

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in The Glebe Centre, Murton on **Tuesday 13 May 2014 at 1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, M Davinson, S Iveson, J Lethbridge, B Moir, C Kay, R Lumsdon and H Bennett (substitute for A Laing)

Also Present:

Baxter, N Carter (Solicitor - Planning and Development) and A Dobie (Principal Planning Officer - Easington Area Office)

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, K Dearden, A Laing and J Robinson.

2 Substitute Members

Councillor H Bennett substituted for Councillor A Laing.

3 Minutes of the Meeting held on 8 April 2014

The minutes of the meeting held on 8 April 2014 were confirmed as a correct record and signed by the Chair, subject to the date of the meeting being amended to read 8 April 2014, rather than 11 March 2014.

4 Declarations of Interest, if any

Councillor P Conway indicated that he was a member of Belmont Parish Council, but had taken no part in any discussion on application no. DM/14.00053/FPA when it had been considered by the Parish Council.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

5a DM/14/00053/FPA - Bristol Street Motors, High Street, Carville, Durham, DH1 1AU

The Committee considered the report of the Senior Planning Officer regarding an application for demolition of the existing showroom and offices, new build showroom and refurbishment of existing workshop at Bristol Street Motors, High Street, Carrville (for copy see file of minutes). Members had visited the site prior to the meeting and were familiar with the location and setting.

The Senior Planning Officer gave a detailed presentation on the application and advised Members of the following updates since preparation of the report:

- A coal mining risk assessment was required by the Coal Authority. If the Committee approved the application, an appropriate condition would be included.
- In relation to the proposed condition no. 4, the words 'and no loading or unloading of vehicles shall take place on the public highway' should be deleted so that the condition met the relevant tests for planning conditions.

Councillor B Howarth addressed the Committee on behalf of Belmont Parish Council, indicating that the Parish Council's views had been influenced by listening to the views of local residents. Commenting on the application had, however, been difficult due to the amount of new information and changes made during the application process.

The Parish Council was concerned about land ownership issues and a restrictive covenant on the site. Although a revised site plan had been submitted which retained the landscaping strip, the plan referred to in the condition was the original. The Parish Council requested details of the land ownership be investigated before the application was determined.

Also of concern to the Parish Council was the impact on trees and hedges, with the Council requesting a condition requiring compensatory screening on the boundary with 1 and 2 Fallsway if the existing hedge was to be removed.

Clarification was sought on the proposed roof height as there was a discrepancy between the plans and the design and access statement, while obscure glazing to the first floor windows overlooking Fallsway and Kirkstone Drive should be considered to safeguard residents' privacy.

The guarantees on operations and opening and closing of the shutters was welcomed, residents experienced noise and disturbance from deliveries to the site, particularly early on a morning. The Environmental Health Officer had requested a condition on working hours during development and the Parish Council also sought a condition restricting delivery times to the site following its completion.

A report had been produced by Oil Salvage Ltd in relation to hazardous chemicals and effluent which would be on site and a condition requiring the report's recommendations to be implemented was required while the intensive lighting scheme, in particular the 4 columns proposed for the south of the site, being problematic.

The removal of the wall which formed the current boundary to Kirkstone Drive was against residents' wishes and the proposed hoop boundary marking would have a major impact as residents would be exposed to the activities on site. The existing wall provided both visual and acoustic protection and its removal would result in a loss of amenity for nearby properties. Furthermore, the hoop bollards would encourage customers to park on Kirkstone Drive in order to view the vehicles on display. Kirkstone Drive was one of two access points to the estate and had a steady flow of traffic. The Parish Council therefore requested that a 1.8m wall be provided along this boundary, with hoop bollards only permitted to the High Street site.

Parking on site would cause issues as 56 spaces were proposed for staff, but the business had 78 employees. Staff parking would overspill onto High Street and Kirkstone Drive, and the Parish Council felt that sufficient parking should be available for staff on site to prevent this.

