

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in **Council Chamber, Council Offices, Spennymoor** on **Thursday 21 January 2016** at **2.00 pm**

### **Present:**

**Councillor M Dixon (Chairman)**

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

Councillors H Nicholson (Vice-Chairman), B Armstrong, D Bell, J Clare, P Conway, K Davidson, A Patterson, G Richardson, H Smith, L Taylor, C Wilson and S Zair

### **Also Present:**

J Byers – Planning Team Leader  
P Hopper – Planning Officer  
A Glenwright – Principal HDM Engineer  
C Cuskin – Solicitor – Planning and Development

### **1 Apologies for Absence**

Apologies for absence were received from Councillors C Kay and S Morrison.

### **2 Substitute Members**

Councillor H Smith substituted for Councillor C Kay and Councillor P Conway substituted for Councillor S Morrison.

### **3 Declarations of Interest**

**Planning Application DM/15/01504/FPA – Unit 3, Jubilee Road, Shildon**  
Councillor H Nicholson advised that he was a Member of Shildon Town Council but had declared an interest on the two occasions that the application had been considered by the Town Council, and had taken no part in the discussions.

### **4 Minutes**

The Minutes of the meeting held on 10 December 2015 were agreed as a correct record and were signed by the Chairman.

### **5 Applications to be determined**

**a DM/15/01504/FPA - Unit 3, Jubilee Road, Shildon**

Consideration was given to the report of the Planning Officer regarding an application for the change of use from retail unit (A1) to hot food takeaway (for copy see file of Minutes).

The Planning Officer gave a detailed presentation on the application which included photographs of the site. Members were informed that Jubilee Crescent should read Jubilee Road in paragraph 41 of the report.

Members discussed the application and the Chairman considered that the objections raised had been addressed in the report. One of the concerns expressed related to the oversupply of hot food takeaways within Shildon which exceeded the 5% threshold specified in the emerging County Durham Plan. However he understood that no weight could be attached to this in the light of the current position with the County Durham Plan which had been withdrawn.

With regard to this, Councillor Clare considered that even if weight could be attached to policies in the County Durham Plan the threshold would not apply in respect of the application under consideration as the premises were located outside of the town centre. The County Durham Plan chose to make specific to areas certain general provisions within the NPPF. Paragraph 11 of the report was about building strong, competitive economies. 50% of Shildon's High Street was made up of takeaway premises and building a strong, competitive economy could not be achieved by creating more hot food takeaways. The NPPF talked about planning positively for the provision and use of shared space and community facilities such as local shops. This application, if approved, would constitute the loss of a shopping space. Shildon must be hugely over-provided with hot food takeaways and he asked if there were any grounds to object on principle. Paragraph 70 of the NPPF stated that planning decisions should guard against the unnecessary loss of valued facilities and services – Shildon was gaining a hot food takeaway but the proposals would involve the loss of a retail outlet. He asked what weight could be attached to this.

The Member continued that Shildon Town Council was concerned about the adverse impact on health. The applicant had responded to concerns by amending the opening hours to ensure that it was not open during traditional school hours but this would mean that the takeaway would be open when the schools were closed. This was not a solution. The NPPF was explicit in its core planning principles. Paragraph 17 stated that planning decisions had to take account of and support local strategies to improve health and well-being. Paragraph 171 talked about having an evidence base on health and that planning must take into account the health of the local population. Policy D1 of Sedgefield Borough Local Plan required planning decisions to have a minimum adverse impact on local health. Therefore he asked if the report had adequately addressed the health issue and if an evidence base had been taken into account. It was clear that the NPPF considered health to be a major issue and the County Durham Plan intended to make a series of provisions regarding this, yet this application would be decided before the Plan was in place.

The Planning Team Leader responded that the proposal did not constitute the loss of a retail unit as the building had never been occupied, and the adjacent premises, which was now a store had originally been used as a training unit. It would be difficult to argue that the proposed hot food takeaway would adversely impact upon health when school children could purchase other foods which could be classed as unhealthy from the adjacent premises.

The NPPF was a framework of core planning principles from which planning authorities produced their own policies and plans to determine individual planning applications. Members were aware that no weight could be attached to policies within the County Durham Plan at the present time.

