engineer referred to section 228 of the Highways Act and confirmed that the land registry deemed it deregistered and advised that the applicant could arrange for insurance for protection against the landowner. Councillor Savory believed that the landowner had moved from the area and may have since passed away.

Councillor Adam agreed that it was difficult when applications were submitted in retrospect and that this application was complicated further in terms of ownership of the land. He referred to the presentation and stated that the turning head to the left was still accessible and sufficient to turn a vehicle providing a vehicle was not parked and asked if there was an option to put restrictive parking on the land.

Councillor Savory stressed that the applicant had taken the turning head which was previously used for visitor parking resulting in no visitor parking and vehicles unable to turn.

In response to a question from Councillor L Brown, the South West Team Leader clarified the layout of the site and confirmed that block paving had been put down on top of the tarmac and that manhole covers had been replaced.

Councillor Andrews asked what the cost would be of rejecting the application and whether the Council or the applicant would be liable. The South West Team Leader explained that they would need to review this if the application was rejected as the applicant did not own the land, but that the council would not resort to default action.

Councillor Atkinson commented that he was minded to go against the application due to the application being submitted in retrospect and causing distress to the local residents.

The Legal Officer clarified that as Highways had not objected to the application, it would be difficult to sustain a refusal reason on the basis of highway safety and advised Councillors that if they did decide to refuse due to highway safety there was a risk that the Council could be liable for costs. The Legal Officer reminded the Committee that any alternative reasons for refusal had to be on the basis of material planning considerations.

With regards to the replacement of manhole covers, Councillor McKeon asked if the application had the potential to cause havoc in the future with utility servicing. The South West Team Leader stated that the application would need to go through a separate process to the planning process and there was potential for it to result in a public enquiry if the utility company objected to it. Councillor McKeon commented that in her opinion the two processes were linked, however appreciated the systems in place.

Councillor L Brown gave examples of a small number of similar applications that had been approved in her division retrospectively. She felt that unfortunately there were no material grounds to refuse the application but asked for a condition to be imposed for a timescale for the land to be deregistered.

Councillor D Brown asked what the situation would be if the Committee approved the application but the 'stopping up' process subsequently failed. The South West Team Leader clarified that you could not have one without the other, therefore if the Committee did approve the planning application but the Department for Transport failed the 'stopping up' process, the applicant would be unable to pursue the application.

In response to a question from Councillor McKeon, P Harrison Highway Development Manager advised that currently the turning head was an adopted highway with no traffic regulation in place and not owned by an individual and could therefore be used by anyone to park their vehicle. Considering this, the Chair stressed that the applicant should not be able to claim this land. The Highway Development Manager accepted that the due process had not been followed by the applicant until recently.

Councillor Andrews asked what would stop the applicant from continuing to park in the two bays if the application was rejected. The South West Team Leader confirmed that no traffic regulation order was in place to stop vehicles parking in the turning head and that whilst appreciating the concerns expressed by residents, cars had historically always been parked there. He went on to advise that if members chose to refuse the application it would leave the Local Authority open to the appeal stage due to there being no impact on highway safety.

Councillor L Brown felt that there were no planning reasons to refuse the application and **moved** it for approval in line with the officer's recommendation.

Councillor Adam commented that the applicant was taking a larger area of the turning head than he had originally thought and felt that Policy 6 and 21 of the County Durham Plan (CDP) could warrant a refusal in relation to

highway safety. He referred to Para 35 and asked whether Policy 6 and 21 of the CDP was strong enough to stand up at appeal given that residents had concerns and whether it was possible for Highways to be convinced to reject the application. The Principal DM Engineer explained that the purpose of a turning head was to allow large vehicles to turn in a couple of swift movements. He advised that in this instance, a large vehicle would still be able to turn however the manoeuvre would not be as swift. If the application was approved and other residents subsequently submitted similar applications to alter the remaining turning heads, he advised that they could be refused as there would then be less space.

The Chair advised the Committee that the road was extremely narrow making it difficult for two cars to pass and that the other turning heads were not as large as the one in question.

Councillor Savory expressed concern with regards to the remaining turning heads and the situation that would arise if these turning heads were taken. Large vehicles would have no option but to attempt to reverse back out of the estate as no turning space would be available.

Councillor Quinn advised that whilst she understood that residents were upset and appreciated their concerns, the applicant was likely to continue to park vehicles in the turning head regardless of the decision and was therefore minded to approve the application.

The Legal Officer clarified that with planning matters, it was not about the applicant and that the focus needed to be on the development that was put forward.

Councillor Stead pointed out if a larger sized car were to park on the drive, it had the potential to block some of the turning head due to the size of the applicants drive. He felt there were no material planning grounds to refuse and **seconded** that the application be approved.

Councillor McKeon felt that the application highlighted floors in the planning process and that there should be grounds to reject such applications or a national policy to prevent retrospective applications that affect the highway. She believed that the original developer installed a turning head for a reason and noted that roads now have a lot more larger vehicles and industrial traffic. She stated that it was an amenity for residents to have delivery vehicles being able to turn and asked if the application could be rejected on the loss of this amenity.

