

## **DURHAM COUNTY COUNCIL**

At a Meeting of **County Planning Committee** held in Council Chamber, County Hall, Durham on **Tuesday 1 November 2016 at 1.00 pm**

### **Present:**

**Councillor K Davidson (Chairman)**

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

Councillors J Clare, P Conway, J Gray, I Jewell, A Laing, B Moir (Vice-Chairman), H Nicholson, G Richardson, J Robinson, A Shield, P Taylor and R Young

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

Apologies for absence were received from Councillors Boyes, Dixon, Holland and Lumsdon.

#### **2 Substitute Members**

Councillor J Gray as substitute for Councillor M Dixon and Councillor J Robinson as substitute for Councillor R Lumsdon.

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

There were no declarations of interest.

#### **4 Minutes**

The Minutes of the meeting held on 6 September 2016 were agreed as a correct record and signed by the Chairman.

#### **5 Applications to be determined**

##### **a DM/16/01228/FPA - Milburngate House, Durham City**

The Committee considered a report of the Senior Planning Officer regarding a detailed planning application for mixed use development comprising of leisure (use classes D1 and D2), retail (use class A1), financial and professional services (use class A2), food and drink (use class A3, A4 and A5), offices (use class B1) and 291 residential units (use class C3) together with associated access, demolition, landscaping and infrastructure works and outline planning application with all detailed matters reserved except access for a mixed use development of office (use class B1) and maximum of 150 residential units (use class C3) and associated landscaping and infrastructure works at Milburngate House, Durham City (for copy see file of Minutes).

H Jones, Senior Planning Officer gave a detailed presentation on the application which included the proposed layout arrangements for the site, pedestrian and vehicular access and current and proposed visual appearances. Members of the Committee had visited the site the previous day and were familiar with the location and setting.

The Senior Planning Officer informed the Committee of the following updates to the Conditions contained in the Committee report:

- Condition 4 required revision to reference to a Travel Plan dated October 2016;
- Condition 17 required revision because one of the noise limits needed to reflect World Health Organisation guidance whilst the term 'outdoor living areas' should be changed to 'formal amenity areas';
- Condition 19 required revision so that it expressly related to external lighting only;
- Condition 23 required revision so that stated noise levels reflected the latest British Standard.

Councillor Freeman, local Member, addressed the Committee on the application. While it was clear that the Milburngate House site needed to be redeveloped, there were certain aspects of the proposals he was unhappy with, in particular the heights of the proposed buildings were excessive particularly in the north-west sector, which would impact on the views from the railway station. Policy E6 of the saved City of Durham Local Plan required proposals for large buildings to be fragmented into blocks of visually smaller elements in a way which was sympathetic to the historic city centre and the proposed development failed to do this. The development needed a better cascading effect from Framwellgate Peth towards the river.

Councillor Freeman referred to the proposed cinema development as part of the proposal and reminded the Committee that a cinema development had been approved at the redevelopment of the Gates which would be completed ahead of this development.

Councillor Freeman expressed concern at the loss of trees from the proposal, particularly those running from Sidegate towards Milburngate roundabout and considered that many of the established trees should be retained. Policy E14 of the City of Durham Local Plan required the retention of trees and hedgerows wherever possible and Policy E15 stressed the importance of trees, which shielded developments and retained residential amenity.

There were no details in the application regarding connectivity between it and the Gates development and there was also no information as to how egress from the development onto Framwellgate Peth, which was to be controlled by traffic signals, would be restricted to residents only.

The development would lead to an increase of 2% in Nitrogen Dioxide levels in the City which already had unacceptable air quality levels.

There were no s106 payments from the scheme, which was a multi-million pounds scheme, and this was a loss to residents and the community. There was no Condition to outline working hours. Working hours at the Gates had been extended to 23 hours working by planning officers and Councillor Freeman requested that working hours on this application be Conditioned 8 a.m. to 6 p.m. Monday to Friday and 8 a.m. to noon Saturday, with no working Sundays or Bank Holidays, to minimise noise and inconvenience to residents of nearby Sidegate.

John Metson of Sidegate Residents Association addressed the Committee to express concerns about the application. There were concerns relating to the environmental impact of the proposal and the Environment, Health and Consumer Protection Officer had requested a number of conditions relating to noise impact assessment, a scheme of vibration control and a construction management plan.

