

## **DURHAM COUNTY COUNCIL**

At a Meeting of **County Planning Committee** held in **Remote Meeting - This meeting is being held remotely via Microsoft Teams on Tuesday 1 December 2020 at 9.30 am**

### **Present:**

**Councillor J Robinson (Chair)**

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

Councillors J Atkinson, J Clare, K Corrigan, A Hopgood, I Jewell, A Laing, G Richardson, F Tinsley (Vice-Chair), M Wilkes and S Wilson

### **Apologies:**

Apologies for absence were received from Councillor(s) A Bell, K Hawley, A Shield and J Shuttleworth

The Chair advised that a request to change the order of business had been put forward by Councillor Richardson. It was seconded by Councillor M Wilkes and the Committee resolved to hear the applications in the following order; 5a) 5d) 5b) and 5c)

### **1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, K Hawley, A Shield and A Simpson.

### **2 Substitute Members**

Councillor A Hopgood was present as substitute for Councillor A Simpson.

### **3 Declarations of Interest**

There were no declarations of interest.

### **4 Minutes of the meeting held on 3 November 2020**

**5** The minutes of the meeting held on 3 November 2020 were agreed as a correct record to be signed by the Chair.

## **6 DM/20/01846/FPA - Land At Aykley Heads Durham DH1 5UQ**

The Committee considered a report of the Senior Planning Officer with regards to a hybrid planning application comprising detailed planning application for an office block with associated parking and landscaping on land known as Plot C and an outline planning application, with all matters reserved apart from site access, for the demolition of the existing County Hall site and the development of a business park at Aykley Heads, Durham (for copy see file of minutes).

The Senior Planning Officer provided a detailed presentation which included a site location plan, aerial photographs of the site and photographs of the site and plans showing the proposed site layout. The Senior Planning updated the Committee that since the publication of the committee report that further comment had been received from Sport England maintaining their previous objection to the proposed development following the receipt of further information.

He also advised that he considered that an additional planning condition be attached to any permission that a car parking management and enforcement plan be secured across the whole site, in addition to the existing proposed condition securing this in relation to Plot C. He also recommended an alteration to the wording of Condition 2 in order to extend the floorspace restriction to all non-office town centre uses in addition to A1 retail floorspace. He also advised that the time limit for the submission of Reserved Matters set out in Condition 22 be extended from 3 years to 15 years, in line with the phasing timeframe set out within the application.

Councillor J Ashby spoke on behalf of the City of Durham Parish Council and confirmed that they supported the principle of the Aykley Heads development which had been confirmed this by allocating the site in their Neighbourhood Plan and the Parish Council welcomed any steps that might offer up to 4,000 high-quality jobs for County Durham. The Masterplan phasing would enable periodic reviews of the longer-term changes in work practices following COVID-19 and the need for home working.

Many of the issues raised at the time the application had been submitted had been settled by the formal adoption of the County Durham Plan. The Parish Council were pleased that the Council had issued a Decision Statement on the Neighbourhood Plan, clearing it for the referendum to be held.

The Parish Council did not agree with the way that some of the Neighbourhood Plan policies had been presented in the report, particularly that Policy T1 of the Neighbourhood Plan had been brushed aside despite very substantial parts of the policy having been left in place by the Examiner,

for example, the need to propose improvements to walking, cycling and public transport in the area around the development, and stipulations regarding design and priority for different modes within the site. This was a highly important set of requirements and a serious omission to have disregarded Policy T1.

Councillor Ashby confirmed that the Parish Council representations were with regards to sustainable travel, zero-carbon aspirations, high-quality design standards, and impacts on the Green Belt. He advised that the City of Durham Trust would address the issues relating to the Area of Higher Landscape Value and World Heritage Site with comments that were fully endorsed by the Parish Council.

Councillor Ashby continued that the Parish Council was concerned with the document provided by consultants setting out responses to objections as it had consisted almost entirely of repeated statements taken from the documents to which the objections were made. He asked Members to place no reliance on it when determining the application.

A further concern was the inclusion of several ancillary uses that the County Plan Inspector had struck out of Policy E3, deleting the paragraph that had sought to justify them and had judged that in principle they were town centre uses.

Councillor Ashby confirmed that the Parish Council strongly supported the condition which proposed to limit the retail ancillary use to 400 square metres of floorspace in total and the protection of Framwellgate Moor local centre and Durham city centre should be added to the justification for Condition 2. Policy 9 only controlled the size of retail developments, so the Parish Council considered that a new condition was needed requiring the Masterplan to ensure that all the other non-B1 uses were of an appropriate small scale.

The Parish Council supported all of the other conditions that were proposed in the report and the application could be supported if it were to include the proposed conditions and the suggested amendments from the City of Durham Trust. Should they not be accepted, Councillor Ashby suggested that the application be refused as it conflicted with County Durham Plan Policies 3, 9, 21, 22, 29, 39, 44 and 45 and Durham City Neighbourhood Plan Policies E1, H1, H2 and T1.

Councillor L Brown, Local Member confirmed that she welcomed any employment in the area following the COVID-19 pandemic however she was worried by this application. She considered it may have been rushed through after the Government had announced 9 billion pounds available for projects that could meet an associated timescale. When the project had first been discussed Councillors had been told that the applications would be phased

through as several detailed applications and therefore she was surprised to see it as one hybrid application.

Councillor Brown suggested that in the race to get the application part funded, the Council had not factored in the impact that COVID-19 and working from home would have for generations to come. She did not consider there to be a need for such a large area of office space that may never be filled on one of the main routes into Durham. She was concerned about the ancillary uses that may be used to fill the space which would be to the detriment of Durham City and the Arnison Centre.

Councillor Brown was disappointed by the plans to build on the Green Belt to the south of the site. The outline development for two 4 storey office blocks (Plot A) was within the sight lines of a World Heritage Site - Durham Cathedral and Durham Castle, and most of the reservations from herself and residents were centred on two areas, sustainability and traffic problems.

