

## **DURHAM COUNTY COUNCIL**

At a Meeting of **County Planning Committee** held in Council Chamber - County Hall, Durham on **Tuesday 8 October 2019 at 1.00 pm**

### **Present:**

**Councillor J Robinson (Chair)**

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

Councillors J Atkinson, A Bell, J Clare, K Corrigan, I Jewell, L Marshall, L Pounder, G Richardson, A Shield, A Simpson, F Tinsley (Vice-Chair), M Wilkes and M Wilson

### **1 Apologies for Absence**

Apologies for absence were received from Councillors Kay, Laing and Wilson.

### **2 Substitute Members**

Councillor L Marshall as substitute Member for Councillor Laing, Councillor L Pounder as substitute Member for Councillor Kay and Councillor M Wilson as substitute Member for Councillor S Wilson.

### **3 Declarations of Interest**

There were no declarations of interest.

### **4 Minutes**

The Minutes of the meeting held on 3 September 2019 were confirmed as a correct record and signed by the Chairman.

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

#### **a DM/19/01479/FPA - Former Electrolux Site, Merrington Lane Industrial Estate, Spennymoor, DL16 7EY**

The Committee considered a report of the Senior Planning Officer regarding an application for the provision of site infrastructure (highways, drainage,

utilities) pursuant to 8/CMA/7/91 (outline consent for mixed use development comprising up to 425 dwellings and commercial uses including associated access and landscaping works with all matters reserved) at the former Electrolux Site, Merrington Lane Industrial Estate, Spennymoor (for copy see file of Minutes)

L Eden, Senior Planning Officer provided a detailed presentation of the application which included a site location plan, aerial photograph of the site, vehicular access points, the location of existing businesses within the site, retained industrial units, proposed plan and views from within the site. Members of the Committee had visited the site and were familiar with the location and setting. During the presentation of the application Councillor M Wilkes joined the meeting.

The Senior Planning Officer informed the Committee of two updates since the publication of the report as follows:

- Condition 2, the approved plans condition to be updated to include a drainage plan, and;
- Condition 3, relating to a construction management plan, proposed to add an additional clause to fully consider how the developer would retain the access for existing occupiers of the site;
- A letter of comfort had been received from Homes England acknowledging that Mitchinson's had a right of access through the site and that they would be working with the contractor to ensure this was maintained throughout the development process.

The Chairman informed Councillor Wilkes that he had joined the meeting too late to be able to take part in the decision on the application. Councillor Wilkes understood this and asked whether he would be able to ask a question on the application. N Carter, Planning and Development Solicitor advised that Councillor Wilkes could ask a question by way of clarification but could not take part in the decision.

Councillor Wilkes replied that he had more of a comment than a question. On page 31 of the papers pack was a map to show the location of the application site. To then go online to find the detail of what was proposed there were 76 documents for this application, none of which showed what was proposed for the site, for example where the proposed roundabouts would be located and what the road layout would look like. A diagram to show what was proposed would be useful.

The Chairman informed the Committee that Councillors L Maddison and K Thompson of the Spennymoor Electoral Division, which was an adjacent Electoral Division and could be impacted by the application had registered to speak. However, Councillor Thompson was not in attendance and his request to speak would therefore fall.

Councillor Maddison informed the Committee that her involvement with Mr Mitchinson, an objector to the application, had only been recent when he sought advice from local County Councillors on options available to him to enable continuity of his business after plans had moved forward with Homes England following their acquisition of the Merrington Lane site. While not the Member for the Electoral Division Councillor Maddison informed the Committee that her interest was to find a solution that would protect Mr Mitchinson's business and safeguard the workforce which he employed from the local area. Councillor Maddison informed the Committee that the drawings displayed during the Senior Planning Officer's presentation did not show the barriers which had now been erected immediately adjacent to Mr Mitchinson's premises and it would have been good for Members to have seen the current position on site.

