

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 28 July 2016 at 2.00 pm**

**Present:**

**Councillor C Marshall (Chairman)**

**Members of the Committee:**

Councillors I Jewell (Vice-Chairman), J Maitland, K Shaw, A Shield, L Taylor, O Temple and K Thompson

**1 Apologies for Absence**

Apologies for absence were received from Councillors B Armstrong, H Bennett, P Brookes, O Milburn and S Zair.

**2 Substitute Members**

There were no substitute Members in attendance.

**3 Minutes**

The Minutes of the meeting held on 30 June 2016 were confirmed as a correct record and signed by the Chairman.

**4 Declarations of Interest**

There were no declarations of interest.

**5 Applications to be determined by the Area Planning Committee (North Durham)**

**a DM/16/00759/FPA - 1A Arcadia, Ouston, Chester-le-Street**

The Committee considered a report of the Planning Officer regarding an application for the change of use from a shop (use class A1) to restaurant and takeaway (mixed use A3 and A5) and erection of awnings at 1A Arcadia, Ouston, Chester le Street (for copy see file of Minutes).

The Planning Officer provided a detailed presentation of the application which included photographs of the site and a plan of the proposed layout.

Councillor Bell of Ouston Parish Council addressed the Committee to object to the application, which had attracted over 80 objections.

The proposed use of the premises was as an Italian restaurant and takeaway yet there were only 6 parking bays available for all of the shops at this location which Councillor Bell did not consider to be an ample number. The proposed restaurant would cause nuisance to both the bungalow opposite which would have views of the neon signage and awnings as well as to locals generally with noise levels when customers were leaving the premises on an evening. The proposed restaurant was not subject to any passing traffic and Councillor Bell queried the need for signage.

There were already traffic problems in the area caused by dropping off and picking up for the local primary school and if the proposed restaurant was open during the day this could exacerbate these problems.

It was feared that the restaurant could attract anti-social behaviour from young people on an evening, as such problems in the area had been experienced in the past. Any outside seating at the proposed restaurant would be looking onto homes and the local school. The Parish Council agreed with the submitted objections and considered there was no need for a further food outlet and that the application was not advantageous to the village of Ouston.

Councillor A Batey, local Member, addressed the Committee to object to the application. She informed the Committee that the nearby school was now a primary school and not a junior school with over 200 pupils on roll. There were only 6 parking bays available for the retail units and 2 disabled parking bays, and these were used by shop customers and local residents. Additional parking restrictions had been imposed opposite the parking bays at the request of local residents to provide increased safety at the road junction outside of the primary school and this was impacting on the businesses in the Arcadia shopping area.

There were concerns that the proposed restaurant could lead to anti-social behaviour issues, which had previously been experienced, and noise from users of the restaurant could impact on residents of the flats above the retail units. Any tables proposed to be placed on the pavement outside of the restaurant would directly face the primary school and this could lead to concerns about child protection issues. Additionally, customers using the outside tables may smoke which could lead to health concerns. Any noise from the restaurant could impact on the nearest classroom at the school which was only some 30 metres away. Councillor Batey informed the Committee that the area was regularly used by people in wheelchairs and was a high traffic area for pedestrians. There were also concerns about bin storage and collection issues at the proposed restaurant. She asked that the Committee refuse the application.

Mrs Musgrove, local resident, addressed the Committee to object to the application. A letter of objection to the application had been signed by 86 residents who were elderly, young and couples with families, which reflected that the whole area did not want this development, for the reasons previously explained. Any potential smoking outside of the premises would not be ideal because this would be in view

of the primary school. The whole community was concerned and upset by the application which was in the wrong place.

L Renaudon, Planning and Development Solicitor, referring to the issues of illuminated signage and canopies, reminded the Committee that this was the subject of the following agenda item.

Mr C Wale addressed the Committee on behalf of the applicant. He informed the Committee that there were no plans for neon or flashing signs at the restaurant and that any signage would be in keeping with other outlets at the site.

The proposed restaurant would seat 40 to 50 customers at maximum and was not therefore a large operation. It would rarely operate to full capacity and any noise would be minimal. There was no application for an entertainment licence and the level of any background music could be conditioned.

The hours of trade for the restaurant would be dictated by market demand and would probably be for a couple of hours in the afternoon and then early evening until 9.30/10.00 p.m. These hours would not impact on school pick up or drop off times.

The restaurant was proposed to be a family type of outlet used by local people who would not necessarily be using cars, or would be using taxis or arriving at the restaurant with 4 people in a car, so parking should not be such an issue.