Councillor Brown questioned why a County which was looking to be carbon neutral in thirty years, had a seven and a half storey car park within the outline plans and asked why there were no bus and cycle routes within the site. She had also hoped to see Park and Ride bus stops within the development alongside dedicated bus lanes and cycle routes.

She continued that sustainable energy sources had not been mentioned in the detailed application and in her opinion the Council should have started with the detailed application for Plot C and then continued putting in applications based on how the latest recession played out.

Councillor Brown confirmed that she had called the application before the Committee so that they could consider imposing conditions that would make the application acceptable to residents. Officers had already placed some conditions on the approval and the City of Durham Parish Council had suggested more. She particularly welcomed the suggestion that all non B1 space be curtailed to protect the nearby city centre.

Councillor Brown wanted the Committee to consider Conditions 16,17 18 and 19 and emphasise public and active transport which would go some way towards alleviating the fears of residents. It would be good to have a travel plan to adhere to, as others in the area had not been. She queried the possibility of imposing a condition that required developers to put money towards developing cycle lanes in the area.

Councillor Brown hoped that all of the development on this site would be carbon neutral with sustainable features built in, and although this was not a perfect development, it could be one that Durham could be proud of.

The Senior Planning Officer responded that Policy T1 of the City of Durham Neighbourhood Plan had not been disregarded, and the issues raised with regards to the provision of various modes of transport had been set out in the report. He continued that this could be addressed at reserved matters as the level of detail required had not yet been submitted. There was no reason that this could not be incorporated into reserved matters submissions and accord with the policy. He also clarified that Policy T1 could be afforded significant weight except where the Neighbourhood Plan Examiner had recommended amendments to the policy wording.

With regards to Councillor Browns concerns, the Senior Planning Officer confirmed that although a portion of the site was within the green belt, Policy 3 of the County Durham Plan included provision to remove that part of the site from the green belt and therefore only a very small part of the site would remain, and no built development was proposed in this area.

The Senior Planning Officer responded to suggestions on sustainable transport and confirmed that cycle routes and improved pedestrian routes could be incorporated in the overall strategy as it developed – again under reserved matters. He advised that the Highways Officer did not believe the benefits of bus routes within the site would be significant as it would make journeys longer for other users and potentially discourage them from using the service. It had been acknowledged that the site was immediately adjacent to a road with transport links across the County and the majority of the site was within 400m of a bus stop.

The Senior Planning Officer confirmed that Plot C did not meet all the requirements of the County Durham Plan Policy with regards to green credentials, however there was scope to ensure that the application as a whole would be developed to a 'very good' BREEAM standard and had been conditioned as such.

The Councils Solicitor addressed the additional condition that had been suggested by Councillor Brown and advised that requiring a developer to pay money for cycling lanes was not something the Council could lawfully impose.

Mr Hurlow addressed the Committee on behalf of the City of Durham Trust and confirmed that they were obliged to object to the application in its present form as they believed comments from a range of local, professional and experienced members of the Trust, other organisations and the wider public had been dismissed by the Council.

The Trust considered there to be inadequacies in the Heritage Impact Assessment and when considering the strategic importance of the site, ICOMOS Guidance required an exemplary development that would be at the

forefront of sustainability. Mr Harlow suggested that the only way of improving this application would be to impose more stringent conditions or refuse it. All County Durham Plan policies should have been applied to ensure adequate continuing democratic scrutiny.

Mr Harlow confirmed that the Trust sought a number of conditions. With regards to Design code, the information submitted did not constitute a full and coherent Design Code for the outline application and this should be required to include the full range of sustainability needs.

With regards to Sustainable Transport, the Trust believed that a more demanding Travel Plan, off-site improvements for walking and cycling access, an on-site path network plan and a detailed disabled accessibility assessment, and provision for bus access into the site and a subsidised service, were required.

With regards to Sustainable Energy, Mr Harlow suggested that a BREEAM excellence standard was required to use of the best of current heating generation, as well as 50% electric vehicle charging points and separate storage and collection of recyclable waste.

The Trust believed that to sustain the Landscape and Heritage environment, a more detailed analysis was required to include community input and conformation to ICOMOS standards. He continued that height constraints should be applied to Plot C and in the Design Code to avoid penetration of the green areas of the World Heritage Site inner setting and ensure that the impact would be less than that of the current County Hall. If penetration was essential, there should be mitigating design and building 'greening' to merge this into the backdrop.

With regards to the Green Belt and Landscaping, the Trust suggested a requirement of detailed analysis of the relationship of Plot A South to the adjacent Green Belt and its boundary and an assessment of the impact and mitigation landscaping. As there was limited space for tree planting, realistic estimates were needed of the timescale and effectiveness of screening value and advance tree planting was required for all plots except C.

The Highway Development Manager confirmed that the B6532 carried 3 bus stops south and north bound which were served by 8 services including the park and ride at Sniperley and travel to Consett, Newcastle and South Shields. Most of the site was within 400m of a bus stop, so it was deemed to be one of the better supplied sites for public transport. With regards to sustainability, there was a condition on parking control within the site, which promoted sustainable transport use and he did not consider it necessary to insist on 50% electric charge points as most charging was believed to take place at a place of residence and most journeys were under five miles so did

not require on site charge points. He considered that internal links within the development could be provided for pedestrians and cyclists and there were external links around the development.

The Senior Planning Officer responded that many of the suggestions raised by the Trust went beyond what was required within planning policy. In determining the acceptability of the proposal - although BREEAM Excellence would be admirable, a BREEAM rating of 'very good' was all that was required by policy and therefore that was the standard the Planning Authority had to hold the Applicant to. With regards to electric charging points he advised that 50% was significantly more than what was set out in the Councils adopted parking standards and it would have been unreasonable to require provision beyond that.