There was concern that properties in Sidegate could be damaged from pile driving operations at the development as one house in the street had suffered structural damage during the construction of the nearby Radisson hotel. The residents had requested that the developer survey properties in Sidegate prior to any works commencing but the developer had only agreed to survey the properties if necessary. The residents requested a firm assurance that working hours on the development be conditioned to 8 a.m. to 6 p.m. Monday to Friday and 8 a.m. to noon Saturday, with no working Sundays or Bank Holidays. The nearby Gates development had applied for working hours to be extended into the night time and this had been granted which had led to intolerable conditions for those living in the vicinity.

While Mr Metson was generally in favour of the masterplan for the proposal, the development was such a significant addition in the City centre it was essential that it was designed, built and maintained to the highest standard. Mr Metson was thankful for the level of consultation which had taken place on this development and hoped that this would continue.

Neil McMillan, Development Director of Carillion Developments addressed the Committee. The development consortium, which included Carillion, had completed the Freemans Reach development over the river from Milburngate House within the approved criteria, working in collaboration with key stakeholders. The development had helped to retain 1,000 jobs within the City and set a quality for new riverside builds in Durham. The Milburngate House development was a once in a lifetime development opportunity which would attract a significant inward investment and create employment and would enhance Durham as a residential, business and visitor destination.

The development would provide for up to £160m of inward investment and would facilitate the provision of up to 1,015 full time and 653 temporary construction jobs. The development would bring new life into the site and would be a positive transformation of the riverside.

The proposed development was a sustainable mixed use development. Mr McMillan informed the Committee that contracts had been exchanged with Everyman Boutique Cinemas for the site and other leisure operators had signed

heads of terms. There was a mix of housing proposed for the site which would increase the housing choice in Durham and deliver much needed homes, as well as delivering high quality office space. The applicant had worked closely with the County Council and Historic England and the design of the development addressed all issues which had been raised.

There had been extensive public consultation carried out for the development with two public exhibitions, a website and a Facebook page which had attracted positive feedback and issues raised had been addressed.

This was an exciting opportunity to develop the site which would elevate the position of Durham in the region.

The Senior Planning Officer addressed the Committee to respond to the issues raised

- Concerns about the scale, mass and visual impact – the design had been through many iterations and amendments had been made. It was now considered that the scale and mass was appropriate for the development, which would cascade towards the riverside.
- The north-west area of the development site was one of the outline planning permission areas. The maximum height of the building in this development zone had been reduced in response to concerns raised.
- The design of the development nearest to Milburngate Bridge had been amended to create a lighter appearance.
- Historic England had responded positively to the development and had described it as a clear improvement on what currently existed.
- Tree removals were necessary because of the need to remove some retaining walls. Policy E14 of the Durham City Local Plan stated that trees would not be removed wherever possible but in this case removals were necessary. The trees which were to be removed were part of the landscape scheme when Milburngate House was first constructed, and historically Framwellgate Peth had buildings hard up against the road.
- Regarding concerns about a further cinema, the site was in a city centre location where such development was an acceptable use. It was therefore a matter of competition, which planning should not seek to control. In addition, The Gates cinema operator would be Odeon which was a different offer to a boutique cinema.
- The development plans did show the link between this development and The Gates and a condition was proposed to firm up the design of this.
- The Highway Authority had not objected to the proposed traffic lights on Framwellgate Path and there was a condition proposed to control use of this access by residents only.
- The Council's air quality officers had raised no objection to the proposed development as they considered any impacts would be negligible.
- Referring to the absence of a s106 contribution for recreational/open space and affordable housing, the County Council had employed the services of two external consultants who had assessed the viability of the development as marginal. There was open space proposed within the development.

- Demolition and construction. Planning permission for the demolition of Milburngate House had already been approved. A Construction Management Plan was required under the proposed Condition 7 of the planning permission which would include issues such as vibration and community liaison and would also control working hours. However, a commitment to working hours could now be discussed further with the applicant.

Councillor Shield informed the Committee that he was very happy that this application had come forward because the area at Milburngate House looked tired. However, he had concerns about the following matters:

- another cinema coming to the City, which seemed to be going from famine to feast with cinemas;
- the underpass proposed to link the development to The Gates, which was currently very poorly lit and not very well accessed;
- levels of lighting and barriers along the riverside to prevent accidents.

