

**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 13 December 2022** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors L A Holmes (Vice-Chair), A Bell, I Cochrane, S Deinali, J Elmer, C Kay, D McKenna, C Marshall, J Quinn and K Shaw

**Also Present:**

Councillors J Blakey, C Hood, G Hutchinson, B Kellett and R Ormerod

**1 Apologies for Absence**

Apologies for absence were received from Councillors L Brown, K Robson and A Surtees.

**2 Substitute Members**

There were no Substitute Members.

**3 Minutes**

The minutes of the meeting held on 8 November 2022 were confirmed as a correct record by the Committee and signed by the Chair.

**4 Declarations of Interest**

The Chair, Councillor D Freeman noted 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 submissions in objection. He noted he was also a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection.

In respect of Item 5c, Councillor J Quinn noted that, through his membership of Ferryhill Town Council, he knew that applicant and therefore would leave the Chamber at that point and take no part in that item.

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

**a DM/22/01830/FPA - Taylormade Timber Products, Old Colliery Yard, Sherburn Hill, Durham, DH6 1PS**

The Senior Planning Officer, Jennifer Jennings (JJ) 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 Senior Planning Officer (JJ) advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a replacement sawmill to west of site, construction of co-products bunkers to north at former Cooks Hold Farm site, new access road from site entrance to co-product bunkers, with associated landscape, drainage and car park and was recommended for approval, subject to the conditions as set out in the report.

The Senior Planning Officer (JJ) noted since the publication of the report, an additional objection to the proposals had been received, citing issues including the impact of light, noise, 40 tonnes vehicles traveling along the roads at speed, and numerous complaints from residents in the area. She added that an additional condition relating to security lighting to be retained would be required, should Members be minded to approve the application.

The Chair thanked the Senior Planning Officer (JJ) and asked Councillor B Kellett, Local Member, to speak as regards the application.

Councillor B Kellett thanked the Chair and Committee and explained he had lived in Low Pittington for 45 years and recalled when the business in question had been a small company, with only a trickle of traffic generated at that time, that had now grown to a gigantic amount. He added the proposals represented a blot on the landscape that while they may be screened by additional tree planting, it would be in around 10-25 years by the time the trees matured to give that screening. He explained that he received numerous complaints from residents as regards the issues associated with the business, including with light, noise and traffic.

Councillor B Kellett noted around two years ago, on a visit to the public right of way (PROW) alongside the site, all those present had experienced particulates and were required to clean a layer of sawdust from their glasses. He noted the dangers of dust disease and his concern for local residents in that regard. He referred to the report mentioning the removal of '*low value hedges*', however he believed all hedgerows were of value and that damage to the environment should be prevented with those that had attended the site visit having been able to see the potential impact. In respect of the PROW, he noted that the people of Sherburn Hill were being deprived as what was thought to be temporary rerouting of the PROW was now in fact permanent.

In relation to traffic from the site, Councillor B Kellett noted that it had gotten increasingly worse and worse over time, going through the centre of the village, and the Members on the site visit had witnessed two large HGV travelling along the road at considerable speed. He noted that such traffic was 24 hours a day, 7 days a week, citing an example of one such vehicle travelling past his home at 4.35am. He added that last summer, residents had been unable to open their windows due to the level of noise. He noted that the previous owner of the business had signed a statement that they would abide by conditions and explained that he hoped the new owner would abide by the conditions should the application be approved. Councillor B Kellett explained that residents had previously not been respected and reiterated that the issues raised were serious and that it was residents that were having to live with the noise and disruption.

Councillor B Kellett concluded by noting that jobs were important, and they were welcomed, however, not to the detriment of local residents and that therefore any conditions imposed must be enforced.

The Chair thanked Councillor B Kellett and asked L Thompson, representing the applicant, Taylormade Timber, to speak in support of the application.

L Thompson thanked the Chair and Committee and explained she was General Manager for Taylormade Timber Products and that the site operated a sawmill and secondary processing facilities with around 160 employees, the majority being County Durham residents. She explained that the application was essential, in order to replace obsolete equipment and to maintain a competitive edge in terms of the business, mitigating the risk to jobs by modernising the facility. She added that the application would improve the facility in terms of being a business and noted that it showed a commitment in terms of helping mitigate in respect of the objections raised. She noted there had been seven letters of objection, not a large number, however she stressed that the concerns they raised were taken very seriously.

L Thompson noted that the application would help improve the current situation with decreased noise levels through a combination of new equipment, sound deadening material, and works to create bunds. She explained that there was around £4 million of investment and that the proposals would represent a reduction in working hours, with no Sunday operation. She added there had been £2 million investment in terms of the new treatment and environmental improvements, with the removal of reverse beepers and subsequent replacement safety equipment costing around £150,000. She noted that other improvements included new roller doors and acoustic fencing. She reiterated the reduced hours of operation and noted that Saturday operations would only be when needed.

L Thompson noted the objections referred to transport on the roads and explained the company had worked with residents to ensure the application did not represent an increase in traffic, rather maintained levels. She concluded by thanking Members for their time and asking, on behalf of all the employees of the company, that the Committee approve the application and support the future of the business for the workers and their communities.