The Senior Planning Officer responded to comments regarding impacts upon heritage assets and the World Heritage Site, and advised that the application was accompanied by detailed analysis, including a Heritage Visual Impact Assessment. Both Historic England and the Councils Design and Conservation Officers had agreed with the conclusion that the harm of the development would be less than substantial. The work undertaken so far provided a reasonable assessment of the heritage impact but further consideration would require specific design information which had not yet been submitted, however it would be considered at the reserved matters stage. He also advised that the comments relating to concerns raised by ICOMOS were in relation to another development proposal on a different site, and that caution should be used in drawing conclusions from them, and that this proposal should be considered on its merits.

Ms J Robison, Planning Consultant, spoke on behalf of the Applicant and confirmed that the County Durham Partnership Vision 2035 was to bridge the gap between Durham and rest of the UK and the Council had pledged to achieve by committing to develop major employment sites in areas that would attract investment and to build a strong and competitive economy and establish Durham as premier place in the North East to do business. The Delivery of Aykley Heads and its associated 4000 jobs was a crucial part of realising that vision.

Ms Robison confirmed that the Master Plan proposed would deliver a key strategic employment site in accordance with its allocation in policy 3 of the County Durham Plan. Permission was sought mainly for office use but also some small scale ancillary uses which were tightly restricted in size so not to compete with any other local centre, but would provide supporting services on site and were typically offered in successful business districts and supported in Policy 2 of the County Durham Plan.

This was a high quality, modern, central location, which was within walking distance of a mainline train station, giving Durham a unique offering and the opportunity to compete on a large scale, providing an opportunity to retain graduates from local colleges and universities. Ms Robison continued that the majority of the Master Plan was in outline with detail for most plots at later reserved matters stage, however further detailed plans had been submitted for Plot C which was the first plot would act as catalyst for further investment.

Ms Robison confirmed that funding for £6m had been allocated from the LEP and brought forward to kickstart this investment. The Project Team had considered the scale of developments were appropriate to ensure there would be no negative impact on heritage and landscape at later reserved matters and Condition recommending the submission of sustainability statements was included for reserved matters. The walking and cycling routes would be enhanced and lit and there would be a travel plan for each plot. To address concerns about the Green Belt, Ms Robison confirmed that with the recent adoption of the County Durham Plan, there was very little Green Belt left within the red line.

Ms Robison summed up that this was a proposal that would deliver 4000 new jobs and a significant economic benefit for Durham, which would offer a unique business location within a mature parkland setting and allow to compete for large investors, new businesses and create new and better jobs on a significant scale, showcasing the City as being open for business. It was compliant with policies in the County Durham Plan and the emerging City of Durham Neighbourhood Plan, and it also delivered on pledges made by the County Durham Partnership and should therefore be approved.

Councillor Wilkes confirmed that he had concerns with regards to the amount of traffic the proposal would generate on Aykley Heads roundabout, yet no improvements had been proposed. The Highway Development Manager confirmed that the amount of trip generation for the new development was less than what was generated by the existing development and that was due to demand management in place and a restriction on parking provided within the site. The transport assessment had confirmed that the number of trips on the local network would not increase and therefore no improvements to the roundabout were required.

Councillor Wilkes referred to Plot C which was being used as a car park and for the nearby Trinity School, there was an unofficial car park. There was insufficient parking when school was built and staff travelled from all over the region doing extremely difficult jobs and the Council had a moral duty to ensure they had somewhere to park. Promises had been made that someone would give advance detail as to where staff would be able to park but he was yet to be given a guarantee.

The Highway Development Manager confirmed that Trinity School had been constructed with parking which had been justified by a transport assessment and the school themselves. The school were subject to a travel plan and although drivers had taken the opportunity to park on a piece of development land, it was now closed off, and drivers had taken the opportunity to find free parking elsewhere in the area. In terms of providing them with parking in future, it was up to those individuals to find their own solution to parking demands, the Park and Ride would provide suitable provision for people in the area along with other suitable means of sustainable transport.

Councillor Wilkes asked specifically whether Plot C was proposed to be heated using gas boilers and whether any renewable energy had been proposed as part of the application and the Senior Planning Officer confirmed that no detail had been provided as to what the heating system would be and there did not appear to be any renewable energy. He had contacted the Applicant with regards to parking for Trinity School and understood that some dialogue had taken place between the two parties.

Ms Robison confirmed that details relating to the heating system were still being considered but they were not something that would need to be determined as part of the planning process. She referred to the £6m funding which had been secured from the LEP and described the application as the catalyst to kickstart interest in Aykley Heads and bring the development forward. Various sustainable energy measures had been considered including the use of low energy LED lights fittings, electric vehicle charge points, solar reflective glazing.

With regards to Trinity school, there had been a parking plan drawn up and rejected by the school as there were concerns that the minibus may not be able to turn around, however discussions were ongoing.

Councillor Wilkes referred to condition 22 and the potential that it could be 15 years before the application was brought forward to reserved matters. Given the outline elements of the application barely met the current minimum environment and sustainability standards, climate standards would be impossible to achieve – if the application was approved, the applicant would be getting away with building to current BREEAM standards in 2035.

The Senior Planning Officer advised that the County Durham Plan period ran up to the end of the development period therefore there was no reason to think the requirements would change before the period was up. In addition, there were building regulations which also contained elements of sustainability and green design which may also be updated.

Councillor Atkinson had listened to the debate and considering the recommendation was minded to approve, and the Committee could not predict what was going to happen in the future, although there were some concerns. Having listened to the debate, he moved the recommendation to approve for the reasons outlined in the report.

Councillor Hopgood wanted the Committee to consider Condition 17 with regards to transport plans and parking. Trinity School had a Transport Plan which was unable to be enforced and when it didn't work for them it was dismissed, with no replacement provided. Most of the children attended school in transport or minibuses and at 2pm the main road was nose to tail with taxis on double yellow lines. Traffic enforcement had never taken place in 6 years and she wanted to ensure Plot C had an overflow car park for the school and adequate parking and a waiting area for school transport should be included in the management plan.

