

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 14 June 2016** at **1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, M Davinson, D Freeman, C Kay, A Laing (Vice-Chairman), J Lethbridge, B Moir, K Shaw and A Turner (substitute for S Iveson)

Also Present:

Councillor M Nicholls

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell and J Robinson.

2 Substitute Members

Councillor A Turner substituted for Councillor S Iveson.

3 Minutes

The Minutes of the meeting held 10 May 2016 were agreed as a correct record and were signed by the Chairman.

4 Declarations of Interest

There were no Declarations of Interest.

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

a DM/15/03779/FPA - Land adjoining Snook Acres, Front Street, Witton Gilbert, DH7 6SY

The Senior Planning Officer, Chris Baxter gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Officer advised that Members of the Committee had visited the site that day and were familiar with the location and setting. The application was for the erection of 14 residential properties, associated highways and landscaping works and was recommended for approval subject to conditions.

Members noted that within Condition 2 that the following Plan Reference Numbers would be required to reflect amended plans, updating the recommendation should Members wish to approve the application: PL06J; PL07H; PL08B and PL16A.

The Committee noted that there had been no objections from the statutory consultees on the application, however internally the Landscape Team had raised some concerns in terms of significant adverse landscape and visual effects and Ecology Team had made Officers aware that the development impacted upon the Sacriston Subglacial Channels Local Geological Site. The Committee noted 7 letters of objection from the members of the public and objections from the Parish Council, as set out within the report, with Witton Gilbert Parish Council objection to the design and house types, not the principle of development at the site.

The Senior Planning Officer noted that the design was considered acceptable in terms of the tree cover that would be retained and in terms of parking provision and access to the site. It was added that approval would also be subject to the completion of a s106 agreement in terms of securing £5,000 towards public art in the locality and the provision of open space within the site.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application

Councillor M Davinson noted that if he was a local resident he would have concerns in terms of where construction materials would be stored and how construction traffic would be organised and therefore suggested a construction management plan be included, as well as setting out the hours during which works could take place, to protect local residents' amenity. The Senior Planning Officer noted that a construction management plan had not been suggested, however, if this was something Members felt was required, it could be included. It was added that as the site was quite large it as felt it would be able to accommodate the materials and equipment required for the development within the site boundary.

Councillor J Lethbridge noted he was pleased with the decision made to reduce the number of houses from 19 to 14 in this amended scheme and recalled from the visit that the site sat in a natural hollow and asked whether this presented any risk in terms of flooding, and had this been assessed. The Senior Planning Officer noted that the proposals were to make the site level, elevating the lower side of the site, and that the Environment Agency had raised no objections and Northumbrian Water and the Council's Drainage Officer had also raised no objections, subject to the relevant conditions as set out within the report.

Councillor P Conway noted he agreed with Councillor M Davinson in respect of a construction management plan and the usual hours of operation and asked for thoughts from Officers in terms of the comments from the Parish Council and Council's Conservation and Design Team on the design and houses types as set out in the application. The Senior Planning Officer noted that the Parish Council had felt the proposals did not fit in with the village of Witton Gilbert, however, Planners felt that the design was acceptable and, while a more modern estate, the design issues were not sufficient to be able to warrant a refusal recommendation.

The Chairman asked if Members were willing to vote, noting the amended plan numbers and construction management plan and hours of operation as proposed and seconded by Councillors M Davinson and P Conway.

RESOLVED

That the application be **APPROVED** subject to the Section 106 Agreement and conditions detailed in the Officer's report to the Committee, amended plan numbers as mentioned by the Senior Planning Officer and an additional condition in terms of a construction management plan and hours of operation.

b DM/16/00858/FPA - 3-6 Front Street, Wheatley Hill, Durham, DH6 3NJ

The Principal Planning Officer, Alan Dobie gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for 12 no. residential apartments and was recommended for approval, subject to conditions. Members noted that a previous planning permission for the site had lapsed.

It was explained that the area had a mix of commercial and residential properties, some semi-detached and that access to the proposed development would be via the rear lane, accessing the 16 parking bays located at the rear of the site, deemed satisfactory by the Highway Section. It was noted the design was for a building higher than existing neighbouring buildings, however, it was not as high as previous schemes and some other design improvements had been negotiated.