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

Councillor C Kay noted he had a similar business in his local area and noted anecdotally evidence as regards similar types of issues experienced. He added that local small and medium sized enterprises (SMEs) with 160 jobs were very laudable and should be encouraged. However, he had some questions relating to whether the reduced hours of operation were conditioned, and whether the operation had outgrown the size of the existing site. He also asked as regards the airborne particulates as referred to by Councillor B Kellett along the nearby PROW.

The Senior Planning Officer (JJ) noted that Condition 20 set out the hours relating to the processing of logs, with requirements being: *'log handling machine, main sawmill and processing operations within the former sawmill building shall not operate outside of the hours of 0600hrs to 0000hrs Monday to Thursday, 0600hrs to 2300hrs Friday and 0800hrs to 1800hrs Saturday, with no operations on Sunday and Public/Bank Holidays'*. She referred to the Principal Public Protection Officer, John Hayes, to speak in relation to the particulate issue.

The Principal Public Protection Officer noted that such dust emissions were regulated under Part B of the Environmental Permit. He noted that the proposed new systems would help control this partially and explained he has regularly visited the site to observe the levels of noise and dust.

He explained that there had been upgrades a few years ago in relation to dust emissions, and the proposed works would give further improvements in that regard. Councillor C Kay noted his opinion in relation to the effectiveness of reducing particulates, especially those down to PP10 scale, however, that plans appeared to be in place and met regulations in that regard.

Councillor A Bell noted that the application looked to address the number of issues raised by the Local Member and residents. He asked as regards the number of vehicle movements, those along the A690 and through villages, citing a fatality on a very busy section of the A690, not involving the vehicles from the business in question, rather an example to highlight the nature of the road. He noted the report referred to 480 movements and asked if that referred to over seven days or five, and whether this was 240 in and out for a total of 480. The Principal DM Engineer, David Battensby explained that the junction referred to on the A690 would likely be signalled in the near future, and that to accommodate buses and HGVs, the central reserve was previously widened by road markings and the reduced speed limit introduced. Since these works there had been no incidents involving HGVs at this location. He noted there had been no accidents relating to HGVs on the route to the site in the previous 10 years. In relation to the number of movements, he noted that 480 represented loads in or out, however, did not include empty vehicles. He added that there would not be a material increase in the number of vehicles and therefore there was very little for Highways to object to in respect of the application. Being mindful of local concerns, he requested the inclusion of a condition relating to the number of trips. Councillor A Bell noted the condition relating to the number of movements and hoped it would be adhered to via strict condition.

Councillor C Marshall explained he had listened to the comments from the Local Member, Councillor B Kellett and noted that Councillor B Kellett, as an Economist, was supportive of jobs in his area. He understood the concerns he raised on behalf of residents, however, listening to the speakers and Officers he understood that the company was a well established business and he felt that there were no planning policy grounds to refuse the application. He noted the Applicant's willingness to work with local residents and the conditions as set out within the report, which he hoped would give the Authority a way to enforce and deal with issues. He noted that when all was said it was an application to support a rural business and therefore he would move that the application be approved, subject to the conditions within the report and the additional condition referred to by the Senior Planning Officer. He was seconded by Councillor A Bell.

Councillor J Elmer noted that Councillor A Bell had made many good points as regards the number of HGVs and the issues with the highway network.

He added that the roads were not designed for vehicles of that scale and that it was quite frightening. He noted that those issues could not be addressed satisfactorily via this application and therefore it was vital that the conditions within the report were adhered to and vigorously enforced as necessary. He asked for further information on how such enforcement take place. The Senior Planning Officer (JJ) noted that, as discussed on the site visit, the conditions were standard conditions that would be applied to other similar applications for waste or minerals, with weigh-in information being logged and monitored to ensure there were no issues.

*Councillor I Cochrane left the meeting at 10.32am*

Councillor J Elmer asked as regards the case where the number of vehicle movements was exceeded. The Principal Planning Officer, Paul Hopper (PH) noted there were a number of options in relation to enforcement and that the service could react to any complaints or breach of conditions should they occur and that in his opinion the condition was robust enough to allow effective enforcement.

Further to the motion for approval by Councillor C Marshall, seconded by Councillor A Bell, upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED**, subject to the conditions as set out within the report and additional condition relating to the retention of security lighting.

*Councillor I Cochrane entered the meeting at 10.35am*

### **b DM/21/04311/FPA - Blagdon Depot, Frankland Lane, Durham, DH1 5TA**

The Principal Planning Officer, Leigh Dalby (LD) 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 Principal Planning Officer (LD) advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the demolition of 6no. existing industrial units and erection of 4no. commercial units (Use Class B2), with associated parking, landscaping and boundary enclosures and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer (LD) noted that paragraphs 113-115 within the report set information relating to the lease and commercial issues that were outside of the planning remit.

The Chair thanked the Principal Planning Officer (LD) and asked Parish Councillor Susan Walker to speak on behalf of the City of Durham Parish Council who were objecting to the application.

Parish Councillor S Walker thanked the Chair and Committee and noted that there was much within the application that the Parish Council welcomed such as the size and scale of the development and not impinging upon and actually improving the green belt. She added that the 21 trees that would be lost would be replaced with those of a higher quality. She explained that the main concern was that of the impact on the Rocking Horse Studio and referred to the huge number of objections that showed that the facility was a highly regarded community asset.

