

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, County Hall, Durham on **Thursday 23 November 2023 at 10.00 am**

**Present:**

**Councillor J Quinn (Chair)**

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

Councillors A Savory (Vice-Chair), E Adam, V Andrews, J Atkinson, D Brown, N Jones, G Richardson and M Stead

#### **1 Apologies for Absence**

Apologies for absence were received from Councillor J Cairns, Councillor S Quinn and Councillor S Zair.

#### **2 Substitute Members**

There were no substitute Members.

#### **3 Declarations of Interest**

Councillor A Savory declared she had an interest in agenda item 5b as she was a member of Wolsingham Town Council who were in support of the application. However she had not taken part in any Town Council meeting where this application had been discussed.

Councillor G Richards declared a non-pecuniary interest in agenda item 5b as he knew the applicant.

#### **4 Minutes**

The minutes of the meeting held on 19 October 2023 were agreed as a correct record and signed by the Chair subject to the following change.

Councillor D Brown stated that he had been misquoted in the minutes on agenda item 5 b DM/23/01275/PA - Land Northwest of South Thorpe, Wycliffe, DL12 9TU. The minutes should read 'Councillor Brown mentioned that slurry was not required to be spread from the start of November until end of February and that everyone would have storage as an ongoing cost'.

The Chair agreed to change the order of business for the meeting and agenda item 5d was to be considered first.

## **5 Applications to be determined**

### **d DM/23/01885/FPA - Woodhouse Close Leisure Complex, Woodhouse Lane, Bishop Auckland, DL14 6JX**

The committee considered a report of the Senior Planning Officer for the demolition of the existing Woodhouse Close Leisure Complex and Library and erection of a replacement Leisure and Community Centre and associated car parking and landscaping (amended description) (for copy see file of Minutes).

J Burnett, Senior Planning Officer gave a detailed presentation that included aerial photographs that showed the library and car parking area and where it lay on the land, existing Leisure Centre site photographs, the proposed layout, elevation photographs and visualisation photographs. A site visit had taken place prior to the committee meeting. The Senior Planning Officer highlighted that the car parking at the west of the site would be expanded to accommodate parking for both bicycles and cars. He referred that the demolition would be in a phased approach to allow business continuity of the facilities. There were no objections through the consultee process and the application had received support from Bishop Auckland Town Council.

Councillor C Hunt addressed the Committee on behalf of both herself and Councillor J Howey as local councillors in support of the application. They believed that Woodhouse Close Leisure Centre was the hub of the community and was vital to the health and wellbeing of residents in Woodhouse Close and Bishop Auckland many of whom did not have their own transport. It was well established and provided for everyone from children to the elderly. It was also used by schools outside Bishop Auckland such as Crook who no longer had their own swimming facilities, giving children vital swimming lessons not only for their pleasure but also for their safety. The new leisure centre would provide a space for people to meet and tackle issues such as loneliness and isolation along with great facilities for disabilities and rehabilitation not to mention the jobs it would save and the new jobs it would create. For these reasons they wholeheartedly supported the proposal and urged members to agree with the officer's recommendations to approve the application.

C Scott, Agent addressed the committee on behalf of the applicant in support of the application. She thanked the Senior Planning Officer for providing a detailed committee report and presentation. She expressed there was a need for a new facility as the existing building was over 50 years old and was out of date. There would be a significant amount of work and expense to bring the existing building up to standard. Staff would be retained and further jobs would be created. She stressed that the development would take a phased approach to ensure the continuity of service for the community.

There were no objectors registered to speak against the application and as there were no questions for the registered speakers the Chair opened up the Committee to debate on the application.

Councillor J Atkinson knew the building as it had been there for a long time and was not surprised that the building had come to the end of its life. He noted that everyone enjoyed using the facility even though it was outdated. The community supported the application and as such he **moved** that the application be approved.

Councillor E Adam agreed with Councillor J Atkinson and **seconded** the application to be approved but was concerned with the phased approach and asked if the library would still function in a different location for residents to access whilst the works were undertaken. After attending the site visit he was worried about the telephone wires on the site that were connected to residents properties. He had not seen any recommendations for these in the development plan.