The operator of the restaurant currently ran a larger restaurant in Newcastle. This was a family business and both partners involved their families in the restaurant, which was operated as a family friendly venue. The proposed restaurant would offer a full range of Italian food and a quality a la carte menu and would be a good family facility for local people. It would be warm and welcoming and have an intimate style.

The Planning Officer informed the Committee that there was no reference to outside seating in the planning application.

Councillor Maitland asked whether the restaurant would be selling alcohol. The Planning Officer replied that this was a licensing issue which would need to be considered separately outside of the planning process.

Councillor Shield sought clarity on the number of parking spaces available and queried the reasons for refusal. Members of Planning Committees had previously been advised that local saved plans carried low weighting, yet the primary reason for refusal for this application was Policy R19 of the saved Chester le Street District Local Plan with NPPF being a secondary reason. Councillor Shield also asked what NPPF 123 referred to.

The Planning and Development Solicitor replied that normally, local plans were considered to be out of date and should be given low weighting when dealing with housing applications. In this application the Local Plan Policies were not out of date and therefore weight could be given to the saved Local Plan. This application should be determined in the context of the saved Local Plan and other material

considerations. NPPF 123 stated that development should avoid noise that would give rise to significant adverse impacts on health and quality of life.

J McGargill, Highway Development Manager informed the Committee that there were 3 disabled parking bays and 4 general use parking bays at the location, with a further two spaces at the side of the retail properties. When assessing the application the restaurant would have 13 tables and would not always be operating to capacity. When it was operating at capacity consideration was given to whether all customers would drive to the premises. With 8 customer vehicles and staff vehicles it was calculated that up to 12 vehicles visiting the premises when it was at capacity and therefore there was the potential that 3 or 4 vehicles could not be accommodated in the parking bays and that these vehicles would be dispersed through the residential area. The application would not have a road safety issue and the impact of parking was not considered to be severe and therefore there could be no reason to recommend refusal on highways grounds.

Councillor Temple informed the Committee that he was not knowledgeable of the area and whether there were other restaurants in the area. If this was the only restaurant in the area then he considered it might attract local trade and whether the restaurant would be commercially viable was not a planning consideration. He considered the reason for refusal to be narrow and expressed concern.

Councillor Thompson asked whether the cumulative effect of school traffic had been considered when the application had been assessed on highways grounds.

The Highway Development Manager replied that consideration had been given to when the restaurant would be operating and the likely peak periods of trade and that during school pick up and drop off periods the restaurant would not be busy.

Councillor Jewell informed the Committee that he concurred with the views of Councillor Temple that this was a finely balanced application and the reason for refusal was narrow. Speakers against the application had mentioned matters which were not relevant to the application such as residents using the parking bays, which was not a right. He did not consider that the peak operating hours for the restaurant would be in conflict with peak school traffic times.

The Planning Officer informed the Committee that Policy R19 in the saved Chester le Street District Local Plan had two strands.

The first strand of the Policy directed new food and drink (A3 uses) to Chester-le-Street Town Centre, established Local Retailing Centres, or as part of local shopping provision in new housing or mixed-use development. In this instance, although it was considered that the site was within a parade of shops that would likely have been built for the residents of the newly built estate at Ouston in the 1970s and it continued to function as such, this would have been prior to the Local Plan period. Therefore, the first strand of Policy R19 did not apply and no support could be given to the proposal in principle by virtue of its location geographically outside of these areas.

The second strand of Policy R19 of the Local Plan outlined what material considerations new food and drink uses should be assessed against, and was considered to be compliant with the NPPF. One of these was that a proposal should not have a detrimental impact upon the amenity of residential properties from noise, fumes, smell, lighting, activity levels or hours of operation. Paragraph 123 of the NPPF stated that development should avoid noise that would give rise to significant adverse impacts upon health and quality of life. The proposed use as a restaurant and hot food takeaway was considered to bring adverse impacts upon the quality of life and amenity of neighbouring nearby residents and therefore the second strand of Policy R19 would apply.

Councillor Shield informed the Committee that while he considered this to be a finely balanced decision he considered that the application site was in the wrong place and **moved** refusal of the application as recommended in the report. This was **seconded** by Councillor Shaw.

Upon a vote being taken it was

**Resolved:**

That the application be refused for the reason set out in the report.

**b DM/16/00760/AD - 1A Arcadia, Ouston, Chester-le-Street**

Mr Wale, on behalf of the applicant, informed the Committee that in light of the previous application being refused, he wished to withdraw this application. If the applicant wished to submit a secondary application for the premises, or was successful on appeal, this application would then be re-submitted.