Parish Councillor S Walker noted that since 2011 the Studio had been a well-used facility and was the only rehearsal / recording studio in the area. She noted that Policy C3 of the Durham City Neighbourhood Plan (DCNP) had been created to protect existing valued community facilities in the area. She added that the National Planning Policy Framework (NPPF) also stated that all decisions should guard against any loss of valued community facilities. She noted that, as an unallocated site, County Durham Plan (CDP) Policy 6 was the relevant policy to consider and that included criteria that development did not cause loss of community value. She added that every policy also set out that one must not get rid of any valued community asset that was viable. Parish Councillor S Walker noted the issues with the building and lease and noted that the Parish Council had assisted Rocking Horse Studio, although had not been able to find anything suitable. She asked that if the Committee were minded to approve the application that they would add a condition for the developers to allow the owners of the Rocking Horse Studios the appropriate time for relocation.

The Chair thanked Parish Councillor S Walker and asked Councillor R Ormerod, Local Member, to speak in relation to the application.

Councillor R Ormerod noted he would reiterate the comments of the Parish Council in terms of conditions protecting the Rocking Horse Studio. He noted that he had a number of concerns relating to highways, explaining that Framwelgate Waterside was extremely narrow, not passable by two vehicles in the opposite directions, and there was only one way in and out of the application site. He added that the several small businesses currently on site generated very little traffic. He noted that only one of the new businesses represented a lot of traffic and could potentially create gridlock.

He reminded Members that the road also served Sidegate, a '*village within a city*' and noted those residents did not deserve traffic chaos. He added he could not understand how the report could be so certain that problems would not occur.

The Chair thanked Councillor R Ormerod and asked Richard Combstock of Rocking Horse Studio to speak in objection to the application.

R Combstock thanked the Chair and explained he was the owner of Rocking Horse Studio, a valuable community resource and hub in the heart of the city. He reiterated the comments from the Parish Council, with DCNP Policy C3 designed to protect such community resources. He noted there were many objections to the application, with many letters and an over 3,000 signature petition, with hundreds of sympathetic comments. He explained that he had serious concerns as regards the survival on the Rocking Horse Studio either in the current location or elsewhere.

R Combstock noted that when he took occupation of the current unit on site it had been in a state of disrepair and he had invested over £10,000 in remedial works, including rewiring, and he had reinvested profits into the studio to provide recording studios, rehearsal spaces. He noted that any move to new premises would result in a loss in terms of materials and therefore there would be a need to reinvest in new premises, noting the bespoke double-walled insulation at the current studio. He noted that under Section 25 there was no legal obligation regards recompense. He explained that he had been offered market rate per square foot price on a new unit which was unaffordable for his business, and he had no reassurance as regards the existing building being demolished before he moved to a new space.

R Combstock noted that the DCNP Policy stated that essential community facilities should be supported and that there needed to be a solution in order that he did not need to cease trading. He added that if he had to move sooner there would need to be reassurance he could recycle materials that had been used at the current site and for the Landlord or Government funding to cover costs for the resources required.

The Chair thanked R Combstock and asked Josh Woollard, Agent for the Applicant, to speak in support of the application.

J Woollard thanked the Chair and Committee and explained that the application was for redevelopment of the existing depot site, with demolition of the existing units, to be replaced by four new units. He explained that the site had been family run since 1969 and offered no formal parking on site.

He added that the current layout was an inefficient use of the site and accordingly the plans were to modernise the site, in line with policy E2 of the DCNP, in order to meet future opportunities.

*Councillor C Hood entered the meeting at 11.00am*

J Woollard noted improvements in relation to traffic and the green belt, adding the site was within Flood Zone 2 and a number of flood mitigation works were proposed, such as raised electrical points above expected flood levels. He added there was a SUDS proposed at the north of the site and explained this would help in terms of flood resilience. In connection with highways issues, he explained that the transport information had been agreed by Officers during pre-application advice, with Condition 7 referring to hours of operation and vehicle movements. He noted the net gain in biodiversity, greater than that required, and all the other improvements that would meet business needs and lead to more jobs. He added that the construction phase would result in 35 full-time equivalent positions.

J Woollard reminded Members of Government changes relating to energy efficiency for buildings, and that from April 2023 properties could not be let if they had an Energy Performance Certificate (EPC) rating of less than D, and less than B by 2030. He reiterated that it was a requirement and that it was more sustainable to redevelop the site than to attempt to retrofit to the existing buildings. He noted that it was not possible to retain the Rocking Horse Studio building on the site, noting the issues including parking. He explained as regards the proposed planting scheme and that the new buildings would detract visually less than the existing buildings, along with other improvements to access, drainage and storage at the site. He explained as regards the offer to the owner of Rocking Horse Studio in terms of help and statutory compensation.

The Chair thanked J Woollard and asked the Lawyer (Planning and Highways), Neil Carter to respond to some of the issues raised by the speakers.

The Lawyer (Planning and Highways) thanked the Chair and noted that in respect of the potential loss of the Rocking Horse Studio that policy required that alternative provision is made. He noted that Members should have regard to policy and key issues, however, should not stray into matters of commercial terms. He reiterated, policy was to be considered by Members, however, it was not for the Committee to get into details of any commercial negotiations between parties.

The Chair thanked the Lawyer (Planning and Highways) and asked the Committee for their comments and questions.

Councillor J Quinn noted he had attended the site visit and asked as regards the buildings demolition and adherence to the correct procedures in terms of any asbestos disposal, should Members be minded to approve the application.