The Senior Planning Officer replied that the library would be relocated to the leisure centre until the new library opened. The storage of books that could not be accommodated would be taken to other libraries and brought back again once the new library was up and running in the new build. He stated that the overhead wires would not be affected at all by the construction.

Councillor E Adam was happy with the library response but asked for further clarity on the overhead wires and wanted reassurances that they would not be affected as he had noticed a telegraph pole directly outside the library. He wanted to know if there were any alternative plans to deal with these.

The Senior Planning Officer could not offer any further explanation. C Scott reiterated that she had been advised that the overhead wires would be unaffected by the development.

Councillor G Richardson informed the committee that he also knew the building well and had often taken his daughters there for swimming. He noted that at events the venue was extremely hot and expressed his delight at the proposal going forward. Councillor Richardson considered that the development had missed a trick to supply a 50 metre Olympic sized swimming pool within the design which potentially could have fit nicely in the centre of the building. However, he was fully supportive of the application.

Councillor A Savory had not been on the site visit and relied on the recommendations of those who had taken part and therefore was fully supportive of the application.

Councillor N Jones informed the committee that he had learned to swim at the complex. He thought the application was a marvellous proposal and was fully supportive of the application.

Upon a vote being taken it was unanimously:

### **Resolved**

That the application be **APPROVED** subject to the conditions listed in the report.

#### **a DM/23/01681/FPA - Land to the East of Holdforth Crescent, South Church Road, Bishop Auckland, DL14 6DU**

The Committee considered a report of the Senior Planning Officer for the erection of 22 no. dwellings, together with formation of the site access, landscaping and associated works on land to the east of Holdforth Crescent, South Church Road, Bishop Auckland (for copy see file of Minutes).

G Heron, Senior Planning Officer gave a detailed presentation of the application which included a site location map, aerial photographs, site photographs that showed the various angles and differences in land levels, a proposed site plan, and proposed elevations. A site visit had taken place prior to the committee meeting. She explained that an amended site plan had been submitted after the reports had been published to extend the gardens and push the retaining wall back by 2 metres. She stated that the original plans still showed the relevant information. She mentioned that within the consultee exercise the application had received objections from the Lead Local Flood Authority, the Environment Agency and Network Rail. There had also been objections from the Public Rights of Way and Ecology teams on the design.

The Senior Planning Officer declared that she had also received a report from the Noise Assessment Team that had not been circulated before the meeting that had reassessed their views. They had recommended that if acoustic glazing was added to the properties this would address the noise issue. She updated the committee that as the noise element for refusal had been withdrawn there were now only 5 reasons for refusal and not six.

D Marjoram, Agent addressed the committee in support of the application. As set out in the Committee Report the proposals satisfied all relevant policies of the development plan and NPPF provisions, as well as supplementary guidance, and fundamentally disagreed with the proposed reasons for refusal. As for the poor design he was surprised given the indicative layout submitted as part of the earlier outline consent that showed a layout that was very similar to the current proposals. The earlier scheme proposed access from South Church Road in virtually the exact same position, with semi-detached dwellings arranged either side of the single access road that formed a cul-de-sac. He was not aware of how housing could be delivered on this accepted suitable site in a different way. The planned outward-facing bungalows onto the linear route of South Church Road would reflect the character of the settlement in an appropriate manner and had inward-facing houses at the northwest corner of the site that was logical due to their location behind an existing large wall, because front access could not be formed to these.

D Marjoram stated that owing to the levels, the proposed bungalows would be set down from the existing properties opposite, whilst appropriate and high quality materials could be secured by condition. The key point to note was that the latest Strategic Housing Market Assessment identified that the greatest need to 2035 was for two and three-bed sized properties, and bungalows, which his client was trying to deliver. The proposals would require a sizeable retaining structure along the eastern boundary of the site, albeit this would sit below the existing tree canopy when viewed from the west, and behind these trees when viewed from the east. That notwithstanding, if the Committee were satisfied with the proposals and looked favourably on the development if split level dwellings were proposed, as was the case for the original outline consent, then he would be happy to make such revisions if the application were deferred. This would reduce the height of any retaining structures accordingly.

