

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, County Hall, Durham on **Thursday 22 September 2022 at 9.30 am**

Present:

Councillor G Richardson (Chair)

Members of the Committee:

Councillors A Savory (Vice-Chair), E Adam, V Andrews, J Atkinson, N Jones, L Maddison, M McKeon, D Oliver, S Quinn, M Stead, L Fenwick (substitute for I Roberts) and P Jopling (substitute for D Brown)

1 Apologies for Absence

Apologies for Absence were received from Councillor D Brown, Councillor I Roberts and Councillor S Zair

2 Substitute Members

Councillor L Fenwick was present as substitute for Councillor I Roberts and Councillor P Jopling was present as substitute for Councillor D Brown.

3 Declarations of Interest

No declarations were made.

4 Minutes

The minutes of the meeting held on 23 June 2022 were agreed as a correct record and signed by the Chair.

5 Applications to be determined

a DM/22/01877/FPA - Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN

The Committee considered a report of the Senior Planning Officer which provided details of an application for erection of extension to newly constructed building at Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN (for copy see file of minutes).

G Spurgeon, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photographs and photographs of the site.

Judith Mashiter the Clerk to Middleton and Newbiggin Parish Council informed the Committee that whilst the Parish Council had no objections to the application, they had attended to represent local residents and to make sure the application received the maximum amount of scrutiny. Concerns had been raised with regards to noise, increased traffic and the loss of parking and she noted that there had been a reduction of two parking spaces. She advised that there was only one bus service per week and therefore employees would be relying on travelling to work by car. Nevertheless, the report had addressed concerns raised by residents and the harm was localised and not substantial in any case.

Rod Hepplewhite, Agent to the Applicant informed the Committee that the works were necessary for the continued growth of the applicants business as they looked to expand manufacturing. He added that the proposal would have no impact on any nearby listed buildings and would only have a slight impact on the conservation area, but this was outweighed by the employment benefits that would be brought to the area. The proposed landscaping would increase the biodiversity to a net gain of 24% overall and which was in excess of requirements and the application was within local and national planning policies.

The Chair informed the Committee that the application was listed as being in Barnard Castle East Division but was in fact located in the Barnard Castle West Division.

Councillor Jopling asked why the application had seen a reduction in parking spaces, which was followed by a question from Councillor McKeon regarding whether the spaces could be reinstated.

Mr Hepplewhite informed the Committee that the loss of the two spaces had been necessary when looking to expand the work area however the application included more than the minimum number of parking spaces required and Highways Officers were content with the provision. Under the current design the spaces could not be reinstated without substantial changes in the layout but there was an area of land to the east of the site which could be amended to provide an additional two or three spaces, however this would impact on the biodiversity net gain.

The Senior Planning Officer confirmed that he was satisfied with the level of parking provision and would prefer to keep the current landscaping and biodiversity net gain. He advised that whilst a condition to alter the level of parking could be added, it was not considered necessary.

Councillor Atkinson addressed the Committee and brought Members attention to the statement of the Parish Council. Although they had attended, they had raised no objections and had noted that concerns of local residents had been addressed. He confirmed that this application would bring local jobs to the area and he moved the recommendation to approve the application for the reasons outlined in the report.

Councillor Jopling noted that the application would bring benefits to a rural area and create jobs , although she noted that the bus service was insignificant, she seconded Councillor Atkinson's motion to approve the application.

Councillor Quinn added this application would provide jobs for the local community and in her opinion the parking provision was an issue for the Applicant to determine.

Councillor Savory added that all relevant measures had been applied and reiterated that the application would create 20-30 jobs over the next five years, bringing the total to 145.

RESOLVED:

The application be APPROVED subject to conditions as outlined in the report

b DM/22/01643/FPA - Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN

The Committee considered a report of the Senior Planning Officer which provided details of an application for Insertion of louvre into the southern elevation of building approved at Units 1-6 Gas Lane Industrial Estate, Gas Lane, Middleton in Teesdale, DL12 0TN (for copy see file of minutes).