The Principal Planning Officer (LD) noted that was under separate legislation, outside of planning, however he could add an informative to the applicant noting that the appropriate procedures and legislation be followed as required.

Councillor J Elmer noted he too had attended the site visit and was aware of the huge amount of people that had signed the petition against the application. He noted people really wanted to protect this highly valued cultural facility. He noted that the Authority protected heritage assets and he felt that such cultural assets should be protected too. He noted there were no other similar facilities in the area and that it would be a very big loss in terms of cultural impact.

He noted the impact of the proposals on Crook Hall and on the openness of the green belt and asked how the proposals could not impact on the green belt, adding he would have liked to have seen supporting evidence in terms of landscape and visual impact of the proposals. Councillor J Elmer noted reference to sustainability due to the close proximity to the city centre, however, in addition to parking space he felt provision of EV charging and secure cycle storage would be beneficial. In respect of the EPC, Councillor J Elmer conceded that most of the units would not have been at a good rating, however, the Rocking Horse Studio with its layers of insulation should be at a higher rating. He noted his concern that there appeared to be no level of compromise in retaining that building on site and with the justification being to create 10 car parking spaces. He asked whether Officers could comment if, in highways terms, the application would be acceptable if those 10 spaces were lost.

The Principal DM Engineer explained that parking provision was set out within the Durham County Council Parking Standards and that for this type of development employees and deliveries required those spaces to meet standards. He added that EV charging, and secure cycle storage were something that Members may wish to add via condition.

Councillor J Elmer asked how Officers came to the conclusion of no net loss in terms of openness of the green belt. The Principal Planning Officer (LD) explained that that Landscape Team had worked with the applicant and there had been a reorientation of the buildings, relating to the topography of the site, and an enhanced boundary treatment was now proposed together with landscaping works.

He added that therefore there was no further impact on the openness of the green belt from the outside of the site in the wider area, though there would be some impact internal to the site. He explained that paragraph 93 of the report referred to the NPPF and infill or redevelopment of such sites where they would not have a greater impact on the green belt. He added that conditions relating to EV charging and cycle storage were within the gift of the Committee to include.

In relation to EPC ratings, he noted that information submitted by the applicant had set out how sound insulation was very different from thermal insulation and that they did not operate in the same way. Councillor J Elmer noted he had concerns that there were no CDP policies on which one could object to the application on cultural impact, adding he felt that it was a great omission from the CDP. He added that in the lack of any policies within the CDP then it was very important to listen to the Parish Council and to add a condition in relation to the relocation of the Rocking Horse Studio in order to maintain the business.

The Principal Planning Officer (LD) noted that such a condition would likely not be a lawful condition as it would not meet several of the tests required by a condition relating to a planning permission. The Lawyer (Planning and Highways) explained he agreed with the Principal Planning Officer (LD) that any such condition would be inherently unreasonable and could not be lawfully imposed.

Councillor C Marshall noted he agreed with a lot of the comments from Councillor J Elmer, especially in terms of the unique cultural offer from the Rocking Horse Studio, however, he could not see any material planning reasons for refusal and therefore if in accord with policy an application should be approved. He also proposed to Members that the Chair, on behalf of the Committee, wrote to the Leader of the Council to ask the Council to meet with tenants in order to help with relocation. He added he would propose a motion to that effect and would hope that it would be supported unanimously. He then would, reluctantly, move that the application be approved as per the Officer's recommendation.

Councillor C Kay noted, as a fellow musician, he had sympathy with the owner of the Rocking Horse Studio, a unique facility within Durham. He noted that the Lawyer (Planning and Highways) had noted that the Committee could not decide upon commercial grounds, and therefore it appeared that the Officer's recommendation was in line with policy, with no clear policy reasons to refuse the application. He added he also felt there would be some value in the Chair writing to the Leader of the Council in this regard, assuming the negotiations between the Rocking Horse Studio and landlord had been exhausted.

Councillor A Bell asked for the comments received from Spatial Policy on the application. He noted the larger footprint and asked as regards how that did not translate to a wider impact from the surrounding area. The Principal Planning Officer (LD) noted that the impact on the openness was correct, and that Spatial Policy had been consulted and their comments formed part of the response, noting no objection to the proposals. Councillor A Bell noted the comments from the Parish Council as regards a condition, and the response to that suggestion from the Lawyer (Planning and Highways). He added he was disappointed that the developer had not come forward with a unit for rent and asked if it was a material consideration, and if so whether deferral of the application to allow further discussions would be appropriate. The Lawyer (Planning and Highways) noted those were commercial considerations in terms of any lease or relocation and not material for the Committee in their considerations.

Councillor K Shaw noted he would second Councillor C Marshall in terms of the Chair writing to the Leader of the Council, noting the Council losing the City of Culture bid previously. He asked that a vote on the letter be separate to that of the vote on the application. The Chair noted that he would be more than happy to write to the Leader on this matter.

The Lawyer (Planning and Highways) noted that, given the Chair's assurance he would write to the Leader on behalf of the Committee, he felt it would not be appropriate to have a formal vote on that matter, rather to vote on the application, as proposed by Councillor C Marshall, seconded by Councillor K Shaw to approve the application as per the Officer's recommendation, subject to additional conditions relating to EV charging and cycle storage.