D Marjoram noted that a sizeable area of open space was proposed on-site, which excluded the drainage tank, some of which could be utilised with a view to maximise the biodiversity value of the site post-development. In the event that a net gain could not be achieved, an off-site contribution towards such could be secured via a conditional S.106 Agreement.

He remarked that his client's Engineers had advised that the proposals would not tangibly increase flood risk on or off-site. The area of the site within Flood Zone 3 was very small, at around 38sq.m, with the proposed houses and their gardens to be located substantially above this. The Engineers had further advised that the small area within Flood Zone 3 could be designed out through further revisions to the scheme, if the Committee were minded to defer the application to achieve such. Any deferral would also provide an opportunity to submit and agree a suitable drainage strategy that all relevant consultees were satisfied with. With regards to the viability response from the Council, he disagreed with this, as the example of values chosen by the Council were not comparable (some are from higher value areas).

He remained of the firm view that the development was not viable with affordable housing contributions, which was not unexpected for a scheme of this scale in the lower value area based on the whole plan viability work. This scheme delivered an enhanced M4(2) specification (100% as opposed to 66%) and help to meet the need for bungalows within the authority area. If the Committee were minded to defer the application to allow further discussions about this matter, he would not have any issues. He felt it was important to make Members aware that the Public Right of Way route, according to the Council's maps, would see people walking over the railway line and not the crossing. The route of the diversion shown on the proposed site plan was more reflective of reality than the Council's records, and the suggestion that the new route would be an unacceptable deterioration in quality and experience, was simply not true in his view. The experience would clearly change by virtue people would be walking through a housing development, but they would be able to get from the northern site boundary clearly and legibly to the southern one.

He felt that not only would the proposals make a positive contribution towards the Council maintaining a 5YHLS (5 year housing land supply), but they would also be located in a clearly sustainable location a short walk from the town centre, with a footpath to be provided along much of the site frontage on the eastern side of South Church Road. Crucially, the scheme would deliver two and three-bed size properties, and bungalows, which were most needed according to the SHMA. Developers were continually being asked to deliver smaller properties and bungalows, which was precisely what our client offered, on a site where Officers recognised that the principle of residential development was acceptable. He therefore respectfully encouraged the Committee to either: approve the application in its current form, or subject to all technical matters and affordable housing being addressed, with Officers granted delegated powers to approve thereafter; or defer, if it was considered that with some of the proposed changes and/or more information the Committee could support the application in due course.

The Senior Planning Officer stated that the key debate on the scheme should be based on what plans had been submitted to date. There were fundamental reasons based on planning issues for refusal. She advised that she had tried to work with the applicant to improve matters but highlighted that the issues had not been resolved and Members would need to decide.

Councillor D Brown had attended the site visit and had been concerned with the amount of traffic on South Church Road. He felt that trying to enter the road would be suicidal. He directed a question at the Highways Officer asking what process took place in deducing their report.

J Robinson, Principal DM Engineer (Highways) responded that surveys had been completed at peak times where there were heavy flows of traffic that had been found to be mild to moderate. The amount of traffic generated by the proposed properties was considered and how that would affect the peak flow. It was found to be a negligible low amount.

Councillor D Brown felt that a Highways Inspector should have attended the site visit at the same time to get a feel for how busy the road was. He thought that the photographs did not show the site well in comparison to visiting the site. He thought the site was not very productive to go forward with the development with the different levels. He was unsure how the process would take place to build the properties and the retaining wall at the end of the site.

S Pilkington, Principal Planning Officer stated that the proposed level was shown for visual purposes. It would be Building Control's remit to ensure the building of the proposed dwellings was carried out correctly including the significant retaining structure. He added that Members could add conditions to the planning application that would be related to the structure.

Councillor V Andrews commented that she previously lived at Selby and had seen first-hand the impact of properties built on a flood plain where residents had to move out of their homes. She had also seen how the water affected the wider area. She did not agree to building houses on flood plains and as such could not agree to the application.

Councillor E Adam considered that the flood plain was a major issue. He had attended the site visit and could see an issue with flooding in the area especially with a 7 metre wall in place by a small burn. If this backed up in heavy rain it could affect other areas. He was also concerned with the retaining wall that would need to be built and asked if the site would need to be infilled. He also asked if the applicant saw this as an expensive site to build and not financially viable given that there was no offer of affordable housing within the development.