The Committee noted that there had been no objections from the internal and statutory consultees in relation to the application.

The Committee noted the Local Member had raised concerns on behalf of residents, and a local resident had raised queries in terms of drainage and waste collection. It was explained that drainage was an issue that was conditioned for, as set out in the report, and that the issue of waste was between the Developer and potential residents to deal with, speaking to the Waste Management Authority and the application being acceptable in planning terms.

The Principal Planning Officer added that the site was a brownfield site and such development was encouraged by both local policies and the National Planning Policy Framework (NPPF), and that the village of Wheatley Hill was considered a sustainable community and there were good links to local services and public transport. It was added that approval would be subject to a s106 agreement in terms of securing £6,000 for off-site play/recreation provision.

The Chairman asked the Local Member for Trimdon and Thornley, Councillor M Nichols to speak in relation to the Application.

Councillor M Nichols thanked the Committee for the opportunity to speak and noted that he was opposed to the creation of flats at the site, previously a dance hall years previously, and that local people had fought for many years for the site to be developed and improved. It was explained that a "for sale" sign had gone onto the land without speaking to people locally and it was added that as Chairman of the Parish Council he was opposed to the application. Councillor M Nicholls added that previous developments of flats in the village had not worked and resulted in the removal of those properties after problems. Members were informed of work ongoing in terms of securing grants to improve the shop-fronts within the village and existing issues of "rogue landlords" and empty properties. It was put to Members of the Committee that there was no demand for such flats and that the actual demand was for 2-bed bungalows, especially in the context of a new medical centre just across the way from the application site. Councillor M Nichols concluded by noting he felt that flats were not appropriate for the village and that if the applicant had spoken to residents, he would have been informed that a different approach would have been more appropriate.

The Principal Planning Officer noted the local issues at the front street as described by Councillor M Nichols, however, reiterated that in planning terms the application was acceptable, with the previous lapsed permission having also been for apartments, with it not being for Officers to dictate the dwelling types. The Principal Planning Officer added that the NPPF encouraged "high quality housing" as well as a mix of housing types and this application for "in-fill" development could also help generate additional income locally. He reminded Members to consider the application in front of them rather than alternative schemes and advised that it would be difficult to sustain a refusal reason on the basis of the scheme being flats rather than houses.

The Chairman noted the comments of the Local Members and Principal Planning Officer and asked Members of the Committee for their questions and comments on the application.

Councillor M Davinson reiterated comments he had made on the previous application in terms of a construction management plan and hours of operation to minimise the impact on neighbouring residents, asked as regards Condition 12 that referred to trees at the site, though the photomontage showed no trees at the site, and highlighted a typographical error in respect of Condition 13: "... 5 years from the competition die", which Councillor M Davinson suggested should have read "5 years from the completion date". The Principal Planning Officer explained Councillor M Davinson was correct in terms of Condition 13, and noted that condition 12 was a standard condition in relation to trees, however, agreed that it could be removed should Members wish to do so. The Principal Planning Officer added that a construction management plan could be included should Members wish to do so.

Councillor A Laing asked whether there would be lighting, down the alleyways running down the sides of the property, as there was concern if the area becoming a "rat-run" and there was a community centre nearby. Councillor J Lethbridge noted that in the past a scheme that had contained a number of flats in the Bishop Auckland area had proven how difficult it can be to encourage take up of these types of property and noted issues with anti-social behaviour and asked whether there was the demand for this type of property in this particular area. Councillor B Moir noted that Councillor M Nichols had spoken well as regards his local community and that NPPF Part 8 referred to Healthier Communities and that there were issues of quantitative versus qualitative information in terms of demand. Councillor B Moir noted that the Local Member had explained the applicant had not engaged with the local community and asked how the development fitted in with the local community and economy. Councillor B Moir added it maybe that the application was speculative, in order to improve the sale price of the land in question, however, he felt that the question that needed to be answered was that of how the application would satisfy NPPF Part 8 and asked whether it would be possible to defer the application.