Councillor C Marshall noted the advice from the Lawyer (Planning and Highways) as regards a letter from the Chair to the Leader of the Council. He added he felt it was the right thing to do morally, and given the assurance of the Chair, and record of this within the minutes, he would therefore withdraw the motion relating to a vote on the letter and move approval of the application, subject to the additional conditions.

The Chair noted he would not wish to lose such a facility from the city, however, he did note the poor state of repair of the existing units and the offer made by the landlord, albeit at a market rate. He noted that while Members would not wish to lose the Rocking Horse Studio, Councillor C Marshall was right that the Council was a larger player in terms of culture and may be able to offer help and guidance in relation to the facility.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED**, subject to the conditions as set out within the report and additional conditions relating to EV charging and cycle storage.

### **c DM/22/03029/FPA - 1 Oxford Terrace, Bowburn, Durham, DH6 5AX**

The Senior Planning Officer, Lisa Morina (LM) 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 dwelling to mixed use as dwelling/café (use class sui generis) and was recommended for approval, subject to the conditions as set out in the report. The Senior Planning Officer (LM) explained that since the publication of the report six additional representations had been received, a total of 10 objections including from the Bowburn and Parkhill Community Partnership. It was explained that the main issues raised included: lack of parking, potential road widening; visitors blocking parking for residents; and the impact of commuters parking at Bowburn and 'carsharing' into the city.

The Chair thanked the Senior Planning Officer (LM) and asked Councillor Jan Blakey, Local Member, to speak in relation to the application.

Councillor J Blakey thanked the Chair and Committee and noted a number of residents had approached her, and Councillor G Hutchinson, as regards issues of highway safety and complaints relating to parking. She added that issues referred to the A177, the nearby junction and issues on Oxford Terrace. She noted that Co-op store would now allow the proposed businesses customers to use their car park. Councillor J Blakey noted she was not against those wishing to operate a business, however, the frontage of the shops had been designed in the 1950s and when there had previously been a café at the site, there had been a concrete area to the side for parking. She suggested it Members were to grant permission that some parking to the side were provided, asking if the applicants were willing to take some of the existing garden to give this provision. She noted the photographs provided had shown the A177 uncharacteristically lacking in traffic and reminded the Committee it was one of the arterial routes into the city and that there was always traffic on this stretch of road.

Councillor J Blakey noted that it was the attitude of some drivers to simply park wherever they liked, for example over the footpath, and that could cause an issue in terms of highway safety. She noted that the issues were a challenge the Council needed to address in respect of highways in the area.

The Chair thanked Councillor J Blakey and asked Malcolm Robertson to speak in support of his application.

M Robertson noted that the property was a terraced building with a shop at the end. He noted he wished to bring it back into use and it had only required the removal of boards internally, the original connecting door, including key, being in situ. He added removal of exterior boards had revealed previous signage and it was his desire to bring back a small local café only opening until 4.00pm Tuesday to Saturday, with those time meaning there would be no realistic impact upon parking issues, with traffic being primarily in the morning and evening associated with commuters or the Co-op store which had its own parking. He noted the nearby bus stop and cycle route and explained that the type of café offering sustainable local produce, such as County Durham roasted coffee, foraged foods, local jams and use of local flour and would attract the type of customers that were conscious of such sustainability. He noted other green attributes of the proposed business including use of sustainable packaging and composting.

The Chair thanked M Robertson and asked the Principal DM Engineer to comment on the issues raised.

The Principal DM Engineer noted that when the application had been considered by colleagues, the opening hours had been a material consideration as they were outside of peak times. The opening hours would be during the times that residents would likely be at work thus freeing up parking spaces, and additionally, there was a lot of parking available in the area on the public highway. He added that clientele of the café would likely combine their trip with other activities, visiting other shops and facilities. He noted that the proposals did not fall into the need to provide additional car parking spaces and when considered against the previous use of the property as a bed and breakfast, there would be less impact on parking during the busiest evening periods. He noted no grounds to sustain a refusal reason on highway grounds.

It was at this point Councillor J Quinn realised he knew the applicant and accordingly he left the Chamber prior to consideration of the application by the Committee.

*Councillor J Quinn left the meeting at 11.52am*

Councillor J Elmer noted he was reassured by the comments from the Principal DM Engineer in terms of traffic and parking. He agreed that the culture of these types of cafés was such that it would attract those that would cycle and walk, explaining there was a similar type of café in his area. He added it was a positive type of sustainable culture that we should be helping to promote and therefore he would move approval of the application as per the Officer's recommendation.

Councillor C Marshall noted he agreed with Councillor J Elmer and added that a change of use application should not be expected to deal with existing issues as regards highway safety and parking, many of which were outside of the remit of the Committee. He noted there were no material grounds to refuse the application and he felt the proposals could be a positive addition to the community and therefore he would second approval as per the Officer's recommendation.

Councillor A Bell referred to the street view shown as part of the Officer's presentation and asked if there were any help or parking restrictions that could be provided to alleviate the issues as raised by the Local Member. The Principal DM Engineer noted that any additional restrictions on the road would not make parking issues disappear, rather they displace vehicles to other areas, and potentially to areas where they may create issues which do not currently suffer problems. He noted that the areas which had restrictions in place are the areas which the Authority would wish to protect. He noted he would take on board the issue raised in terms of the quality of road marking in the area, however, he emphasised that the highway network in that area did very much function.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED**, subject to the conditions as set out within the report.