G Spurgeon, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photographs and photographs of the site.

The Clerk to Middleton and Newbiggin Parish Council addressed the Committee, directing Members to points made on the previous application adding residents concerns about noise as the works were being carried out which had been addressed asking that the condition apply to any consecutive 28-day period and would be robustly enforced.

Rod Hepplewhite, Agent for the applicant, addressed the Committee noting that this application had been submitted first. The applicant was looking to install the louvre was when it was noticed that the business would require

more space for manufacturing. The works were needed for air flow in the current space and would require no additional external works. Rod Hepplewhite added that all work was in accordance with planning policy, adding all external work would be coloured to match the existing building meaning there would be little to no impact.

Councillor Andrews enquired what use the louvre would provide and would it be a medical requirement, Councillor Andrews added that the works seemed essential to the business.

In response to the question asked Rod Hepplewhite informed the Committee that it would be used for air flow which would be essential given the nature of the work done on site and without this application being approved a new location for manufacturing would need to be found.

Councillor Atkinson commented that the works made sense to the requirements of the business noting the previous application had already been approved and moved to approve the application.

Councillor Oliver seconded the motion to approve.

RESOLVED:

The application be APPROVED subject to conditions as outlined in the report.

c DM/22/01695/FPA - Stockley View, Stockley Lane, Oakenshaw, Crook, DL15 0TL

The Committee considered a report of the Senior Planning Officer which provided details of a Resubmission of DM/22/00885/FPA for the conversion of lambing shed to single dwelling and engineering works to create lower ground floor, new access road, install ground source heat pumps and klargester package sewage treatment plant, create 3 ponds and construct new footpath (part retrospective) at Stockley View, Stockley Lane, Oakenshaw, Crook, DL15 0TL (for copy see file of minutes).

G Spurgeon, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photographs and photographs of the site.

Councillor F Tinsley, local Member questioned the location of the footpath and whether it was near the former railway line.

The Senior Planning Officer informed the Committee that the site access was not near the former railway line.

Councillor F Tinsley, Local Member informed the Committee that both local members were in agreement regarding this application and could both only see the positives adding the unusual nature of the application with officers being bound by policies the Committee were not. Councillor Tinsley noted that conversion of an agricultural building to a residential building was acceptable and informed the Committee of the significant work and cost that the applicant had put into the site noting with hindsight the applicant would have done things differently. The works in question causing the issues were basement works and below ground where any vehicles would be parked. The application proposed to plant trees on the site which would be able to demonstrate bio-diversity noting the uplift was in excess of 20%. Councillor Tinsley noted that the site was a minutes' walk from the local bus service. There were no objections from local residents and the application had already been approved under Class-Q noting members could add conditions on the site for any concerns they had.

Steve Barker, Agent for the applicant, addressed the Committee and apologised for the mistake the applicant had made, informing the Committee the applicant lived close to the site and had wanted to get it fit and designed to accommodate a family members disability to be moved on to the site adding the applicant had believed the Class-Q would allow for such works. The site would use green energy adding the site was more than double the required bio-diversity and was already attracting wildlife seeing a 23% uplift. Once the work was completed it would be an improvement on the previous application. There were local transport links close to the site noting that a footpath would be created to link the site to the bus stop, and it would include low level lighting, which would go off when not required. If approved it would create an exemplary carbon neutral dwelling with biodiversity net gain.

Councillor Atkinson queried the nature of the Class Q adding he understood the reasoning for wanting to move on to the site noting the application still looks as it did when first made so was unsure of what the issues were now adding it seemed the applicant had made a genuine mistake.

The Senior Planning Officer informed the Committee that the permitted development was for a change of use of the property under the Class Q restrictions which allowed the conversion of an agricultural building to a dwelling which limited the considerations the officers could take into account, adding that because of the works already carried out they could not be implemented under Class Q and so require full planning permission. The principal of development was not accepted and there had been no information submitted that would alter the views of the planning officer, as due to the work already carried out the proposals amounted to a complete rebuild and there was no fallback position for the applicant.