Councillor Shield proposed that working hours for the development should be stated in the conditions to the planning permission and that these should be 8 a.m. to 6 p.m. weekdays, 8 a.m. to 1 p.m. Saturdays.

The Senior Planning Officer replied that plans showed a link to The Gates and it was a proposed condition of the planning permission to provide further details. There was an existing barrier rail along the riverside walk and there were no plans to remove this. Lighting of the area included conflicts of safety versus the World Heritage Site versus ecology in the area, which was a habitat for bats and other species on the river. A careful balance therefore needed to be achieved.

Councillor Moir informed the Committee that he was delighted the developers were working with the community as this provided residents the opportunity to voice their opinions. This application had been ongoing for some three years and this was a testimony to the County Council's understanding of this area.

Councillor Moir expressed concern the Committee had been informed that Everyman Cinema had been contracted to provide a cinema on the site before the site had been granted planning permission. Working hours for the site needed to be discussed. The trees on the site had only been there since 1968 when Milburngate House was developed and were part of the landscaping plan for that development. Connectivity to The Gates development needed to be overseen because The Gates and Milburngate House were being developed by two different developers.

Councillor Moir was very disappointed that there was no affordable housing being proposed in the City centre from this development. He considered that the height of the buildings proposed in the north west corner of the site was too high and that the development as a whole needed to be fragmented. Councillor Moir sought details of the number of car parking spaces proposed on the development.

Councillor Robinson informed the Committee that he considered the proposal to be a welcome development for the City. While the report identified up to 12 units could

be restaurants or coffee shops, he would like to see more retail on the development. The County Council's Employability Team had requested that targeted recruitment and training clauses were included within any s106 legal agreement, yet the proposed s106 agreement did not include these. The development was a great local opportunity for jobs and Councillor Robinson asked how this would be achieved if not included in a s106 agreement.

Councillor Robinson had concerns about flooding issues by the riverside. He referred to the very high traffic levels on Framwellgate Peth, particularly at peak times, and sought a reassurance from the highways officer that this development would not impact on this.

Durham City had experienced a full year of roadworks and was currently experiencing significant demolition and construction works at The Gates. These had caused significant disruption to those who lived in the City and Councillor Robinson agreed that working hours for this development should be stipulated.

Councillor Conway shared the comments already made, adding that nobody actively opposed the application. The application was a hybrid nature with permission for two of the development zones being in outline only. Councillor Conway would have preferred the application to have been a comprehensive one for the whole site and raised concerns with the lack of detail within the outline phase and the height of this part of the development. The development was a multi-million pounds investment by three major organisations and Councillor Conway asked that some mechanism be available, as the site completed, for the opportunity to provide affordable housing and s106 money for the City centre. Hours of working for this site should be specifically stated in the conditions to the planning permission.

The Senior Planning Officer informed the Committee that the s106 agreement proposed allowed for viability review covenants to assess, at a later date, whether the development could provide affordable housing and off-site open space contributions. Regarding the outline phase of the development the application was accompanied by parameter plans and the highest buildings proposed were not within the outline phase of the development but the detailed. An employment and skills plan was to be agreed under condition 8 of the proposed permission. Referring to flood risk, the Environment Agency and the Council's Drainage and Coastal Protection Team had raised no objections to the proposal, subject to mitigation measures being introduced.

J McGargill, Highway Development Manager, informed the Committee that the flow of traffic through the City had been improved following the recent introduction of traffic signals on both Gilesgate and Leazes Road roundabouts. Referring to the proposed traffic signals on Framwellgate Peth these needed to be modelled and conditions 20 and 22 of the proposed permission covered this. The Highway Development Manager gave the Committee an absolute assurance that traffic flow would be no worse than it had been for a number of years. The proposed modelling would look at traffic currently on the highways network, would add traffic from the development, and if necessary would link the traffic signals on the new junction on Framwellgate Path to those on other junctions in the City.

Councillor Davidson sought clarity on whether the cinema contract entered into with Everyman Cinemas was subject to the development obtaining planning approval. Mr McMillan confirmed that the agreement was conditional on the decision of the Committee.

Councillor Taylor praised Planning Officers for the quality of the report and also the work which had been undertaken by the applicants. All concerns had been addressed for the development, which would create jobs, attract business to Durham and make Durham a more vibrant location. He **moved** approval of the application.