The Principal Planning Officer noted that there was no lighting mentioned within the application for the access alongside the proposed property, however, these could be mentioned to the applicant or conditioned. It was added that in terms of the NPPF, the NPPF encouraged a mix of property types and also the Planning Authority could not require a developer to engage with a community. Members noted that as the applicant had invested time and resources in bringing forward the proposals then they must feel there was a market for such properties and the development stood up in planning terms, hence the recommendation for approval.

Councillor P Conway added that he agreed with the comments of Councillor B Moir and J Lethbridge and that while respecting the information given by Planning Officers he felt similar to Councillor B Moir in terms of NPPF Part 8 and that empowering local people was an important core principle of the NPPF. Councillor P Conway added that looking at the planning history for the site there had been 5 applications for the site, yet no developments had been taken forward and asked whether this was down to speculative applications and whether engagement with the local community would not have helped to take the site forward. Councillor P Conway asked whether there were reasonable grounds to defer the application until some form of engagement had taken place.

The Solicitor – Planning, Neil Carter noted that the applicant could be asked to engage with the local community, however, could not be required to do so and accordingly, the question would be for Members to ask what merit there would be in deferment.

Councillor B Moir proposed that the application be deferred for the developer to be requested to undertake some quantitative engagement, in the ethos of the NPPF, with the local community in order to be able to satisfy NPPF Part 8. Councillor P Conway seconded the proposal.

RESOLVED

That the application be **DEFERRED**.

c DM/16/00892/FPA - Land to The East Of 74 High Street South, Langley Moor

The Senior Planning Officer, Chris Baxter gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the construction of two new residential care buildings and was recommended for approval subject to conditions.

The Committee noted that there had been no objections from statutory or internal consultees on the application, and no objections from members of the public to this proposed development on a brownfield site.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application.

Councillor M Davinson asked why Condition 6 set out the need for a noise impact assessment and added that again, similar to comments on the previous applications, that a construction management plan and hours of operation may help in terms of minimising disruption to existing local residents. The Senior Planning Officer explained that the condition as regards noise impact was due to the nature of the development, residential care, and therefore to assess the potential impact upon those future residents of the facilities and that if Members felt a construction management plan and hours of operation were required this could be included within the conditions.

Councillor D Freeman noted there was a demand for such residential care in the Durham area and the proposals represented a positive development. Councillor J Lethbridge noted that looking at the plans and elevations the “block” as presented was “singularly unimaginative”.

Councillor M Davinson proposed that the application be approved, subject to a condition in terms of the construction management plan and hours of operation, and was seconded by Councillor G Bleasdale.

RESOLVED

That the application be **APPROVED** subject to the conditions detailed in the Officer's report to the Committee together with an additional condition in terms of a construction management plan and hours of operation.

The Chairman noted that the remaining four applications were all for similar variations of condition and were all within the same area and asked if the Committee would be willing to receive a joint presentation as regards the application, then to make individual decisions upon each application, Members agreed.

- d DM/16/01017/VOC - Wok Next, 97 Claypath, Durham, DH1 1RG**
- e DM/16/01268/VOC - Pizza Uno, 92 Claypath, Durham, DH1 1RG**
- f DM/16/01331/VOC - Urban Oven, 94 Claypath, Durham. DH1 1RG**
- g DM/16/01372/VOC - 86 Claypath, Durham, DH1 1RG**

The Planning Officer, S Hyde gave a detailed presentation on the reports relating to the abovementioned planning applications, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Officer advised that Members of the Committee had visited the site that day and were familiar with the location and setting. The applications were for:

(d) Wok Next, 97 Claypath – Variation of Condition 5 (hours of operation) of planning permission 4/11/00713/FPA from 9am – 11pm Monday – Sunday to 9am – 11pm Sunday – Thursday and 9am – 3 am Friday – Saturday.

(e) Pizza Uno, 92 Claypath – Variation of Condition 4 (hours of operation) of planning permission 4/09/00251/FPA to extend opening hours from 11pm to 3am seven days a week.

(f) Urban Oven, 97 Claypath – Opening hours to be extended from 11pm to 3am seven days a week.

(g) Falafel Al Hana, 86 Claypath – Variation of Condition 4 (hours of operation) of planning permission 4/09/00088/FPA to extend opening hours to 3am seven days a week (existing consent allows Friday and Saturday until 3am only with the remainder of the week until 11pm).