The South West Team Leader advised that in his opinion, the loss of amenity did not warrant the application to be refused but that members could make their own judgement on this. Councillor Quinn commented that residents'

concerns may have carried more weight if they had been submitted in a more formal manner.

Councillor L Brown asked if the application could include a third condition regarding the timescale for getting the highway deregistered. The Highway Development Manager advised that it was impossible to determine the length of time this process could take, and it was difficult to condition something when a third party was involved. Councillor L Brown stated that she would like to see an application for deregistration to be submitted within one year. Councillor McKeon asked if there was any possibility to call the process for deregistering to the Highways Committee. The Highway Development Manager advised that the Department for Transport was responsible for this process and explained that it was similar to the process for planning, where applications had to be advertised and sufficient time given for the public to register an objection.

The Chair referred to Councillor Savory's earlier comments regarding the application being morally wrong and agreed with this. He noted the loss of parking and felt there was an impact on highway safety and further grounds on amenity.

Councillor Stead referred to Councillor McKeon's comment regarding delivery vehicles and felt this would not be an issue unless an additional delivery vehicle approached.

Councillor Stead went on to ask whether Councillor McKeon should participate in the vote as she had attended the meeting late. The Legal Officer clarified that this had been addressed with Councillor McKeon following the presentation and she was satisfied with her response. Councillor McKeon stated that she was present for most of the presentation and for the full debate and therefore felt she could make an informed decision on the application.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions listed in the report.

7 DM/21/04249/FPA - Site of former St Peters School, Main Road, Gainford

The Committee considered a report of the Senior Planning Officer which provided details of an application for residential development of 37 units with associated access and landscaping (resubmission of application

DM/20/01603/FPA) at site of former St Peters School, Main Road, Gainford (for copy see file of minutes).

G Spurgeon, Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photographs, photographs of the site and the proposed street scene.

Local member Councillor Rowlandson spoke on behalf of himself and the Chair and stated that the development was poor and did not include St Peters School building which was part of the original planning permission. In his opinion leaving the building would be detrimental to the area and to the development and he therefore supported the officer's recommendation to refuse the application. He felt that the residents of Gainford had been let down and that the building was a target for vandalism and hoped that the owner of the building would come forward in the future with a plan for it.

The applicant Louise Wood addressed the Committee and thanked them for the opportunity to speak on the item. She advised that she worked for ELG Planning who represented Kebbell Homes. She pointed out that Kebbell Homes did not own the building of St Peters School, and this was why the application was solely to develop the land surrounding it. She explained that Kebbell Homes had been working with the landowner to try and reach an agreement, but after years of discussion they had not been successful. In an ideal world they would have liked to develop the site as a whole but unfortunately this was not an option and an alternative proposal needed to be considered.

Kebbell Homes proposal was therefore to seek a standalone planning permission for their part of the site and hoped that this would encourage the landowner to bring their site forward too. She explained that the development would include 27% affordable housing, a two-storey apartment block with lift access and deliver open space for all residents to enjoy.

She hoped that members could appreciate the difficult situation the applicant was in and assured the Committee that they would do their best to address the outstanding issues with St Peters School. She believed this proposal was the best solution and felt there was no planning policy basis for resisting development on the Kebbell land in isolation. With regards to the officer's third reason for refusal, she clarified that none of the properties would look onto St Peters School and noted that existing vegetation would be retained. She requested that members supported the application and granted approval.

Councillor McKeon noted that St Peters School was owned by a different landowner to the rest of the site and questioned why the landowner did not want to sell the building. The South West Team Leader referred to the

presentation which showed the proposed site layout and explained that they could not come to a contractual agreement to sell the land.

In response to a question from Councillor Adam regarding Policy 6 of the CDP. The Senior Planning Officer clarified that the previous application was approved before the adoption of the CDP but stated that if it had been in place, the benefits outweighed the harm at that time.

Councillor L Brown was frustrated that they were debating the same application that had been refused the previous year. She noted that permission granted in 2018 was for the whole site and included St Peters School. She explained that this application conflicted with seven policies of the CDP in addition to parts of the National Planning Policy Framework (NPPF). She advised that building for life had given the application two red and three ambers and stressed that in her opinion, the application was not good.

Councillor McKeon was grateful that the officers had recommended the application to be refused and commented that it was positive to see non designated heritage assets taken seriously and that St Peters School had the capacity to be a beautiful building and could potentially be brought back into use. As it stood, the building was a magnet for vandalism and anti-social behaviour and stated that houses should not be allowed to be built around it. She hoped that they could all come together to save the heritage asset and build an appropriate development that the residents of Gainford could be proud of.

Councillor Stead agreed that the planning officers were correct to refuse the application and **moved** the application to be refused. This was **seconded** by Councillor L Brown.

Upon a vote being taken it was:

RESOLVED

That the application be **REFUSED**.