Councillor Hopgood confirmed that this road was the only route to a special school, new Police Headquarters and a huge new housing estate. She referred to Netpark, of which all of the infrastructure was in place before the buildings were erected and suggested that if the Council wanted to lead the way, they should be doing this the right way around. She acknowledged that most were in support overall but some of the detail was missing, especially around infrastructure and safety.

The highway development manager advised that the Council had been working with school and that most pupils arrive by taxi and minibus but parking within the school itself needed to be addressed as enforcement was unlikely. The area of development was never allocated as a carpark, and he referred to supply and demand for parking provision and there was a risk that if uncontrolled parking continued to be built, people would choose to use it and that did not measure up against promotion of sustainable travel and transport ethos as people would choose to use their vehicles. Condition 17 required parking management and would ensure parking management was suitably implemented for the whole of the site.

Councillor Tinsley acknowledged that everyone seemed to be in agreement that the principle of development was welcome. This was an opportunity to compete with other large cities, providing 4000 high quality jobs and he warned Members there was a danger of losing the application.

With regards to the traffic issue, Councillor Tinsley advised that Members should not forget proximity to the railway station, the site was serviced by significant bus coverage and bus stops were accessible by 400m across the whole of the site. In his opinion he did not need to include a bus stop within the site, 400m from a bus stop.

If the Committee was to grant outline permission there was a possibility that reserved matters would come forward in 15 years, giving scope for flexibility. There was no evidence that the development would impact the setting of the WHS, no objection from Historic England, the design was positive and further design details would be taken care of at reserved matters. The height of building was lower than the existing height of County Hall and incursion into the Green belt was very minor, with minimum ancillary use.

With regards to prematurity, Councillor Tinsley argued that there was a specific policy in the development plan which related to this site which had been ongoing for a decade, therefore comments with regards to prematurity could not be supported.

The proposal included contributions of £300k to cover replacement playing fields and overall, many of the issues raised would be dealt with at reserved matters.

Councillor Tinsley noted that the development would have to comply with Building Regulations, which were likely to develop. From a planning perspective, the benefits of the scheme heavily outweighed any possible negatives and the recommendation was minded to approve, which could be reviewed by the Secretary of State.

Councillor J Clare shared some of the disappointment as what had been hoped would be a flagship scheme would fall short in terms of climate aspirations however he did not share worries about the future as standards would be improving all the time.

In response to a question from Councillor Clare, the Senior Planning Officer confirmed that future applications would be dealt with as reserved matters with an opportunity to be called to Committee by Members. The Solicitor also confirmed that this was the case.

Councillor Clare agreed with the statement made by Councillor Tinsley, this was a similar application to the new Council HQ, the basic planning application had come before the Council had announced the climate emergency. The Council needed to play catch up and ensure anything coming forward was a flagship development.

To determine the application, the Committee had to consider whether it was acceptable and balance the dissatisfaction with the economic benefits of the development. Whilst the Committee needed to worry about Plot C in terms of climate and monitor closely, the key issue was that that Members could not reject the development as on balance it was so massively beneficial to the economy of the County.

Councillor Wilkes asked whether the Council managed the minibuses and taxis as at school closing time dozens of vehicles turned up and the LA refused to ticket them because there was no alternative – the school had not been built for its capacity.

Councillor Wilkes referred to Plot C, an application submitted by this Council, with environmental standards below the minimum environmental standards proposed in the County Durham Plan. It was unacceptable for the Local Authority to propose the construction in the City centre, of a building that was not even close to carbon neutral, making it more difficult to meet climate change. The proposal breached Policy 29 of the County Durham Plan, as it did not meet minimum BREEAM ratings. He proposed that the application be conditioned to meet the minimum BREEAM standards seconded by Councillor Hopgood.

Councillor Wilkes fully support the principle of development of the site but the Council had just passed a County Durham Plan with minimum standards and if the Committee were not going to insist on those requirements being met, he failed to see the point of it.

Councillor Hopgood asked in addition to the proposed condition that it was a requirement for a Travel Plan across the whole site and the condition be amended for it to ensure a Travel Plan was always in place. The reality was that the Travel Plan with Trinity School did not work and ended up thrown out. She asked that Condition 17 relating to car park management and enforcement include the Trinity School site as it was one of the biggest issues and it would have a knock on effect on Plot C and the rest of the development if it was not improved.

The Solicitor confirmed that of the issues raised, one was an existing highway/parking issue and was not appropriate to expect this development to rectify a pre-existing situation, and it should be addressed outside of this forum, and an additional condition would be not appropriate. With regards to the travel plan, Condition 16 could not be more specific, it was a requirement.

The Senior Planning Officer advised that Conditions 16 and 17 did apply to the whole development and were robust enough to expect compliance and he would expect the Travel Plan to remain and be regularly reviewed. He was not aware of or involved in any possible failure to adhere to a planning condition in relation to the Trinity School Travel Plan, so could not comment in detail with regards to this. He also stated that he agreed with the Highway Officer that it was unreasonable to expect the development to solve a problem that was not in control of the Applicant. He also clarified that it was clear in the report that Plot C did not meet BREEAM standards but the issue had been raised with the Applicant and who had advised that they were unable to do so. However, he considered that the application, when

considered as a whole, had general compliance with County Durham Plan Policy 29.

The Highway Development Manager confirmed that he was confident that a Travel Plan could be secured and implemented for the site. Condition 17 which required a parking management plan could be brought forward and would include enforcement. Parking control would be within the site and there was no reason there shouldn't be one at Trinity School. Vehicles parked on the road as they arrived before the school gates were opened, the road was wide enough, but it was difficult to enforce as by law, Officers had to allow an observation period, and if you started observing a vehicle on double yellow lines, the driver would leave. The Council had worked extensively with the Taxi Association and the school, and it was an existing problem, but discussions with the relevant people were ongoing.