*Councillor D McKenna left the meeting at 11.56am*

*Councillor J Quinn entered the meeting at 11.56am*

**d DM/22/02292/VOC - 5 North Road, Durham, DH1 4SH**

The Senior Planning Officer, Lisa Morina (LM) 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 variation of Condition 2 of Planning Permission 4/99/00534/FPA to allow a change in opening hours and was recommended for approval, subject to the conditions as set out in the report. The Senior Planning Officer (LM) noted a typographical error in paragraph 37 of the report, it should have read 2:00am rather than 22:00 hours.

The Chair thanked the Senior Planning Officer (LM) and asked Parish Councillor Susan Walker to speak on behalf of the City of Durham Parish Council who were objecting to the application.

Parish Councillor S Walker noted that the Parish Council, City of Durham Trust and Durham Constabulary all objected to the application and urged that it be refused. She explained that the application was only at Committee as the premises had been operating unlawfully, being open 24 hours a day Monday to Thursday. She stressed that we should not give in and regularise such behaviour, rather make a stand.

She noted that there had been valid reasons for the previous change of use application having restrictions on the hours of operation and she questioned the fitness of the management of the facility. Parish Councillor S Walker noted the applicant's Agent had identified other businesses were open at the proposed times and had put it that it was therefore ok for the gambling business to also operate at those times. She explained that there were also 30 residents in nearby properties and were key receptors in terms of noise issues.

She noted the Parish Council had welcomed the reduction in hours from 24 hours a day, however, it was felt the times should be in line with other businesses to restrict the impact on residents. She added that Policy 29 of the CDP stated that all new development should minimise the impact upon nearby properties. Parish Councillor S Walker noted CDP Policy 31 and the NPPF and DCNP noted all applications need to be in accordance with mitigating the impact and detriment of the health and wellbeing of residents. She noted the business was a gambling establishment, alongside operating a number of sunbeds, and therefore was not promoting health and wellbeing. She added that the original application for 24 hour use had been extremely concerning.

Parish Councillor S Walker explained that it was felt that the trading hours as included in the application would impact upon vulnerable people leaving pubs at closing time, and also set an unwelcome precedent for further such applications. She noted that the Parish Council had been flabbergasted that the Council's Environmental Health section had suggested that an 8.00am opening time would be deemed acceptable. She concluded by noting that it was for the Committee to make things better for residents and therefore, as the application before Members was in conflict with that aim and also policy, it should be refused.

The Chair thanked Parish Councillor S Walker and asked Councillor R Ormerod, Local Member, to speak in relation to the application.

Councillor R Ormerod noted that gambling had its place and could be a pleasurable pastime, as well as generating much needed jobs, if conducted safely and in an appropriate manner. He added that it should, however, not be at any price. He noted the cost in terms of the disturbance to residents outweighed any economic benefit and reiterated that the Police, Parish Council and City of Durham Trust were all against the application. He too felt that if the application was allowed it would set a precedent for a number of similar applications to follow with a '*free for all*'. He noted that with over 30 nearby residential properties, and even more if one was to include those a short distance away, people should not be encouraged at 2.00am to be creating a noise disturbance.

He said the Local Neighbourhood Inspector had said it best when stating within the representations from Durham Constabulary: '*There are already complaints from residents around noise and drunken behaviour from people returning from the late-night bars and clubs, I feel that this would just exacerbate the issue. I feel that it would attract drunk and aggressive people, create an anti-social behaviour hot spot and is not in fitting with the city. North Road is already attracting attention for nuisance, drink related violence and safety issues*'.

The Chair thanked Councillor R Ormerod and asked Roger Cornwell, representing the City of Durham Trust, to speak in relation to the application.

R Cornwell thanked the Chair and Committee and referred them to slides to accompany his representation on behalf of the City of Durham Trust. He noted that one of the changes in recent years had been the conversion of the upper floors of shops into flats. He added the Trust regarded this as largely beneficial as it provided much needed student accommodation, without converting family homes.

He referred Members to the slide and explained that one could see the entrance to one of these (Greenland Studios, so called because it was above Iceland) immediately to the left of the application site. He added this had nine studio flats and represented just one building.

R Cornwell noted that the Trust's main letter of objection listed 34 residential properties in 12 different buildings as shown on the map on the projector screen. He explained that 5 North Road was shown in red, and the places where there were flats above shops were in green. He noted that even if 5 North Road was soundproof, its patrons, emerging into North Road at 2.00am, would not be. He added that this was two hours later than the Three Bridges pub and three hours after Sainsburys closed. He noted the Trust would have withdrawn its objection if the terminal hour had been scaled back to midnight, but as it has not been, the Trust would therefore ask the Committee to refuse the application due to the unacceptable impact upon the amenity of existing neighbouring residents, which is contrary to CDP Policy 31.

The Chair thanked R Cornwell and asked Inspector Caroline Dickinson, representing Durham Constabulary, to speak in relation to the application.