Councillor Adam noted that officers were not objecting to the original application adding that issues seemed to be with the work carried out underground and that the building as it existed now would still be approved.

The Senior Planning Officer reminded the Committee that the original application was a Class Q application which restricted the considerations Officers could take into account however due to the work that had been carried out that this was now a planning application.

Councillor McKeon stated that there was nothing more frustrating to her than a retrospective application and wondered why it did not come for secondary class Q approval before bringing the Committees attention to paragraphs 11 and 12 of the report noting that the application had been approved in principle adding that the committee was looking to grant retrospective planning permission, whilst also questioning why the original conditions had not been adhered to.

In response to Councillor McKeon, Steve Barker informed the Committee that the applicant had not sought advice on the works before carrying them out and had believed that the works taken underground would not need any additional permission, by the time this had been discovered it was beyond the point of the Class Q permissions and beyond rectifying whilst adding everything possible had been done to correct the mistake.

S Pilkington, South West Team Leader informed the Committee that Class Q applications did not need permission as long as they met limited criteria. He added that the Class Q and the planning application in front of Members today were two separate considerations, adding that whilst the Class Q had been approved the application had strayed so significantly from the original building that the applicant could not go back to exercise his development rights and the Planning Authority had to consider a full planning application.

L Ackermann, Planning and Highways Legal Officer informed the Committee that under Class Q the property could be converted from an agricultural building to a dwelling. Class Q sets out works that are allowed to be carried out to enable the agricultural building to be habitable. Class Q lists works that may not be carried out, including to the floor which was the case in this application. Once the works had been carried out to the floor it had changed the application from a Class Q permitted development to a conversion to needing planning permission.

Councillor Jopling noted that that works were permitted on some of the building with the original submission this was now clearly something very different.

Councillor McKeon noted that as the application now stood it would not have been given permission under Class Q, also asking the question regarding provisions for people with a disability and the works necessary to the property for this.

The South West Team Leader informed the Committee that the current application would not have been given permission under Class Q adding that there would be no direct permissions relating to disabled access. The Chair asked what conditions were in place regarding the asbestos roof.

Steve Barker responded and noted that both applications proposed careful removal of the roof.

Councillor Jopling addressed the Committee stating this was a difficult application but as a Committee they would have to look at the extensive amount of work done without permission. She would be happy to go along with officer recommendation on this application, as there was a concern if it was allowed it could open the floodgates on a lot of other similar applications, noting the applicant seemed to have taken it for granted they would be given permission.

Councillor Adam agreed with Councillor Jopling that this was a difficult application but was minded to approve noting the application was still in character with the site and the improved bio-diversity adding that all of the works were in position.

Councillor Fenwick noted the similarity between this and an application in her area noting that whilst that application had also benefited from change of use permission and it had looked unsightly and had a detrimental impact to the look of the area whereas this application would improve the area and increase the bio-diversity and she would therefore be minded to approve the application.

Councillor M Stead sought clarification on the difference between the application in front of the Committee and the one 2019/2020, noting that there was already a successful appeal on the previous application for this building and raised the issue of access to the site.

The Senior Planning Officer informed the Committee that the difference between the two applications was the work that had been carried out on the basement and the footpath, adding the access point was part of the original application but the access road was not.

Councillor A Savory noted the considerable works already done on the site adding the committee had to be careful when making a decision as this could be used as an example for future applications.

Councillor D Oliver noted the landscaping improvements of the site adding it would preserve the rural nature of the site whilst making practical improvements and he would be minded to approve the application.

The Senior Planning Officer responded to state that disabilities were not specified under class Q although there was the ability to make internal adaptations, the limitations still had to be complied with.

Councillor McKeon noted this was a difficult to decision given that the mistake had now been made, adding that the Class Q did not take in to account any works that would need to be done for disabled access. commenting that this was something that planning policy needed to look at, raising concerns that the application in front of them still had elements of the Class Q and queried if the application could be looked at in two parts, one for the basement works and another for the pond and pumps.