The Merrington Lane site was once a thriving major industrial area of Spennymoor and was sold by Thorn and Electrolux for housing development. Mr Mitchinson acquired his premises, which were previously owned by Remploy, approximately 6 years ago and the site was only yards away from areas now planned for housing development. Through County Councillor involvement Mr Mitchinson had now been put in touch with Business Durham who were working with Mr Mitchinson to ensure the future viability and growth of his company. There were a number of opportunities now open to Mr Mitchinson but he needed time to enable these options to come to fruition. The immediate plans of Homes England to develop the road infrastructure to attract future housing development on the site would create almost immediate access restrictions to the loading bay area of Mr Mitchinson's premises which had been witnessed by Members at the site visit. The road reduction plan proposed the width of the road would be reduced from 9 metres to 6.75 metres and with barriers now erected at the side and opposite to Mr Mitchinson's premises it could be seen there was insufficient turning circle to allow safe swing and clear vision on all sides for vehicles to reverse safely into the existing loading bay area. A 40 foot vehicle needed the full width of the road as it currently existed to make this manoeuvre.

The spine road through the development had been designed so it was capable of being used by both commercial and residential traffic as it would link both the commercial area and the housing development to the main highways. The relationship between residential development and retained industrial uses was considered at the time of the outline application and deemed to be acceptable. The plan for both commercial and housing development on the site was not new and it was recognised that this once thriving industrial brownfield site needed to be developed. Earlier consents established that residential phases of development would be located immediately adjacent to the objector's premises. Councillor Maddison asked that a time delay be afforded before immediate implementation of works to

allow Mitchinson's to work with Homes England and Business Durham to find an early solution to maintain continuity of Mr Mitchinson's business on the site or elsewhere to protect the jobs of 25 full time employees and upwards of 30 to 50 part-time and casual workers who were local to the Spennymoor area.

The County Durham Plan had an aim to establish industrial sites close to local areas of population. Over the last few years Spennymoor had experienced a decline in the availability of prime industrial sites and a rise in housing development of which at least 1,400 houses were still to be built or planned. The requirement for new homes on this site would add to existing pressures on local services, particularly on infrastructure and health services and a need for a new primary school.

The immediate plan was only to build and adopt a new spine road through the industrial estate and Councillor Maddison considered that a delay of several months to allow negotiations to take place on future options for Mr Mitchinson would be welcomed.

The Chairman informed Councillor Maddison that time delay was not in the gift of the Committee, which could only determine the application.

The Chairman referred to Councillor Maddison's reference to barriers being erected by Homes England and asked the Senior Planning Officer to provide clarification on this. The Senior Planning Officer replied that Homes England had erected barriers around their land to secure the site but had not erected barriers around any land which was not in their ownership or their control.

Louise Wood of ELG Planning addressed the Committee on behalf of J Mitchinson Ltd to object to the application on the grounds of highway safety and impact on their existing business.

Mitchinson's was a well established and growing business with 24 full time members of staff and up to 40 seasonal staff throughout the year, serving clients such as the NHS, Royal Mail, Amazon and Waitrose as well as other major retailers and were permitted to operate 24 hours a day, 7 days a week. Currently the business could receive up to up to 50 heavy goods vehicles in a 24-hour period but there was no cap on the number of HGV movements permitted on the site.

The Company had recently received an option to expand their fleet but had put these plans on hold due to this proposed development and their concerns at the impact it could have on their future operations.

Ms Wood queried whether the correct ownership notices had been served, as from Land Registry searches it appeared that the land passing in front of the Mitchinson site was un-registered.

With reference to highways matters, whilst the applicant had provided additional details on vehicle tracking it was still considered there were a number highways objections and safety matters. There was a lack of separation between the Mitchinson site access and the proposed new roundabout which could result in queuing traffic from both cars and HGV's which would block the access to the Mitchinson site. The proposed new roundabout would be of a painted type rather than a formal raised type to facilitate HGV movements but there were concerns that this could further impose an increased risk to highway safety. The narrowing of the spine road would further restrict the movements of HGV's across the site which could lead to HGV's mounting kerbs to get a swing on to the site which could significantly impact on highway safety. More than one HGV could and did arrive on site at the same time which resulted in queuing on the spine road while vehicles were unloaded. While vehicle tracking had been shown to be achievable multiple HGV's arriving at the site at the same time could significantly impact on highway safety particularly in the context of residential development and the associated trips generated from it. This had not been considered as part of vehicle tracking and could happen on a daily basis particularly during busy periods of the year such as the run up to Christmas when days would be darker which could further exacerbate the problem.

The number of HGV's within the site and moving across the site in a 24-hour period would also further put pedestrian safety at risk. The road was due to be adopted by the Council and the movement of HGV's was likely to increase wear and tear on the surface of the road which would lead to potholes, requiring frequent repair and investment from the Council to maintain it. Mitchinson's had a legal right of access over the road.