Inspector C Dickenson noted the Police shared similar views to that of the Parish Council, Local Member and City of Durham Trust in relation to the application. She noted that the Police looked at issues in respect of the Crime and Disorder Act, including issues relating to anti-social behaviour and the effect on the local environment. She explained that while there were several premises that operated until 2.00am, they all were under appropriate premise licences and therefore subject to the conditions of those licences. She explained to Members that she had been involved with Licensing for Durham for over eight years and noted that if the proposals were approved there would be no conditions under planning she could use to enforce in respect of a 2.00am opening time. She asked the Chair if PC Alan Newcombe could use the remainder of the time to give a perspective from the Local Policing Team. The Chair allowed PC A Newcombe to use the remaining time.

PC A Newcombe explained he would have referred to the Inspector's comments as set out within representations from the Police, however, Councillor R Ormerod had already stated those comments. He explained for context that over the last 12 months there had been 1,221 recorded incidents in the North Road area, which included Crossgate Peth and Silver Street. He added there had been 835 crimes, including theft, shoplifting, anti-social behaviour, public order offences, violence and criminal damage. He noted there were incidents each day and noted the reduction in Officers from 10.00pm and therefore any potential increase to incidents after that were a concern regards policing.

He added that there was potential for rough sleepers in the area to come into contact with users of the gambling establishment and at such hours there was increased risk of anti-social behaviour.

The Chair thanked Inspector C Dickenson and PC A Newcombe and asked Robert Dibden, Agent for the applicant to speak in support of the application.

R Dibden noted he would speak to the Committee, with Mark Melton also present from the Applicant, Luxury Leisure, to answer any specific questions Members may have. R Dibden noted that the Senior Planning Officer (LM) had covered the key matters and he welcomed the recommendation for approval as set out within the Committee report. He explained that Admiral had operated within Durham City for over 20 years and over that time Durham had evolved, with many businesses in the area having leisure use beyond the 10.00pm opening time for Admiral. However, the situation in respect of 24 hour use was recognised and therefore an application was submitted with similar hours of operation to those recently granted for a business at 12 North Road, operating until 2.00am. He explained the current owners also owned the upper floors and they were not in residential use.

He added that Apex Acoustics, an expert firm in respect of noise assessments, had been instructed to carry out assessments in addition to those carried out by the Noise Action Team from the County Council. He explained these assessments confirmed that the activity was unlikely to impact upon residential amenity.

R Dibden explained there had been no crimes recorded at the Admiral premises and there were processes in place to deal with incidents. He noted that the activities did not include amplified sounds and it was therefore unlikely to impact beyond the premises. He noted that it was also unlikely that any extension to the opening hours would generate a significant increase in the number of customers and added that the use was already established. R Dibden explained that Luxury Leisure took its responsibilities seriously, for example having no fixed-odds machines within their establishment, with stakes ranging from 25p to £2, all cashless. He added the company was a founder member of its Trade Organisation and staff circulated amongst the customers and helped with tools for patrons to track their spending and set betting limits. He concluded by noting the application would generate two new jobs and reiterated that the Officer's recommendation for approval was in line with the previous approval for premises at 12 North Road.

The Chair thanked R Dibden and asked the Senior Planning Officer (LM) to respond to the points raised.

The Senior Planning Officer (LM) noted that the applicant had already gone outside of the agreed operating hours, and the retrospective application was to regularise and reduce those hours.

Councillor A Bell noted that it was a successful business that had operated for a number of years, however, the Parish Council, Local Member, City of Durham Trust and Durham Constabulary had all objected to the application. He noted he had listened to their comments and how vulnerable people may be impacted. He added he would feel uncomfortable in extending the opening hours and would move refusal of the application.

Councillor J Quinn noted his concerns regarding a retrospective application and agreed with Councillor A Bell. He added was there not a compromise position of 12.00 midnight?

Councillor LA Holmes explained he was having difficulty persuading himself of a need for the premises to be open beyond 12.00 midnight and asked the Lawyer (Planning and Highways) for advice.

The Lawyer (Planning and Highways) noted that, as Members were aware, retrospective applications were permitted and indeed offered an opportunity to regularise activity as in this instance, and such applications being retrospective was not sufficient itself to warrant refusal. He noted the focus on the extension of the opening hours and referred to the applicant having instructed experts to undertake noise assessments, with DCC Officers having deemed levels to be acceptable. Accordingly, he felt it would be a struggle to refuse the application on impact upon residential amenity.

The Lawyer (Planning and Highways) noted that the Police concerns related to potential conflict between customers of the business and others and a lack of regulatory control for the Police. However, the Lawyer (Planning and Highways) noted that planning conditions would provide the necessary control over opening hours.

Councillor J Elmer noted he echoed the comments from Councillor A Bell in relation to the application, indeed while he felt 10.00pm was more acceptable, 2.00am presented potential problems as described by the representatives from Durham Constabulary. He added he felt he disagreed with the Lawyer (Planning and Highways) in that CDP Policy 29 looked to minimise the impact on areas and contribute towards healthy neighbourhoods and therefore he would second refusal. The Lawyer (Planning and Highways) asked which exact details Members were referring to in proposing refusal in breach of Policy 29. Councillor J Elmer noted the Police had been clear that the proposals would contribute to anti-social behaviour and levels of crime, contrary to the promotion of health neighbourhoods.

The Lawyer (Planning and Highways) asked if it was exacerbation of existing issues of anti-social behaviour rather than impact upon residential amenity from noise. If so, he noted that was a potential reason for refusal, however, his concerns were in terms of how this was evidenced by the Police and therefore their expert evidence would be required to defend such a refusal at appeal. Accordingly, through the Chair, he asked Inspector C Dickenson what information could be provided to evidence the Police's position. Inspector C Dickenson noted she could collate crime statistics in this respect.