D Marjoram responded that the development had higher than normal costs associated to the site due to the retaining wall. He advised that the applicant had been guided by the arborist in order not to cause any damage to the existing trees on site. He noted that they would be split level properties as the applicant was keen to deliver bungalows so wanted to create a level plateau rather than split level dwellings. The higher than normal costs factor meant that affordable housing could not be delivered.

Councillor E Adam disputed the medium to low traffic flow in the area as on the day traffic was extremely busy. He enquired as to how long ago the surveys were carried out and whether the road under the railway bridge had been considered in the survey as he did not think access to the site was a large distance away from the brow of a hill that would make it difficult to cross the road. He was concerned about road safety and speed in this area and the entrance road especially in the wintertime trying to get onto the main road.

J Robinson, Principal DM Engineer (Highways) replied that Highways did not fully support the application on the visibility. The criteria was based on minimum visibility space for 30 mph but it was assessed on a higher speed as most people did not sit at the speed limit set for a road. He stated that he had asked the applicant for additional information that had not been supplied to date. The crest of the road at the north required both horizontal and vertical visibility. He advised that the speed surveys had been carried out before lockdown that saw higher levels of traffic and post lockdown that had seen a lower level of traffic.

Councillor E Adam did not feel that the traffic flow measurement was up to date and a more recent survey should be carried out. It appeared that there had been a lot of correspondence between the applicant and Highways to alleviate issues but there were still several concerns that had not been addressed. He **moved** to refuse the application based on the 5 reasons for refusals in the report.

Councillor M Stead knew the site well as he drove past it on a regular basis and knew how busy the road was. He felt that the role of the Councillor was to debate applications with an open mind and he had not heard anything to support the application. There were still issues to iron out. He proposed to **second** the application for refusal.

Councillor J Atkinson stated that he would normally favour new build developments especially with affordable housing. He was fully supportive of the Officers recommendations. He was confused with the compromise from the previous outline application and was concerned with the amount of issues.



The Senior Planning Officer reiterated that there was no affordable housing being offered on the site. There would be no financial contributions within the application. She advised that if the agent came forward with a revised application that addressed all the issues it would be considered again. The refusal reasons would need a new application to reconsider the key issues.

Councillor N Jones agreed that the application in principle was great as it was near shops and it would be nice to see the land turned over and used but it was a shame that it did not tick enough boxes. He was concerned about the busy road.

J Robinson, Principal DM Engineer (Highways) confirmed that there were 3 speed surveys undertaken between 2010 and 2015. He reiterated that the applicant had been asked to complete a new survey at their cost which had not been received.

Councillor G Richardson was disappointed that he could not attend the site visit. He had considered the maps on screen and listened to members that had attended the site visit. He acknowledged that there was nothing in what had been said to support the approval of the application. He agreed to support the officer's recommendation to refuse the application.

Upon a vote being taken it was unanimously:

### **Resolved**

That the application be **REFUSED** for the reasons set out in the report (as amended).

### **b DM/22/00380/FPA - Former Windy Nook Picnic Area, Wolsingham, DL13 3DJ**

The Committee considered a report of the Senior Planning Office for the erection of 1 no. retail unit (Class E) at the former Windy Nook picnic area, Wolsingham (for copy see file of Minutes).

G Spurgeon, Senior Planning Officer gave a detailed presentation that included aerial images, various site photographs that showed a wide access with hard standing tarmac that was set back against the road, the proposed layout that proposed 48 parking spaces and underground storage, the elevation of the site that showed the size of the building that was screened by trees and the floor plans that showed the proposed café layout. Wolsingham Parish Council were in support of the application and had received no objections to the relocation of the existing family run business that complied with local and national policies. There were no registered speakers and a site visit had taken place ahead of the meeting.

Councillor E Adam supported the Officers recommendation to approve the application. He enquired if there was any further information on the biodiversity net gain due to the loss of an amenity from the area.