In relation to access by car transporters, the application stated that these would be able to access, turn and leave the site forwards, but the Parish Council were concerned as to whether drivers would be informed of this. A condition requiring this was imposed on the planning consent granted in 2004 however no enforcement had taken place, with delivery vehicles off-loading on double yellow lines and being abusive to residents when asked to move.

In summary, the Parish Council had raised a number of issues in seeking to protect the area and safeguard residents' amenity. Measures had been suggested to overcome problems, however until a satisfactory solution could be agreed, the Parish Council requested the application be refused as contrary to policies H13, EMP11 and T1 of the City of Durham Local Plan.

In response to issues raised by Councillor Howarth, the Senior Planning Officer reminded Members that covenants and land ownership were not matters for the Committee to take into account.

A tree survey had been submitted, and some hedging was to be removed to make way for a car wash, however Officers considered this aspect to be acceptable and not adversely impact on residential amenity. Separation distances between first floor windows and properties in Fallsway were 21 metres which met requirements, while proposed conditions sought additional information in respect of noise attenuation measures and the lighting scheme.

Deliveries to the site took place out of hours. There were no current restrictions on delivery times and this would continue to be the case whether the application was approved or not.

The treatment to the south boundary would be a 1.8m fence in part and then hoped bollards to the remainder. The existing brick wall screened operations however it was proposed to move workshop operations to the far side of the site and in the Officer's opinion, the proposed boundary would be an improvement on the current situation.

In relation to staff parking, the site would be able to accommodate 226 vehicles in total with a maximum of 105 for sale. The applicant had indicated that they intended to have only 85 vehicles for sale to allow room for manoeuvring within the site, while 66 spaces would be available for staff and garage parking. A condition in relation to parking and manoeuvring was also proposed.

Mr K Holroyd then addressed the Committee, indicating that he was speaking on behalf of local residents.

He commented that residents to the west of the site had not been notified of the application by the County Council although their amenity would be affected by the change in the height and position of the workshop building.

To the east of the site, a number of vehicles were displayed on land which was leased by the applicants, however their lease of the site was coming to an end. It was felt that this application resulted from the future loss of this area of land which formed a highly visible area for the sale of cars. It was a condition of the current planning permission for the site, and the application being considered proposed a similar condition, for transporters to be off-loaded within the site, however it was often the case that drivers off-loaded on roads neighbouring the site, blocking access to one of only two routes into and out of the estate. In any event, without the leased area of land, the entrance to the premises would not be wide enough to allow entry for cars or transporters.

Residents living to the north of the site had, again, not been informed of the proposal by the County Council which was concerning as these people would be disturbed by noise and light pollution and would suffer an increase in windborne dust and chemical pollution.

To the south of the site was a housing estate where 431 adults lived. The majority of these used Kirkstone Drive as this was the closest entrance to the motorway, A690 and High Street. This entrance was very congested at times and this congestion would increase if people were to use the road when viewing the vehicles displayed on site.

In conclusion, Mr Holroyd commented that there were so many unresolved issues associated with this application, that any decision to approve it would be untenable. He questioned whether the County Council had fulfilled its legal obligations in respect of notification of the application and advised that the application required Bristol Street Motors to implement actions it was not able to legally undertake at present. He therefore asked the Committee to defer any decision until these matters had been resolved.

Responding to the points raised by the speaker, the Senior Planning Officer advised that the application had been advertised by way of a site notice, press advert and notification letters to properties adjacent to the site in line with statutory requirements.

The Highways Officer explained to the Committee that whether the applicant had sufficient land to provide access was a private matter and not an issue for the Committee to consider when determining the application.

Mr A Mitchinson, the Applicant, addressed the Committee indicating that the company had listened to the views of residents during the process and had tried to resolve these, hence the additional information provided. He explained that he was happy to answer any questions the Committee may have.