**c DM/16/01816/FPA - St Marys Roman Catholic Primary School, Pemberton Road, Consett**

The Committee considered a report of the Planning Officer regarding an application for the erection of a MUGA (multi-use games area), with associated fencing, gates and path at St Mary's Roman Catholic Primary School, Pemberton Road, Consett (for copy see file of Minutes).

The Planning Officer provided a detailed presentation of the application which included photographs of the site and a plan of the proposed layout. The Planning Officer informed the Committee that a late representation had been received in response to the applicant's supporting statement which emphasised that the proposal would cause more cars to be located within the vicinity of the site for longer periods and more frequently.

Councillor S Robinson, local Member informed the Committee that he was in favour of the application. However, the school gates to the turning circle at the school were closed for health and safety reasons when children were being picked up and dropped off and this had led to severe traffic problems at these times. He asked that if the MUGA was to be used until 6.30 p.m. the school gates could be opened so that users of the MUGA did not cause parking problems in the surrounding streets.

Mr D Hall, local resident, addressed the Committee. While he agreed that the MUGA would be of benefit to the school and the community he had strong concerns about traffic and parking problems in the area. There was already parking on verges and pavements at Barley Mill Road and Pemberton Road, including on the brow of a hill, and cars parked on the junction which resulted in restricted views. The width of Pemberton Road resulted in vehicles needing to park on the kerb and vehicles travelling into Barley Mill Road from Pemberton Road sometimes needed to reverse onto Pemberton Road if there was a vehicle travelling towards it on Barley Mill Road, which was a dangerous manoeuvre. Vehicles often parked across driveways which had resulted in incidents of verbal abuse and threats being made. In effect, both Pemberton Road and Barley Mill Road were used as a visitor's car park and any increase in traffic volume would lead to an increase in risk.

While not objecting to any noise which may be generated from the MUGA, Mr Hall was objecting to the car parking situation surrounding the school and asked that a risk assessment and environmental impact be carried out before a decision on the application was made.

Mr D Miller addressed the Committee on behalf of the applicant. The proposed MUGA was an all-weather sports pitch which would enhance the provision of PE at the school. It would allow for access to new sports to promote healthy lifestyles and enhance physical and emotional wellbeing of users of the facility.

Currently, the school had one yard where both active and passive play activities took place and this sometimes led to conflict. The MUGA would allow for these activities to be separated.

The MUGA would enhance the schools facilities. The school was currently graded as Good by OFSTED and was aiming to achieve an Outstanding grade.

The gates at the school were opened during after school activities which allowed vehicles to park within the turning circle. After school activities were supervised by staff and there was a limit to the number of children who could use the MUGA as it was the size of a 7 a-side football pitch.

Councillor Temple informed the Committee that this school had been within his electoral division before boundary changes, and he was aware of the long running issue of parking problems in the area. Councillor Temple considered the request by Councillor Robinson, that the school gates were opened during after school activities, to be a possible solution to any parking problems and asked whether this could be a condition attached to the planning permission. Subject to such a condition, he **moved** approval of the application.

Councillor Marshall informed the Committee that while it appeared nobody had any objection to the MUGA, it was essential that parking problems in the area were not exacerbated as a result of it.

Councillor Shield informed the Committee that a school where he was a Governor had installed a MUGA yet had also experienced parking problems around the school. The problem had been solved by allowing users of the MUGA to park in school grounds and he considered that this solution would be possible for this application. Local people wanted the MUGA facility but were not prepared to tolerate possible traffic and parking issues from it. He **seconded** that the application be approved subject to the condition that the school gates were open during any after school activities.

The Planning Officer informed the Committee that there was scope to attach a condition to the planning permission that the school gates remain open during out of school hours.

Councillor Jewell informed the Committee that problems of parking around schools were not unique to this area and that the problem would be at its worst during pick up and drop off times. The volume of traffic generated by after school activities would not be the same.

Councillor Marshall informed the Committee that it had been moved and seconded that the application be approved subject to the inclusion of a condition that the school gates remain open during after school activities. Referring to wider issues of traffic and parking problems in the area Councillor Marshall asked that Highways Officers liaise with Councillor Robinson to address local issues.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions in the report and a condition that the school gates were open during after school activities.

**d DM/16/01811/FPA - Hollydene, North Lodge, Chester-le-Street**

The Chairman informed the Committee that due to a change in the Council's Constitution there was no need for this application to be considered by Committee and therefore the item was withdrawn from the agenda.