The Senior Planning Officer replied that the applicant had 3½ hectares of agricultural land in Stanhope that they proposed to support the relevant biodiversity net gain that would address the habitat and wildlife for a period of 30 years. This was subject to a legal agreement.

Councillor A Savory lived in the village where the seven possibly eight generation business operated. They employed 7 people at the specialist business that was used by the farming fraternity. The picnic area had not been used for at least 20 years and proposed to **move** the recommendation.

Councillor N Jones frequented Weardale and was happy to **second** the application.

Councillor M Stead thought it was a superb addition to the area. It had been run by seven generations of the same family and was glad that it was not a retrospective planning application where everything had been done correctly.

Councillor J Atkinson agreed with everything that had been said by Members.

Upon a vote being taken it was unanimously:

### **Resolved**

That the application be **APPROVED** subject to the completion of a legal agreement to secure long term off-site biodiversity and the conditions listed in the report.

### **c DM/23/02367/FPA - Unit 40, Enterprise City, Green Lane, Spennymoor Industrial Estate, Spennymoor, DL16 6JF**

The Committee considered a report of the Planning Officer for the change of use from an industrial unit (B class) to specialist pet food supplies (Retail) (Class E) (Retrospective) (for copy see file of Minutes).

M Sandford, Planning Officer gave a detailed presentation of the retrospective planning application that had been called to Committee by Councillor B McAloon who considered the use to be such that it could not operate in a town centre.

The presentation included aerial photographs that showed the car park, site photographs that showed where the already occupied unit was located and that of the inside of the shop and floor plans and elevation of the unit. There was a site visit that took place prior to the meeting. The application did not adhere to policy 2 of the County Durham plan and safeguarded policy 9 that the business should be operated from a town centre. There were no public objections made.

S Barker, Agent addressed the Committee on behalf of the applicant in support of the application. He appreciated that the application related to an existing use that was already in operation without giving rise to any practical problems for many months. He stated that the applicants did not realize that planning permission was required for them to operate in the unit and for that they offer their apologies. They thought they were not dissimilar to the other specialist retail uses found throughout the estate. He noted that from the officer's report and from the letter of support from the owners of the wider estate that this unit had been a difficult unit to let and the point was made that over the last 5 or 6 years it had been empty for longer than it had been occupied. The unit had not had a long-term stable tenant in it and if this application was refused, it was going to be an empty unit again with no jobs for local people, no business rates coming in, an empty waste of space. Unfortunately, the empty period did not count in terms of the planning policy as they lie just outside the policy timescales. Somewhat ironically if they had applied for consent before starting up the empty periods probably would have counted and it might have been policy compliant.

S Barker noted that if the applicants were forced to move out, they would not move to Festival Walk or anywhere else in the Town Centre as they needed a location where they could accommodate bulk freezers and where customers could get right up to the loading bays for bulk transfer of heavy dog food boxes. They were also aware that their healthy treats were great for dogs teeth and all dogs loved them but not all two legged people coped with the odour that was not everyone's cup of tea and could be positively offensive to some. The applicants had tried to explain this to officers but there was a reluctance to accept that they were not a Town Centre use. They would probably look for a rural barn conversion or farm shop type of location if forced, but really wanted to stay on the estate. The landlord and other occupants wanted to keep them. There were quite a few other forms of specialist retailing on the estate, and they could not understand why they appeared to be singled out.

He mentioned that dogs were allowed to be kept on the estate but could not supply their food from the same place. It appeared no one wanted them to go, no one was harmed by their staying but there was a situation where potentially destroying a local start up business that was popular with lots of dog owners in the area, all because of a misplaced perception that they could be in the Town Centre which was being demolished in large parts.

He added that Members had the discretion to make a pragmatic decision to retain the business and keep dog owners across the County happy or vote to close it down, taking enforcement action and destroy the business. He hoped that Members were able to see the alternative potential and the joy and benefit of supporting the business to which there were no technical objections and which simply was not the right use for the Town Centre and urged them to set aside the officer recommendation in this special instance.

The Planning Officer stipulated that it was the only unit that had been occupied solidly for three years. There was a requirement to show that the unit had been unoccupied for 2 years for the exemption in policy 2 to kick in.