Councillor Conway noted that planning was about making judgements. The Officer's view was that this proposal would not adversely affect residential amenity; having been on the site visit, however, Councillor Conway explained that he could understand the strength of feeling from residents that there would be an impact on their amenity. Although a condition requiring transporters to off-load within the site was proposed, a similar condition was in existence from 2004 yet it had not been adhered to. In relation to the boundary wall, while there were differences of opinion on its aesthetic value, its removal would have an adverse effect on residential amenity; the business was encouraging viewing along that part of the site and potential customers would look for the easiest parking place from which to window shop, rather than using the customer parking area on site. Properties in Fallsway would be impacted due to the relocation of the valeting and garage operations and appropriate screening should be conditioned.

In view of the outstanding issues, Councillor Conway moved that the application be deferred until these matters had been resolved.

Responding to the points raised, the Senior Planning Officer confirmed that the proposed conditions 4 and 5 would control what took place on site in terms of delivery vehicles and manoeuvring, and that there was sufficient space for a transporter to enter the site, unload, turn and leave the site in a forward direction. The amendment to the condition reflected the fact that the use of off-site highways could not be controlled by a planning condition.

The Highways Officer advised that enforcement of parking restrictions now rested with the County Council, and he was not aware of any complaints in relation to the double yellow lines in Kirkstone Drive.

The Solicitor advised the Committee that the Local Planning Authority was not able to control through conditions actions on the public highway. Where a condition was being breached, a range of enforcement powers were available however the enforcement of existing conditions was a separate matter to the application before the Committee.

There was a current, established use of the site which was not subject to planning controls. The existing uses had an impact on the surrounding area and the Committee had to assess whether additional impacts would be caused if this application were to be approved and, if so, whether those would be sufficient to justify refusal of the application.

Councillor Moir indicated that he supported the Parish Council's views and felt that the impact of the development would be significant enough to justify a refusal of the application as being contrary to policies H13 and EMP 11 of the Local Plan.

Councillor Kay noted the Solicitor's advice and commented that he could see no additional impacts, over and above the existing, which the development would cause. There were currently no restrictions on delivery hours and the ability for transporters to manoeuvre on site would be an improvement, while parking on double yellow lines was a matter for highway enforcement. He could therefore see no reason to defer consideration of the application.

Councillor Lumsden expressed the view that removal of the wall would result in increased impacts from noise and light, and suggested that an appropriate fence would offer a solution. In response, the Senior Planning Officer explained that the proposed boundary treatment was hooped bollards, but if the applicant was agreeable a condition could be included requiring details of the boundary treatment to be agreed with the Local Planning Authority.

The Applicant advised that the application had been made so that the business could modernise to meet Ford's corporate standards. Positioning of the various aspects on site was important, but they would be agreeable to a condition along the lines suggested by the Senior Planning Officer in relation to boundary treatment and would consider alterations to the windows arrangement.

Councillor Conway noted that the business had been on site for over 40 years and commented that he was heartened that the business would be improved visually, however he felt that the outstanding issues should be resolved before the application was determined.

Councillor Bleasdale supported Councillor Kay's comments and moved the recommendation for approval, while Councillor Lethbridge commented that the site looked tired and would benefit from improvements. The wall was far from aesthetically pleasing and the site was to be invested in by a long established company. He struggled to see what additional impacts would be if the application was approved and he therefore seconded the motion to approve.

Councillor Clark echoed the views of Councillor Conway, noting that residents seemed to prefer the existing wall to the proposed bollards. The suggested condition in relation to working hours on site would permit development between 8am and 6pm which could cause difficulties as traffic levels around the estate would be high early on a morning and Councillor Clark suggested consideration should be given to adjusting these timings.

In any event, while it could not be assumed that problems would occur, she felt that it was important that the outstanding issues be resolved and supported deferral of the application.