F Tinsley stated that he was satisfied that the parking issue had been addressed, but was confirmed that he was concerned with regards to the proposal by Councillor Wilkes. Paragraph 271 identified that the building did not hit the BREEAM standard but also that when the overall development had come to fruition, that overall, the required BREEAM standard would be met.

If the Committee chose to impose the condition, it could require fundamental changes in design which would render it difficult to proceed with a permission and taking balance into consideration he was content to proceed with the building and the energy efficiency rating as proposed.

Cllr Atkinson reiterated that he supported the recommendation as outlined in the report.

Cllr Hopgood questioned how the Council could ask a third party in planning to meet conditions in the County Durham Plan, if the Council failed at the first opportunity they had. She had listened to the Highway Development Manager and there was a Travel Plan for Trinity School which the school chose not to accept and therefore there nothing in place and the same could happen, without a condition to say there had to be one permanently.

Councillor Clare referred noted paragraph 272 which stated that a redesign of Plot C would increase the risk of LEP funding timescales not being met and the whole scheme could be lost. Members could not throw away the whole application when finding one problem with it – to propose an extra condition the Committee had to be saying they would reject it otherwise.

The Solicitor advised that he had previously been incorrect with regards to a BREEAM condition on Plot C, however he was concerned that an additional condition relating to Plot C achieving BREEAM standards would not be

achievable and suggested that the applicant clarify this. He also made some comments with regards to Cllr Hopgood's request for additional Travel Plan condition.

Ms Robison advised that there was £6m LEP funding available which had been offered for this development and to get to BREEAM standards would require the process to start again and they would not be in a position to start again and get the LEP funding.

The Chair asked Members to vote on the recommendation to approve the application subject to the amended condition proposed by Councillor Wilkes.

Upon a vote being taken the motion was lost.

**Resolved:**

That the Committee be MINDED TO APPROVED subject to the referral of the application to the Secretary of State; and in the event of the application not being called in, the Head of Planning be authorised to determine the application, and, subject to the completion of an internal transfer of funds within the Council to secure the following:

- £160,000 towards the re-provision of the existing hockey facilities
- £140,000 towards the re-provision of the existing tennis facilities;

and the conditions outlined in the report, and as amended by verbal update.

**9 DM/20/01183/FPA and DM/20/01184/LB - Raby Castle, Raby Park, Staindrop, Bishop Auckland, DL2 3AH**

The Committee considered a report of the Senior Planning Officer with regards to Repurposing of existing buildings for mixed tourism, leisure and educational uses, formation of a new car park, creation of play facilities, erection of new visitor arrival building and vinery cafe, works to Walled Garden and associated infrastructure and landscaping at Raby Castle, Raby Park, Staindrop, Bishop Auckland (for copy see file of minutes).

The Senior Planning Officer provided a detailed presentation which included a site location plan, aerial photographs of the site and photographs of the site and plans showing the proposed site layout.

Councillor J Rowlandson confirmed that this was an area within his division and he was in support of the application. He suggested the Applicant should be commended for bringing this regeneration scheme forward under current circumstances, in time it would become a tourist attraction and it was positive for the area.

Cllr Rowlandson asked how much of the S106 contributions were being retained for works on the project. The Senior Planning Officer confirmed that the castle site, would only secure the net gains in terms of biodiversity, but if members were to approve the development sites at Staindrop and Gainford there would be £3m which would go towards the Castle.

Mr D Peake, Chief Executive of Raby Estate, confirmed that his presentation was intended for all three applications. Most people were aware of Raby Castle and its surrounding parkland but few were aware of the variety and quality of listed buildings in the park and gardens currently hidden from public view.

The castle had been opened sporadically for many years but four years ago when Harry and Kate Barnard took over, they set a vision of restoration, regeneration and renewal, to open up and share the heritage, culture and safe spaces and showcase Raby.

Mr Peake confirmed that approval would have a wide range of positive impacts for County Durham tourism, economy and it echoed the County Durham Vision. The concept of Raby Rising would tell a fascinating story of the castle and its history, provide a varied family experience with enough variety to keep people returning. A large part of the estate would be opened for walking and cycling, it would include a world class fortress play area in the trees, exhibitions and buildings would be accessible to the public for the first time.

This would significantly increase annual visitor numbers, to 120000 and would assist in financing the long term maintenance of Raby Castle, creating a major tourist attraction and increasing visitors and overnight stays in County Durham.

In addition, they sought to repair the grade 1 Gainford Hall which was on Historic England's at risk register and would be repaired over nine months to ensure it was completed quickly and a future use was identified.

Mr Peake stated that this was a hugely important development for the regional economy and the historical fabric, but it could only be achieved through the enabling development in Gainford and Staindrop.

Raby had always been a central part of the communities in Teesdale and would remain so by ensuring the housing development was of the highest quality and Raby would remain in control of the schemes through the build process – he assured Members that they would not be sold to a housing developer. Homes were designed as representative of the villages in which they were located, with design specific, unlike standard house types common found on new developments.

There were many benefits delivered by the housing scheme which were outlined in the Committee report and delivery of the housing schemes would be restricted by a legal agreement to ensure the heritage works at Raby Castle and Gainford Hall were completed ahead of the housing development

Mr Peake continued that this proposal would drive forward and enhance tourism as part of a long term sustainable vision, and he hoped the committee, local residents and those across the county would support to see what Raby had to offer.

Councillor Tinsley confirmed that this was a positive application particularly as the County emerged from COVID-19 and Brexit – Raby Castle was critical to the overall economic development in County Durham. Every element was positive, the comments from Visit County Durham could not have been more positive and to see £14m investment was transformational and form an attraction to compete at a European level.

So as not to get carried away, Councillor Tinsley referred to the specifics of the scheme and was very comforted by the comments from Design and Conservation Officers but particularly by Historic England, they could not be more positive. This application would also create 55 direct jobs and 66 indirect jobs which was positive for the area and he had no hesitation to propose the recommendation as outlined in the report.

Councillor Clare described the application as fabulous, necessary and sensitive, and he seconded the motion to approve.