The Planning Officer added that Policy H18 of the Local Plan supported convenience style uses within residential areas where they would not adversely impact upon the living conditions of surrounding residents and this approach accorded with the NPPF.

By way of clarification for Members, the Solicitor – Planning and Development stated that it may be difficult to sustain a reason for refusal based upon the impact of one single hot food takeaway on the health of the local population, and also in terms of building a strong, competitive sustainable economy. With regard to the loss of facilities and services she explained that the shop was currently vacant and had never been occupied so it would be difficult to argue that Shildon was losing a facility that was of value to the community.

In conclusion she advised that determining the application at this point in time would not prejudice the aims of the emerging County Durham Plan.

Councillor Nicholson reiterated that the proportion of takeaways to other retail outlets in Shildon was 50%. Health statistics produced by Public Health in respect of Shildon highlighted the need to promote healthy communities. He appreciated the difficulty in sustaining a refusal for change of use but he was concerned about the health of the local population. He also emphasised the need to ensure the vitality of the town centre.

The Member also stated that there were empty units within the town centre, the NPPF made clear that the planning system could play an important role in facilitating social interaction and creating healthy, inclusive communities, and that planning decisions should aim to achieve places which promoted safe environments where crime and disorder and the fear of crime did not undermine quality of life.

The views of Councillor Nicholson were shared by Councillor Wilson who did not believe that Shildon needed another hot food takeaway.

In response to a comment from Councillor Armstrong about highway safety, the Highways Development Officer advised that the site included an area of existing parking which was unusual for takeaway premises. There had been only one recorded personal injury accident in the last five years in the locality which demonstrated the effectiveness of the traffic calming measures.

Councillor Davidson was of the view that there were no robust reasons to refuse the application on planning grounds. He did not believe that one additional hot food takeaway would make a difference to the eating habits of the local population. It could be argued that if the premises opened as a shop instead of a takeaway it could sell the same food products that were already available at the adjacent store.

Councillors Armstrong and Patterson noted that the next application on the Agenda referred to Policy S1 of the Sedgefield Borough Local Plan and asked why this Policy was not relevant to the application under consideration, which was in an edge of town location.

The Planning Officer responded that Policy S1 sought to promote existing town centres and it was felt that the Policy could not be sustained in respect of the current application, being a single unit located outside of the town centre. He continued that the NPPF set out a sequential approach to considering the location of developments in out of centre positions and also stated that the need for a sequential assessment was only applicable when the floor space was above a certain size. Therefore in this case a sequential assessment was not required.

Councillor Conway was of the view that a key consideration was the impact on the town centre; the unit was clearly located outside the town. Many towns had a preponderance of hot food takeaways and whilst he had sympathy with the objectors he was having difficulty finding reasons to refuse the application on planning grounds.

Councillor Clare reiterated the comments of Councillor Conway. There were no grounds to sustain a refusal on highway safety grounds and this was not a town centre development, but he felt that there must come a point where one more takeaway was deemed to be too many. Members had heard that no weight could be attached to policies in the County Durham Plan, that saved policies were only relevant where they conformed with the NPPF, and that the relevant parts of the NPPF were general principles which did not apply here. Common sense dictated that this application should be refused but there were no valid grounds on which to do so. He therefore supported the views of Councillors Davidson and Conway.

Councillor Davidson moved and Councillor Conway seconded that the application be approved.

**Resolved:**

That the application be approved subject to the conditions outlined in the report.

Councillor S Zair left the meeting.

**b DM/15/03207/FPA - Bridge Garage, Horndale Avenue, Aycliffe Business Park, Newton Aycliffe**

Consideration was given to the report of the Planning Officer regarding an application for change of use from car show room (Use Class Sui Generis) to office accommodation (B1), retail (A1) and coffee shop (A3) (for copy see file of Minutes).

The Planning Officer gave a detailed presentation on the application which included photographs of the site.

Councillor Clare stated that the vacant premises were a blot on the landscape in a very prominent position. He believed that he spoke for the local community in saying that they would welcome the reoccupation of the unit. The proposals would enhance the industrial estate as a whole. This view was shared by Councillor Nicholson.

Following a question from Councillor Patterson the Member was advised that the overall size of the retail space was not contrary to Local Plan Policy or the NPPF in respect of developments outside the town centre.

**Resolved:**

That the application be approved subject to the conditions outlined in the report.