Councillor E Adam referred to paragraph 43 in the report that related to the statement that had been provided by the freehold owners/managers of the site LCP Management Ltd that gave a history of the unit in that it had been difficult to rent in the past. It appeared that it had been unoccupied for 4 years prior to the applicant taking over. He questioned whether this was a real reason to refuse the applicant. It was positive that the premises had been occupied for 3 years and operated that made use of the building and provided a service to the community. He requested further details.

The Planning Officer clarified that the applicant had only occupied the unit since February 2022 and the prior business owner had operated for 2 years.

Councillor E Adam felt he could be swayed either way. He noted that the business possibly would not fit in a town centre and did not know if there were other buildings that may be suitable. He had heard nothing that would sway him to refuse the application. It was a balancing act for members which was difficult.

Councillor J Atkinson did not like retrospective planning applications as he felt it should be completed properly in the first place. He accepted the applicant's explanation as to why the application was retrospective. It appeared to him to be a successful business and thought it would be just as successful in a town centre in the right place.

J Jennings, Principal Planning Officer clarified that the unit had been empty from 2016 to 2020 then occupied from 2020 until Feb 2022 with the applicant then taking over the unit. As the unit had been occupied for the last three years it did not meet the exemption criteria in Policy 2 of the Durham County Plan. The unit had never been let out for retail use. Similar businesses operated from within the Town centre as defined in policy 9 and the application was recommended for refusal on these reasons.

Councillor M Stead ran an accountancy firm that offered advice to small businesses and know how difficult different businesses were to run. He stressed that location was key and he did not feel that a dog feed business could operate successfully within a town centre. The unit was probably a low-cost option. He agreed with Councillor J Atkinson that he also did not like retrospective planning applications. In this case it was negligible on the applicant's part but they potentially did not understand the process. He supported Councillor E Adam that the applicant was lost in paperwork. He queried what could be done to support this.

Councillor N Jones asked what the business rates were for 2022.

J Jennings, Principal Planning Officer remarked that the question was irrelevant but did not have the information to hand.

S Barker noted that the previous business had maintained the business for a little while but then failed which was the reason he left.

Councillor J Quinn noticed that in the report the applicant claimed that customers bought products in bulk and questioned what the average weight was of the dog food. He believed it would not be appropriate to carry heavy items down the high street if there was not nearby parking.

S Barker replied that the weight of products being bought would depend on each customer's individual need but this could be in excess of 65 kg.

Councillor J Quinn agreed that feeding animals raw meat implied buying in bulk.

Councillor M Stead **moved** to approve the application. There was a high level of traffic, certain stock would not use large delivery vans and would not affect the business park.

Councillor N Jones was happy to **second** to approval of the application.

Councillor G Richardson also wanted to second the application to be approved. His wife used a similar small business in St Helen that was not located in the town centre as people required access and items would be too heavy to carry back to their cars that would be parked a way away. He supported approval of the application.

N Carter stated that the starting point was that Officers had found that the retrospective application conflicted with policy 2 and policy 9 of the Durham County Plan. Members had to determine in accordance with the development plan unless there were material considerations which outweighed the harm arising from the policy conflict. This was essentially a balancing exercise of harm v benefits. Members had referred to the economic benefits arising from the business and had expressed doubts as to whether it could function in a town centre location. He suggested that if a decision was to be made to approve the application, it would be appropriate to attach a personal condition so that permission would be granted solely to the applicant and no future occupier of the unit.

The Principal Planning Officer suggested that if Members overturned officer's recommendation that a condition should be imposed to restrict the use to the retail operation of the applicant therefore if the applicant left it would revert to the original use. A condition could also be place on the opening hours.

Councillor E Adam had queried whether an alternate town centre property could be looked at between the original unit and the town centre that may be suitable. However the suggestion was a new way to look at the application without deferring for a new application that was a sensible approach.

S Barker and the applicant were happy with the conditions that would be placed on the application if it was decided to approve the application. They also agreed to any restrictions that would be placed on the opening hours.

Upon a vote being take it was unanimously:

## **Resolved**

That the application be **APPROVED** as a personal permission and subject to a suite of conditions details of which were delegated to the Planning Officer.