Councillor Wilkes was happy to support the application and in response to a question, Mr Peake confirmed that of County Durham Estates, Raby was in excess of 40000 acres, there were two major estates, Raby Castle Estate was 20000 acres and Upper Teesdale Estate in Upland was around 35000 acres.

Councillor Richardson was very supportive of the application, but not necessarily the means of paying for it.

Councillor Jewell described the application as positive, not just for the area but for County Durham overall. He had a question with regards to vehicular access and egress, having visited and found that sometimes during events, traffic congestion yet Highways had suggested there was unlikely to be any issues and he asked for further clarification.

The principal DM Engineer confirmed that a transport assessment had been undertaken in relation to all three sites and for this part junction modelling was done as a worst scenario based on an event day in Easter 2019. The

event days were only 16 per year and despite the number of customers admitted being 7 x regular day and 3.5 times a busy day in school holidays, the operational capacity of the junction was well within its operational capacity.

**Resolved:**

That application DM/20/01183/FPA be APPROVED subject to the completion of a S106 Legal Agreement to secure the following:

- The requirement to enter into a Section 39 Legal Agreement to secure the long-term management and maintenance of the biodiversity land, prior to the commencement of the development.

And subject to the conditions outlined in the report.

**8 DM/20/01185/FPA - Land to the West of Grice Court, Staindrop, DL2 3PH**

The Committee considered a report of the Senior Planning Officer with regards to the erection of 72 residential dwellings (Use Class C3) associated infrastructure and landscaping and demolition of on-site buildings and structures on Land to the West of Grice Court, Staindrop (for copy see file of minutes).

The Senior Planning Officer provided a detailed presentation which included a site location plan, aerial photographs of the site and photographs of the site and plans showing the proposed site layout.

The Senior Planning Officer highlighted that since the publication of the Committee report a further 9 letters of representation had been received broadly raising concerns already summarised within the Committee Report such as flood risk, the concept of enabling development, impacts upon the village and countryside, the recommendation of officers and that residents' concerns had been disregarded. New issues raised include concern at the absence of a sustainability statement on which the Senior Planning Officer advised was not a validation requirement at the time the application was validated, the Committee Report explains why officers consider the site is considered a sustainable location for the development and condition 10 requires a scheme of CO2 reduction.

The Senior Planning Officer referred to an error in the report at paragraph 149 and confirmed that it should read;

*'The majority of housing is located within Flood Zone 1 although a small portion is proposed within Flood Zones 2 and 3a. As the development is considered 'more vulnerable' and parts of the built development lie within*

*floodzone 3a there is a requirement to undertake the exception test. The submitted flood risk assessment fully acknowledges the relevant flood zones, the requirement to undertake the exception test and why this is passed. Furthermore, relevant consultees such as the Environment Agency have assessed the development on this basis therefore the error within my report doesn't change the overall outcomes reached or the comments they have provided. I do however need to update you on what the exception test is and how the development is considered to have passed it.*

*Paragraphs 160 and 161 of the NPPF outlines that for the exception test to be passed it should be demonstrated that:*

- the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

*Both elements of the exception test should be satisfied for development to be allocated or permitted.'*

Councillor I Royston, Vice Chairman of Staindrop Parish Council addressed the Committee on behalf of the Parish Council. The application was immensely important to the Parish Council, the proposed development was the most significant seen in Staindrop for many years but it was also deeply unloved and unwanted in the village.

Councillor Royston asked Members to picture a hypothetical planning application, somewhere in County Durham, involving an application for 80 houses, 5% affordable homes, in open countryside and an area of High Landscape Value, outside the boundary of a conservation village with a population of 1200, on land which regularly flooded, by a speculative developer. He suggested that despite falling foul of so many policies the present application set aside all policies and under the device of Enabling Development, local people were deprived of all normal protections offered by the County Development Plan. There was no dispute in the report that the application breached Policy 6, as the development would be outside the built-up area of Staindrop and was not well related to the settlement' and Policy 10 development in the countryside.

The Parish Council argued that Policy 39 was also breached as the development caused unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views, in an area of High Landscape Value. If this was an enabling development, the applicant managed to sidestep Policy 15, meaning that only 4 affordable houses would

be provided instead of the 14 required by the Policy. It was reasonable to question the point of these valuable planning policy protections, if they could be ignored by an applicant claiming a new housing site in Staindrop was essential to finance works at Raby Castle. The Parish Council considered that in the absence of Enabling Development the application would have little prospect of approval. He referred to paragraphs 84 -94 which dealt with Enabling Development which in his opinion did not provide sufficient information to enable members to arrive at a lawful decision.

Councillor Royston asked members to consider 2 main points

The report referred to the latest Historic England Good Practice Advice, but the Parish Council considered the advice had been quoted selectively and insufficient weight had been given to certain important points. Overall, the report painted enabling development in an unduly relaxed light as a useful conservation solution rather than as an absolute last resort. We believe instead that Officers should have stressed Historic England's emphasis on the seriousness of departing from planning policy.

Councillor Royston quoted various paragraphs which advised that if a decision maker was to agree to an exception to planning policy, the evidence would need to be clear and convincing, the harm done was likely to be permanent and irreversible, all reasonable alternative means to secure the future of the asset should be considered, enabling development was to be a last resort and even then a decision maker would still need to assess whether the heritage and any other public benefits would outweigh the disbenefits of departing from planning policy.

The Parish Council did not believe that the Report provided enough information to allow members to decide whether the development was a necessary last resort - the castle and environs were in no danger. The 'heritage' works described were largely to facilitate greater visitor footfall and increased revenue which was by no means a bad thing but it should not be at the expense Staindrop.

Councillor Royston referred to the report which confirmed that the applicant had considered alternative sources, but there was no evidence for Members to assess. The guide's advice required applicants to set out evidence of efforts made to find alternative sources of funding and if it were available, Members should have had sight of it before coming to a decision, as required the NPPF.