Mitchinson's were no longer able to use the wider site for storage of HGV's and this meant that vehicle movements across the site would be greater than currently existed.

While outline permission for the site had already been granted it was considered that in practice there would be a number of conflicts on the highway as a result of this proposal. An up to date Transport Assessment should be required to assess the changes which had occurred since the outline permission was granted over 6 years ago.

For the reasons outlined it was considered that the proposals would lead to an unacceptable impact on highway safety and in accordance with Paragraph 109 of the NPPF and saved Local Plan Policy T7 it was requested that the application be refused.

The Chairman sought feedback from officers on issues raised by Ms Wood. A Inch, Strategic Development Manager referred to the query regarding whether the correct certificate had been served in terms of unregistered land. The application detailed that there was an area of unregistered land but this was publicised in the Northern Echo and dealt with correctly.

J McGargill, Highway Development Manager responded on highways issues raised. The volume of HGV traffic travelling to the site of 50 HGV's in a 24 hour period was not a significant volume of traffic and equated to 2 every hour. Even if over a 12-hour period, 4 HGV vehicles per hour on a road was not significant.

With reference to vehicles queuing on the road outside of the development this could happen. However, a vehicle could be overtaken in a 6.75 metre wide carriageway if the vehicle was parked at the side of the road.

The roundabout was standard roundabout design with a raised middle which allowed HGV's to travel over if necessary, without splitter islands at the roundabout with thermoplastic markings to allow HGV's to travel across if necessary. This was standard design which could be found in many industrial and residential areas.

The road would be designed to carry standard traffic, along with HGV traffic, and the volume of HGV traffic was not significant. There were no concerns regarding the construction of the road. The existing road was an industrial estate road 9 metres wide with no signs of significant deterioration and the new road would be built over the top of the existing road and therefore would be as structurally stable as the existing road which carried HGV traffic.

Referring to a Transport Assessment, a Transport Assessment was carried out in 2012. When Transport Assessments were carried out the Council asked consultants who undertook them to growth traffic up to a predicted 10-year future.

A vehicle had been witnessed during the site visit carried out by the Committee attempting to reverse into one of the two access points at the Mitchinson premises. The Highway Development Manager asked that the photograph showing the two access points be displayed. The vehicle was attempting to reverse into the northern of two access points at the site which was 5 metres wide and had a no entry sign on the gate. In contrast the other access point was 16 metres wide. Normally for an industrial development of this type it would be expected for a vehicle to enter in a forward gear form the highway and exit in a forward gear. The Highway Development manager suggested that a vehicle could do this at this location by entering the 16

metre wide access point, which had a sign which read 'Goods Delivery', drive around the building then leave by the narrower 5 metre egress point.

The current road width was 9 metres without footways in parts. To the north of the site was the former Thorns development which had housing on it including access to the Thorns development. This was a 6.75 metre wide carriageway and operated successfully with HGV's and residential traffic. Running parallel to the industrial estate road was Viners Close, Merrington Lane which was a 7.3 metre wide carriageway and was a classified B road, the B6233. The distance to travel to the Mitchinson site via the industrial estate was 437 metres from the junction, via Viners Close it was 453 metres. The new development would incorporate two new roundabouts which would slow traffic and it was therefore likely that commercial traffic would defer to travelling on the B road, even though this was a slightly longer route by some 16 metres.

Councillor K Thompson, who joined the meeting late, informed the Committee that he had been delayed by traffic caused by an accident and asked whether he would be able to speak. The Chairman sought legal advice and informed Councillor Thompson that he could speak.

Councillor K Thompson addressed the Committee. Councillor Thompson informed the Committee that he was not seeking the application be overturned, but was requesting that it be deferred. Mitchinson's had faced a difficult period and because of communication problems Business Durham had not been involved at the outset to help the business. If this application proceeded immediately then Councillor Thompson considered that Mitchinson's would be in serious trouble with jobs jeopardised. The Council had recently approved a development at Bowburn for Amazon and this company dealt extensively with Amazon and was looking to see an increase in business.

Councillor Thompson did not want the application overturned but considered it should be deferred. Over the next few months Business Durham would be more involved with the business and Councillor Thompson considered a deferment of 3 to 6 months would be of benefit. There were currently 5 building sites in Spennymoor producing 150 houses a year and this site being brought forward now and placing this business under pressure would benefit nobody.