Councillor C Marshall noted he was struggling with this application, while he would not wish the opening hours to be 2.00am, permission had been given until that time for a nearby business. He noted that if there was a need for information to be gathered by Durham Constabulary then he would propose the application be deferred until such time it could be presented to the Committee. Councillor C Kay noted he would second deferral of the application.

The Lawyer (Planning and Highways) noted that if Members wished to refuse the application on potential crime and disorder impacts, he would recommend the course suggested by Councillor C Marshall, to defer the application in order for further information to be provided by the Police. He noted there was a motion for refusal that had been moved and seconded prior to the motion for deferment.

Councillor A Bell and J Elmer agreed to withdraw their motion for refusal.

The Lawyer (Planning and Highways) noted the motion before Members was for deferral of the application and upon a vote being taken it was:

## **RESOLVED**

That the application be **DEFERRED**.

*Councillor C Hood left the meeting at 12.35pm*

### **e DM/22/01509/FPA - Silver Howe, Heathways, High Shincliffe, Durham, DH1 2PQ**

The Senior Planning Officer, Lisa Morina (LM) 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 Senior Planning Officer (LM) advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the demolition of existing bungalow and replacement with dormer bungalow and was recommended for approval, subject to the conditions as set out in the report. The Senior Planning Officer (LM) noted paragraphs 6-7 of the report should have referred to the road as unadopted, not unregistered.

The Chair thanked the Senior Planning Officer (LM) and asked R Ormerod, in his capacity as Clerk to Shincliffe Parish Council, to speak in respect of the application.

The Parish Clerk thanked the Chair and Committee and noted the objections were on the basis of highway safety, not the dwelling itself. He noted the location of the application site, not far from the 'perimeter road' around the village of High Shincliffe, which did not have a footpath on either side of this road. He noted the nearby primary school and use by pedestrians, dog walkers of this road. He noted the walled garden currently not extending to the road, creating a refuge area for pedestrians, with the proposals meaning this area, incorporating unregistered land, would be lost. The Parish Clerk explained that also the incorporation of the unregistered area would also impinge upon the views of drivers carry out manoeuvres and being unable to see due to the wall and railings.

The Chair thanked R Ormerod and asked Councillor D Stoker, Local Member, to speak in relation to the application.

Councillor D Stoker noted he echoed the comments made by Shincliffe Parish Council and would say that a high volume of cars drove along the road in question, often at speed, and reiterated that there was no footpath only an area of grass as mentioned.

He noted the proposed wall at 750mm in height, together with 600mm railings on top of that, represented a visual barrier for neighbours driving in and out, as well as impacting on other road users once they pulled out on to the highway. He noted that due to those safety concerns he felt the application was, in that sense, unrealistic.

The Chair thanked Councillor D Stoker and asked the Applicant, Andy Carter, to speak in support of his application.

A Carter explained he had lived for 48 years as a resident of High Shincliffe and therefore he had experience of walking the road, as described by the Parish Clerk and Local Member, on a daily basis, twice a day when walking his dog.

He noted he had consulted with the neighbour in terms of safely exiting their drive, accordingly the application had been amended to reduce the height of the wall, and to use railings that could be seen through by the neighbour. He added that the Council's Highways Section had not objected to the proposals and therefore he would have thought the proposals were acceptable. He noted there were other issues, outside of the application, that impacted upon highways safety, such as people travelling to High Shincliffe and then parking their cars for seven to eight hours. He concluded by noting that the wall would in fact help with visibility.

The Senior Planning Officer confirmed the height of the wall at 750mm, with the railings being 600mm on top of that height.

Councillor J Quinn noted he had attended the site visit and there were two vehicles parked on the grassed area to the front of the site where the wall/railings would be erected. He added he felt the applicant had done as much as they could do in relation to such issues and therefore he would be minded to move approval of the application as per the Officer's recommendation.

Councillor J Elmer noted on the site visit a lady had been seen pushing a pram along the road, with no refuge and large van had passed her. He noted that he too had no objection to the construction of the house, rather he would ask if there as an opportunity to retain an amount of the unregistered area for a pedestrian refuge, perhaps one metre.

Councillor C Marshall noted he had heard the Officer's presentation and heard from speakers and felt that it was not for the applicant to deal with existing issues in relation to the highway, accordingly he seconded that the application be approved.

Councillor C Kay asked what had become of the lady with the pushchair, with Councillor J Elmer noting she had been required to squash up against the hedge with her pram.

Councillor A Bell noted the highways issues raised, however, the Council's Highways Officers had been satisfied with the arrangements. He asked if there was scope for the Parish Council to look at options, perhaps if the unregistered area had been taken into account. He noted that was outside of the scope of the Committee and that he too would be supporting approval.

The Senior Planning Officer (LM) referred to plans and noted that there would still be a slight refuge area that would remain in the form of the recessed driveway entrance.

Upon a vote being taken it was:

**RESOLVED**

That the application be **APPROVED**, subject to the conditions as set out within the report.

**6 Special Meeting**

The Chair reminded Members that a Special Meeting of the Committee was scheduled for Tuesday, 20 December 2022 and would take place at 1.30pm in the Council Chamber, County Hall, Durham.