Enabling development had been the subject of much litigation and whether the obligation to finance the Raby works was a material consideration that could legally be taken into account was a crucial, unavoidable question. The report only briefly summarised the Parish Council's objection but there was

no attempt to say what the legal concerns were. Councillor Royston noted specific criteria developed by the courts for deciding on the lawfulness of material considerations in relation to enabling development and any planning obligation offered by the applicant dealing with the financial benefits would need to serve a planning purpose and not an ulterior one - there had to be a genuine connection other than ownership between the sites.

Councillor Royston continued that it was not good enough for Officers to say that the Staindrop site was considered reasonably near to Raby and there had been many recent cases which would suggest that in this case there would not be a sufficient connection. There was insufficient evidence in the report and although the Councils Solicitor had raised no concerns, if there was no legal connection between the two sites members would have no option but to refuse the application.

In summary the Parish Council argued that enabling development requirements had not been met and therefore the application should be refused. Alternatively, he would urge the Committee to postpone a decision until receipt of adequate evidence on the need for enabling development and a further report properly considering the legal issues raised.

Councillor Rowlandson confirmed that he had received numerous objections to this proposal and no support. He found it difficult to support the application as it was guised as enabling development, if it were not, it would have been stopped at pre-application. This was an area that flooded and he was surprised that the officer had referred to a 1 in 1000 year flood exception.

This application would have a negative effect on the landscape, only included 5% affordable housing, was almost a mile from Raby Castle making it difficult to see how the sites could be linked.

Councillor Rowlandson noted that Raby Estates was a large development and questioned how they could not afford to repair their own assets without enabling development. He asked whether other funding had been considered. The Senior Planning Officer confirmed that other sources of funding had been considered and were listed at paragraph 87, to no avail. With regards to the separation of the site, she confirmed that it was not always desirable to have the sites side by side.

Councillor Richardson considered the affordable housing to be insufficient and noted the loss of agricultural land. The Senior Planning Officer confirmed that paragraph 173 confirmed that the agricultural land was not the best and most versatile and with regards affordable housing, the quantum of development had been independently verified and she added that advised

that with enabling development there would not normally be any housing at all.

Mr Peake referred to the flooding which had taken place last winter and was found to be from a blocked underground culvert. He also confirmed that prior to submission of the application an extensive public consultation in Staindrop and Gainford had taken place with 58% supporting the developments.

Councillor Wilkes displayed a flood zone map from the Environment Agency which showed category 3 flood zone although the developer could make improvements to decrease the flood risk. He had serious concerns with regards to homeowners insuring the properties as homes built after 2010 were not afforded the same government assurances that homes built prior to 2010 were. Councillor Wilkes suggested the approval of planning permission in an area that homeowners would potentially not be able to insure their new properties was irresponsible. He referred to Bow bridge which was one of the key flood locations in the entire County and there was a road which was at serious flood risk. He could not accept building houses on a flood plane by an applicant with a substantial amount of land available to the applicant, he could not understand why this site had been chosen. He could not support an application that could have affordability issues in terms of insurance and if flooding occurred, would require the involvement of the council and emergency services. Although there was flood mitigation outlined in the report, it was potentially in breach of the Sustainable Design Policy 29. He did not agree with the recommendation despite enabling development as it went against Policy T6, 10, 39 and 15 and this was more than adequate for Members to reject the application.

The Senior Planning Officer confirmed that although it was in flood zone 3a, the Applicant proposed to raise the houses which would sit out of the flood zone and no objection has been raised by either the Environment Agency or the Council's Drainage and Coastal Protection Officers. The Environment Agency had confirmed the potential for the flood map to be redrawn which was something the Applicant may do to address some of the concerns.

Councillor Hopgood asked if the S106 contributions that would normally be available to the community, was all to be allocated to Raby Estates. She said that this was the first application for enabling development and she questioned whether use of the phrase suggested that all negative impacts could be ignored. The Solicitor emphasised that Members could not ignore the conflict with policy but must apply a balance test of whether the benefits of the proposal outweighed the negative impacts that arose from the application.

The issue of enabling development, the suggestion of there being no connection with the site and the works of the castle – the Historic England

guidance was not policy or legislation and there did not always have to be a close physical proximity between the development site and heritage asset site. The S106 would secure the package of heritage works and was a sufficient legal connection in this case.

Councillor Wilkes asked specifically regarding the insurance, which policy could be used on the grounds that it was not sustainable if somebody could not afford to get insurance on the property.

Councillor Atkinson suggested that people would not buy a property if they could not get insurance for it.

The Principal Planning Officer confirmed that a matter of insurance was not a material planning consideration however if he wanted to refuse the application on flood risk grounds as he believed there was an unacceptable risk of flooding issues, it would be Policy 35.

Councillor Wilkes did not believe Policy 35 would not stand up on appeal, however he did agree with the reasons for refusal that the Parish Council had alluded to and he proposed refusal on the basis that it breached Policy 6, building outside a built up area, Policy 10 inappropriate development in the countryside, Policy 39 impact on the character of the landscape and Policy 15 lack of affordable housing.

Councillor Richardson said the application would be a significant increase in housing and he could not support it for sustainability reasons and seconded the recommendation to refuse.

Councillor Wilkes confirmed that with regards to enabling development the harm outweighed the benefits, but also that insufficient regard had been given to other possibilities and with all of the other resources the Applicant had, there could be another way of securing the funding.

Upon a vote being taken the motion was lost.

Councillor Laing moved the recommendation for approval, seconded by Councillor Atkinson.

**Resolved:**

That the application be **APPROVED** subject to the completion of a S106 Legal Agreement to secure the following;

- Heritage works to RCPG prior to the occupation of a specified number of plots

- The requirement to enter into a S.39 Agreement to secure the detailed habitat creation and long term management document, including a monitoring strategy of the biodiversity land
- £34,760 towards improving offsite open space and recreational provision within Barnard Castle East Electoral Division
- The dedication of a three new Public Right of Way as shown on drg. no. L-101 Rev. C - Footpath Plan
- The delivery of 5% affordable housing comprising of 4no. 3-bedroom houses for affordable home ownership;

And subject to the conditions outlined in the report.