Michael O'Brian of Homes England addressed the Committee. The application represented a critical milestone in Homes England strategy to unlock the delivery of the former Electrolux site for development. The site was granted outline consent for residential development in 2013 but subsequently failed to attract any interest from developers when it was marketed by the previous owner. The lack of interest was due to the

significant up-front costs known to be involved with preparing a highly complex former industrial site for residential development. The business models of volume house builders operated on the basis of return on invested capital and they were typically unwilling to invest significant amounts of up front capital in a site before returns began to be generated through the sale of completed homes.

Part of the remit of Homes England was to bring forward housing sites where the market would not. After recognising the quality of the development approved in outline Homes England acquired the site from Electrolux in 2017 and had since worked to fully understand the complexities involved in delivering the site and to develop a strategy to unlock it for development. The strategy involved Homes England investing capital in remediation of the site and the provision of enabling works to create a fully remediated and serviced development platform with a view to recouping the investment over time through the disposal of parcels of land ready to be built upon.

Last month Homes England completed the procurement of a contractor to deliver a package of enabling works which represented an investment of around £5 million in the site. The works included site-wide remediation to address historic ground contamination, works to address ground stability issues from historic mining activities, the rationalisation of electricity, gas and water networks which remained configured for industrial use and which had complex relationships with neighbouring sites which remained in industrial use, the reconfiguration of drainage infrastructure including the diversion of a culvert which ran beneath the site and the provision of a key piece of highways infrastructure in the form of a central boulevard from which each subsequent phase of development would be accessed.

Although site remediation and ground stability matters had been addressed separately through a discharge of Condition attached to the original outline consent the upfront delivery of onsite utilities, drainage and highways works was not envisaged in the original outline consent , hence this application being submitted to facilitate the delivery of a comprehensive package of enabling works.

Delivering these works as a single comprehensive package had a wide range on benefits including cost and time savings through a logical sequencing of works by a single contractor and minimising construction phase impacts on neighbouring residents and occupiers.

Homes England had worked closely with Council officers to ensure that the works proposed in the application were both well-aligned with the overarching outline consent and to ensure that the proposals met all of the technical requirements needed to meet the required approvals. The proposal represented a fully considered package of works which would allow Homes

England to progress towards the aim of bringing forward a stalled site which was well aligned to the Council's strategy for housing delivery.

Homes England were aware that concerns had been expressed by J Mitchinson Ltd in relation to the impact of the proposed work, particularly with regard to their right of access over Homes England land both during and after the construction phase. Homes England had provided further information to reassure both J Mitchinson Ltd and Members that the legal rights of access which exist across the site were fully recognised and that access for those with these rights must be maintained both during construction and upon completion of the development. As part of the application Homes England had submitted information which demonstrated that the types of vehicle used by J Mitchinson Ltd would be able to navigate from the currently adopted highway across the proposed roads and on to the Mitchinson site with a number of access/egress options available. Referring to access during the construction phase, a detailed program of works was still being finalised and once the timing and sequencing of works which could impact on any legal right of access had been established proposals would be presented to all affected parties for agreement to ensure their operational requirements were fully taken into account. Ongoing contact would be maintained with all affected parties throughout the delivery of the works and direct points of contact would be made available to ensure that any issues could be quickly addressed.

No objections had been received from Northumberland Estates who were the owners of the remaining industrial estate to the south who also benefitted from a similar right of access across the Homes England land.

Northumberland Estates had confirmed they were satisfied that their legal rights of access would be maintained throughout the construction phase of works with details to be established through agreement in due course as the works programme progressed.

In summary, the application represented a proactive investment in a long stalled site and a significant milestone in the work undertaken by Homes England to unlock it for delivery. The proposal was acceptable regarding all relevant planning considerations and it was requested that the application be approved.