The Chair reminded the Committee that they had to consider the application as it was before them.

Councillor Andrews stated she was minded to approve the application based on the ecological and environmental impact and much improved aesthetics of the area.

Councillor N Jones added that there were no objections to the application, noting the site had access to a local bus route and was well within the bio-diversity so would approve the application.

Cllr Quinn commented that barn conversions added much value to the local area and despite the change to the foundation of the building, it would look the same once complete and she was minded to approve.

Councillor Stead moved to approve the application which was seconded by Councillor Oliver.

The South West Team Leader informed the Committee that they could delegate to the Planning Officers to add conditions to the approved application.

RESOLVED:

The application be APPROVED with conditions to be agreed in conjunction with the Chair, vice chair and planning officers.

d DM/22/01634/OUT - Land south of Eve Lane, Spennymoor, Co Durham

The Committee considered a report of the Senior Planning Officer which provided details of an application for a residential development of up to 20no. dwellings Land south of Eve Lane, Spennymoor, Co Durham (for copy see file of minutes).

M O'Sullivan, Senior Planning Officer, provided a detailed presentation of the application which included a site location plan, aerial photograph and photographs of the site.

Jeremy Good, agent for the applicant addressed the Committee and clarified that a noise report had been undertaken and that Environmental Health were happy with the noise levels on the site.

Councillor Maddison noted the reference to not harming the character of the site adding the development would fall between two roads one being the access to an already major development and asked what benefit there was to have the development on this site.

In response Jeremy Good informed the Committee the main benefit would be the additional houses in the area, noting the previous application had been refused on Policy 6 which this development now met and was acceptable in principle.

Councillor M McKeon noted she had been on the previous Committee that had refused the application and still saw good reason to refuse now, questioning the use of the Masterplan which was used to give residents assurance of what developments they were going to get in their area if the Committee was just going to override it.

Councillor L Maddison added that the S.106 agreement did not outweigh the impact of the loss of the area noting another development so close to the Durham Gate site was unnecessary, and that development would provide more than enough housing for the area with consideration needing to be given to affordable housing.

Councillor E Adam addressed the Committee commenting he would be minded to refuse the application given the Committee had refused this application recently and those issues had not been addressed and sought assurances that the issues previously raised would be addressed.

The South West Team Leader noted this was a difficult application adding that the Inspectors decision carried significant weight, informing Members that a balanced decision needed to be made and if Members were to refuse this application they would need to find additional reasons for doing so.

Councillor J Atkinson noted that although the application had previously been refused and subsequent appeal also refused the planning inspectorate had visited the site and taken everything into account and deemed it suitable for a development, so would be minded to approve the application.

Councillor M McKeon added that this was housing that County Durham did not want but felt it had to accept noting there were many reasons to refuse the application with air quality being a significant issue.

Councillor D Oliver noted that although the application was not ideal, there was no ground for refusal.

Councillor P Jopling added that there was a need for housing and accepted that the location for this was not always ideal. She agreed with the officer recommendation to approve.

Councillor M Stead noted that there was already a 5-6 bedroom house on the opposite side of the road which had occupants. He agreed that there was a shortage of housing and expressed concern regarding the future of the land if not utilised for housing.

The Chair asked to see an aerial photograph of the site and enquired about the nearby agricultural site.

The South West Team Leader informed the Committee that all of the land was in use adding that if this application was approved it would not be setting a precedent.

Councillor Atkinson moved to approve the application which was seconded by Councillor Jopling.

RESOLVED

The application be APPROVED subject to the conditions outlined in the report and completion of a Section 106 Obligation to secure the following:

- Provision of 15% affordable housing on site
- Financial contribution totalling £31, 482.00 towards offsite open and recreational provision, payable in a single instalment prior to the occupation of the first dwelling, and a minimum 660m² of usable on-site amenity open space provided on a pro rata basis.