**7 DM/20/01205/FPA - Land to the North and South of Spa Road, Gainford, DL2 3EB**

The Committee considered a report of the Senior Planning Officer with regards to the erection of 79 residential dwellings (Use Class C3), associated infrastructure and landscaping and demolition of existing agricultural barn at Land to the North and South of Spa Road, Gainford (for copy see file of minutes).

The Senior Planning Officer provided a detailed presentation which included a site location plan, aerial photographs of the site and photographs of the site and plans showing the proposed site layout.

The Senior Planning Officer highlighted that since the publication of the report 1 further letter of objection had been received, the issues within raised within have predominantly been discussed within the report. One new issue is raised on whether the development is appropriate in the current economic climate and whether the development would be economically viable at a time of potential economic crisis, however, officers consider that this would not be an appropriate reason to refuse the application.

Councillor Rowlandson confirmed that he travelled on the A68 regularly and the entrance into the village is a picture, with the site in front of that view. Concerns were expressed in regards to a blind corner and the impact of the number of vehicles accessing and egressing., Councillor Rowlandson confirmed that he had many people objecting, but had also people in support of a new development in the village. However, with the loss of agricultural land and impact on the countryside he asked that the Committee refuse the application.

Councillor Richardson confirmed that he couldn't add anything else to James Rowlandson and he had to object for the people of Gainford, with regret he could not support.

Mr Peake confirmed that in Gainford a lot of local consultation had taken place.

Support for this scheme was greater than it was in Staindrop. In response to the comment about Raby finding other sites Mr Peake confirmed that a review of all existing sites had been undertaken by the estate. However, for a development to be sustainable this means having good access to schools and shops, so though we do own a lot of land most is remote and in extremely rural locations where it would be completely unsustainable to build.

The statement of Dr A Walker was read out by the Senior Committee Services Officer as follows;

- New housing may be required in County Durham but it was questionable whether 79 houses were needed in a village with no local employment and poor public transport links
- Significant environmental impacts. This was a beautiful green field with loss of wildlife, risk of flooding and additional cars on the road
- The entrance to the development was dangerous, being built on a blind corner
- There is no mention of how 'green' this development was. A new development should be as green and environmentally friendly as possible. She asked whether there would be any future energy requirement for houses and vehicles
- Concerns with regards to safe access to the school as all the roads from the main road to the school were single track and had narrow footpaths or none
- Insufficient parking on the site and in the village. There did not seem to be enough parking per house. Most households had several cars which would be needed for commuting. The village already had many cars parked on the road and increased traffic would cause more issues when passing
- Village amenities were lacking. There was no longer a cafe or post office and the local shop was very basic so new residents would have to travel to access services
- Devolvement on the St Peters site should take priority as this was an eyesore and subject to repeated arson attacks and concerns that if this development succeeds, the St Peters development may not
- The development would change the feel of the village from a small local community to a commuter village with no centre point
- The view across the field was a protected view in a conservation area

- Most people would travel east from the village to the A1, train station, airport, Darlington, Teesside for employment and therefore pass through the narrow main road

Councillor Tinsley confirmed that having listened to the issues raised, the issue of enabling development was not as contentious as the application for Staindrop.

It was difficult for communities in places like Gainford and Staindrop as people wanted to live in desirable places, there was pressure from developers and from the government for development and he proposed the recommendation to approve. Councillor Tinsley read out quotes in relation to the need to provide suitable housing developments from Rt Honourable Robert Jenerick and Rt Hounarable Boris Johnson. Councillor Tinsley proposed the development was approved.

Councillor Atkinson seconded the motion to approve as on balance the benefits outweighed any negative impact.

Councillor Wilkes had referred to the Councils Strategic Housing Land Availability Assessment as this piece of land had not been included as a development site and it was part described as a large uncontained incursion into attractive countryside, beyond well assimilated settlement edge, likely to have significant landscape effects and cause significant adverse harm to the setting of the conservation area, with grade 1 and 2 listed buildings, unlikely to achieve suitable highway access without substantial hedge removal and substandard footpath links, and that was only one side of the road. There was no flood risk and part of the site suggested a yield of 86, yet this was significantly larger with only 79 houses proposed and he was less inclined to vote against despite there being a lot of reasons why it shouldn't be developed. As stated, it was a balance test of the positives and negatives. Cllr Wilkes concluded that he would like to listen to what any other Members say.

Councillor Richardson stated the application was similar in many ways to Staindrop and the statement from Dr Walker had drawn his attention to St Peters, with over 30 houses to come forward, this would be an additional 110 houses, which was a significant increase. The access was on a very busy road with a school opposite – crossing the road was a great worry.

Councillor Hopgood did not see the need for this application when there was an application at St Peters which had been approved in Gainford which had not commenced. She was staggered that we have waited for years for the County Durham Plan so that we can abide by it and have guidance and yet every application the Committee has gone against its policies.

**Resolved:**

That the application be APPROVED subject to the completion of a S106 Legal Agreement to secure the following:

- The urgent repair works to Gainford Hall and the Dovecote, the timescales for doing so, in addition to the management and maintenance regime for the hall and its marketing strategy
- Heritage works to RCPG prior to the occupation of a specified number of plots
- The requirement to enter into a S.39 Agreement to secure the long term management and maintenance, including a monitoring strategy of the biodiversity land
- £67,686 towards improving offsite open space and recreational provision within Barnard Castle East Electoral Division;
- The dedication of a new Public Right of Way as shown on drg. no. L-102 - Footpath Plan
- The delivery of 5% affordable housing comprising of 3no. 2-bedroom houses and 1no. 3-bedroom house for affordable home ownership

And subject to the conditions outlined in the report.