Councillor Davinson suggested that if a fence could be installed along the Kirkstone Drive boundary, the site would still be visible from the main road, and the impact on residents would be lessened. If this could be agreed, he felt that the application could be supported.

A motion to defer the application having been moved and seconded was put to the vote, with 3 in favour and 7 against. The motion for approval subject to the amendment to condition no. 4 and additional conditions in relation to boundary treatment and first floor windows was then voted upon.

Resolved: That the application be **APPROVED** subject the conditions as set out in the report with the amendment to condition no.4 and additional conditions in relation to boundary treatments, window arrangements and a coal mining risk assessment.

5b CE/13/01221/FPA - Wheatley Hill Service Station, Durham Road, Wheatley Hill, Durham

The Committee considered the report of the Principal Planning Officer regarding an application for the erection of a canopy and retrospective erection of a store extension and widening of rear access at Wheatley Hill Service Station, Durham Road, Wheatley Hill (for copy see file of minutes). Members had visited the site and were familiar with the location.

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site.

Councillor M Nicholls, one of the Divisional Members, was unable to attend the meeting but had provided comments. There was still concern regarding the problems caused by vehicles entering the site from the bypass and leaving by the rear exit and returning to the bypass via South View and Sandwich Terrace. The bypass had been constructed to reduce traffic in this part of Wheatley Hill, an area where there had been numerous fatalities and he asked the Committee to consider these views.

Mr J Hedley, a local resident, addressed the Committee objecting to the application. He commented that both the site owners and the County Council were aware of the problem with the entrance/exit from the garage onto the A181 and the owner of the petrol station had decided that heavy goods vehicles leaving the site should exit onto an unclassified road, the quality of which was inferior. HGVs were travelling along Wingate Lane which had been an accident blackspot before the bypass had been built. The police had also confirmed that use of the road by large vehicles was inappropriate.

A survey carried out in December showed infrequent use of the road by HGVs however residents had carried out their own survey of unsuitable vehicles and had contacted the owners directly. Each company had since directed their drivers not to use this route, but with changes in personnel this could not be guaranteed in the future.

The road surface was not maintained by the County Council and did not benefit from winter maintenance and the use of the rear exit would not be necessary if the garage created a wider turning area to allow HGVs to turn and exit on to the A181.

The Highways Officer responded that the County Council disagreed that use of the road by HGVs was inappropriate; the road was a public highway and any vehicle was permitted to use it. A survey in December 2013 showed that of 700 vehicles a day using the road, less than 1% had been HGVs.

The County Council had a duty to maintain the road and would repair it if it deteriorated. The road was regularly assessed by highways inspectors and members of the public were able to report any issues to the Highways Action Line.

From a highways point of view, use of the road was acceptable and the applicant had the appropriate licence to improve the access onto the public highway.

A number of Members queried why the access had been retained following the construction of the bypass and suggested that it should in fact be closed, in response to which the Highways Officer advised that there was a history of accidents at the A181 junction, but not on Durham Road. The bulk of the traffic using the rear access was local traffic which used the route to avoid having to return to the A181 for a short time before turning into the village. The benefit of this access was that it removed 700 vehicles per day from an area with a history of accidents.

Councillor Lumsden commented that she could appreciate residents' concerns, but the route was used by many people to avoid what was a tricky manoeuvre onto the A181. The route around the garage site was tight, but there was land that could be used to widen it so that HGVs could more easily exit onto the A181.

Councillor Conway echoed Councillor Lumsden's views, commenting that the route was useful for local traffic. If a height restriction could be imposed, then the problem of HGVs could be resolved.

Councillor Lethbridge agreed that a larger turning area for HGVs within the garage site would be beneficial, with Councillor Clark moving and Councillor Kay seconding deferral of the application until such time as measures to minimise use of the rear exit by HGVs had been explored.

Resolved: That the application be **DEFERRED** to allow the applicant and Local Planning Authority to consider measures to minimise use of the rear access by HGVs.