The Planning Officer noted the applications were recommended for refusal.

Members noted the applications were brought to Committee at the request of Councillor D Freeman one of the Local Members for the area.

The Committee noted that there had been issues in terms of enforcement of the existing conditions, with Police, together with colleagues within the Harm Reduction Unit (HRU), having noted the effect of late night opening of these fast food takeaways in terms of Police resources and adverse impact upon local residents.

In referring to a plan, the Planning Officer reminded Members that 97 Claypath was the property closest to the nearby nightclubs and that 86, 92 and 94 Claypath had residential properties above them, not linked to the businesses below. It was added that the former “Kwik Fit” property on the opposite side of Claypath had a planning approval for a 400 bed student accommodation and there were a number of other nearby properties with students, and elderly residents nearby.

The Planning Officer noted there had been strong objection from Durham Constabulary in terms of residential amenity and public safety. It was added that Environmental Health had noted that there was potential for a statutory nuisance in terms of noise. There had been no objections in terms of highways. It was explained that there had been 22 letters of objection from individuals and the City of Durham Trust and St. Nicholas Community Forum citing the impact on residential amenity.

The Planning Officer noted a letter of objection received from Roberta Blackman-Woods MP received after the report was circulated to Members, which reiterated the loss of residential amenity and also cited Paragraph 69 of the NPPF (Promoting Healthier Communities) which states that planning decisions should aim to promote “safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion”. The Planning Officer noted Officers would ask to add this to the refusal reasons, should Members decide to refuse any or all of the applications. It was added that these applications were for variations in opening hours and represented no physical works, and therefore there was no impact upon the Conservation Area.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application.

Councillor D Freeman noted that three of the premises only had existing permission to remain open until 11.00pm, and therefore in breach of their existing consents. Councillor D Freeman accepted that if their situation was not regularised, with permissions given until 3.00am then this would affect their businesses. However, Councillor D Freeman noted that local residents, a potential additional 400 students and a nearby 43 bed elderly persons complex would all be affected, as set out in paragraph 34 of the report stating “the operation of late night refreshment houses into the early hours of the morning is in direct conflict with residential amenity”. Councillor D Freeman noted that Environmental Health and Consumer Protection, Durham Constabulary, local Residents’ Associations and individual residents all objected to the applications. Councillor D Freeman added that outside of these applications the removal of the taxi rank and other measures undertaken had been appreciated and welcomed. Councillor D Freeman added that therefore he supported the refusal of the applications based on the reasons set out in the report and the additional point as mentioned by the Planning Officer.

Councillor B Moir noted he had moved away from Durham some years ago and upon returning to the City had in some sense felt he had gone “back to the future” in terms of the impact of the night time economy on areas such as lower Claypath, with “fly-blown litter” and noise nuisance.

Councillor B Moir added that while these premises were businesses and refusing the applications could affect them, in a City with many students and with a 400 bed student accommodation granted for the property opposite he felt takeaway food businesses should be able to make money in this area without having to stay open until 3am. Councillor B Moir agreed with Councillor D Freeman and supported the Officer's recommendations for refusal.

Councillor J Lethbridge added that it was referred to within comments from the University that even students needed sleep, as did residents, and therefore he welcomed the Officer's reports and supported the recommendations for refusal.

Councillor M Davinson noted that one of the premises, 86 Claypath, already had permission to operate until 3.00am on Fridays and Saturdays and asked would this particular establishment become a magnet for people coming out of nightclubs and were there any actions that could be taken by Durham Constabulary or the Council's Licensing Section. The Planning Officer reiterated that this premises did have permission until 3.00am and the situation would be monitored by Police and Licensing colleagues, however, having fewer premises open at the later times may reduce the impact on residents. Councillor P Conway added that he too supported the Officer's recommendations within the reports.

The Chairman asked for Members to consider each of the applications separately, as set out within their individual reports, taking into account the additional information presented by the Planning Officer in her presentation.

(d) DM/16/01017/VOC - Wok Next, 97 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.

(e) DM/16/01268/VOC - Pizza Uno, 92 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.

(f) DM/16/01331/VOC - Urban Oven, 94 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.

(g) Falafel Al Hana, 86 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.