The Chairman referred to the requests from Councillors Maddison and Thompson for time delay and deferment and sought advice from the Planning and Development Solicitor. The Planning and Development Solicitor advised the Committee that in relation to the request for the implementation of any permission which may be granted to be delayed this was not a matter for the Committee to consider. This would be a matter for the applicant if permission was to be granted. There was a standard Condition which required implementation within a three-year period it would

then be up to the applicant to decide at what point implementation would take place. With reference to the request for a 3 to 6 month deferment, deferment was within the remit of the Committee, but cogent reasons for deferment being appropriate would be needed. From the representations made the objector would require further time to engage with Business Durham but what the end result of this would be or what was envisaged was not clear. While Councillor Thompson had referred to the inability for the company to expand, planning permission had been granted on this site since 2013. The Highways Development Manager had advised that the access arrangements were acceptable on highway safety terms and the proposed Condition 3 would safeguard access arrangements for the objector by way of a construction management plan. The Planning and Development Solicitor advised that he was not convinced at this stage that there were any proper grounds for a deferment but this was a matter for the Committee.

Councillor Jewell sought clarification about when the development of the new highway was likely to start. Mr O'Brian replied that Homes England had been in the process of procuring a contractor to undertake a full package of works and this was due to start on site later in the month. This would be a programme of approximately 12 to 14 months of work. Work would not commence and affect the entirety of the site in one go.

Councillor Jewell thanked officers for the presentation and the site visit arranged for the previous day which he had found to be most helpful. He concurred with the Highway Development Manager in terms of the access regarding entering the Mitchinson site at the large entrance and egressing by the small exit. It was positive that this was a brownfield site which was being developed. There were many positives in the application and Councillor Jewell **moved** approval of the application.

Councillor Tinsley informed the Committee that, given the jobs mentioned at the Mitchinson site, it was right for the Committee to give this application due consideration. However, he was cognisant that the principal of the development had been established by the permission granted in 2013 and this was a brownfield site. Development could come forward at any time on the back of the extant permission. The only mechanism for a time delay would be to defer determination of the application to a later date. The outline permission had been in place for some time and the objector would have been aware of the chance of significant housing development within very close proximity and Councillor Tinsley thought the objector would have engaged with Business Durham as soon as possible on this issue.

Councillor Tinsley would be more minded to a deferment if the objector could show something specific, for example a planning application on their part which was pending determination. The character of this area was changing dramatically, it had been known the character of the area was going to change dramatically for a number of years and nothing specific had been

mentioned other than further conversations. Councillor Tinsley agreed with Councillor Jewell and **seconded** approval of the application.

Councillor Clare referred to the request by the local Members to defer the application to give Mitchinson's time to work with Business Durham because they had been going through difficult times and because they wanted to expand and asked whether this was a material planning consideration. The Planning and Development Solicitor replied that these could amount to material planning considerations but how much weight was afforded to them was a matter for the Committee.

Councillor Clare informed the Committee that the representative of ELG Planning had not mentioned these matters, which had been raised by the local Members. Councillor Clare concurred with Councillor Tinsley that there was no tangible evidence to support the statements made. The matters raised by the objector's representative related to road safety and access.

Councillor Clare referred to paragraph 65 in the report regarding a pending application to discharge several conditions, particularly that referring to trees. Internal consultees had identified tree works as an area of problem and the report acknowledged the problem regarding trees and this would be conditioned. The conditions contained a tree protection plan during construction only and a landscape scheme which did not mention trees specifically. Councillor Clare sought reassurance that the condition sufficiently protected tree to meet the concerns of the internal consultees.

The Senior Planning Officer advised that if approved the site would benefit from two separate consents, the outline consent and the current application for site infrastructure. Tree protection conditions were repeated on both these applications to ensure trees were protected regardless of which application came forward first. Officers were satisfied that both applications adequately protected trees.

Councillor A Bell asked whether the earlier application for 425 houses was still live and whether it had commenced. The Senior Planning Officer replied that this was an extant consent and was still live by the fact that a reserved matters application was pending consideration.

Councillor Bell asked whether commencement of works could be deferred by Condition. The Planning and Development Solicitor understood that the request for a Condition was part and parcel of the desire for either a deferment or a delay in terms of implementation and he did not see any grounds for that type of Condition.

Councillor Thompson made a point of personal clarification. His request was a genuine attempt to ask for a Condition and he was sure there were situations where this could apply.

Councillor Shield informed the Committee that there was a potential £5 million of development work outstanding which would take some 14 months. The Highways Officer mentioned that the increased distance to use the bypass road was an extra 16 metres, and given that the preparatory work was not to start at the western extremes it was possible for all parties, including Mitchinson's and Business Durham to co-operate in a proactive way that it wouldn't threaten the potential development of this site.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the Conditions contained in the report and as amended by the verbal updates..