Councillor Nicholson, in **seconding** approval of the application, informed the Committee that this was a development on a brownfield site which needed redevelopment, would be a £160m investment and would create many jobs.

Councillor Clare informed the Committee that he was considering the benefits of the development against any losses caused by it. While condition 8 referred to apprentices and work opportunities, it was not clear what was being proposed, and the same could be said for condition 7 relating to noise and air quality. While he was happy to approve the application, the Committee needed to decide whether working hours needed to be included in condition 7. His preference was for actual hours to be included.

The Senior Planning Officer informed the Committee that the conditions proposed regarding employment and skills and noise and air quality impacts were quite standard and that it was normal for these matters to be reserved as such. Regarding working hours there were two options: either condition 7 could be modified to include specified working hours or an additional condition be added. There was a reference in the planning statement to working hours of 8 a.m. to 6 p.m. Monday to Saturday and 8 a.m. to 1 p.m. Saturday. Planning permission for demolition works on the site had already been approved so any condition relating to working hours could only apply to the construction phase.

Mr S Hunter, Project Director for Carillion, informed the Committee that the developers had delivered the Freemans Reach project in three years with no issues relating to noise or working hours. If working hours were to be stipulated then, to allow for a degree of flexibility, 7.30 a.m. to 6 p.m. Monday to Friday, 8 a.m. to 1 p.m. Saturday, with no Sunday working would be preferred. Councillor Shield added that no working on a Bank Holiday should be added to this restriction on working hours. Members of the Committee agreed that these be the stipulated working hours to be included in any planning permission.

Councillor Moir referred to the proposed number of parking spaces at the development and asked how this number had been obtained. The Senior Planning Officer replied that the number of parking spaces had been assessed against required standards. The development site was considered to be very sustainable within easy access to both buses and trains.

Councillor Conway referred to the traffic modelling for Framwellgate Peth and residents access and asked whether this would take into account all three phases of the development. It could be up to 7 years before phases 2 and 3 were completed and it was expected that any highways modelling would take into account all three phases.

The Senior Planning Officer informed the Committee that all matters relating to access were to be considered at this application. The Highway Development Manager would have considered the development as a whole when considering the application.

Councillor Shield referred to the concerns of the Sidegate Residents Association regarding damage to properties from vibration at the development and asked whether there was an opportunity for the developers to conduct a pre-assessment of the properties on Sidegate.

The Senior Planning Officer replied that condition 7 of the planning permission required the developer to mitigate as far as possible means to reduce vibration from the site. It was considered that to condition such a pre-assessment survey would not meet the tests for conditions in this instance. However, the matter could be discussed with the developer as to whether they would be willing to undertake the work regardless.

Following discussion, the developers informed the Committee they would be happy to carry out a survey, subject to boundaries being agreed. The agreed boundary would be those properties in Sidegate.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the following:

Viability review covenants so that during established stages of the development the ability for the proposal to provide;

- i) affordable housing (or an off-site contribution); and/or
- ii) off-site contributions towards open space and recreational space

is first reviewed and second, where viability is shown to allow, those covenants shall require said planning obligations to be delivered in accordance with a scheme to be agreed.

and the conditions contained in the report, as amended in accordance with the updates of the Senior Planning Officer, and subject to working hours of 7.30 a.m. to 6 p.m. Monday to Friday, 8 a.m. to 1 p.m. Saturday, with no Sunday or Bank Holiday working being included under condition.



**b DM/16/00526/FPA - Land Near To Hargill Road And Railway Street, Howden-Le-Wear, County Durham**

The Committee considered a report of the Senior Planning Officer regarding a hybrid application for the erection of a 57 bed care home, community hub/retail units, 20 affordable bungalows and outline permission for 61 residential units on land near to Hargill Road And Railway Street, Howden-le-Wear (for copy see file of Minutes)

S Pilkington, Senior Planning Officer gave a detailed presentation on the application which included a site location plan, photographs of the site and setting and proposed layout. Members of the Committee had visited the site the previous day and were familiar with the location and setting.

Councillor A Patterson, local Member, addressed the Committee to object to the application. Councillor Patterson informed the Committee that she was representing all three Councillors for the Crook electoral division as well as the residents of Howden-le-Wear.

There had been over 170 objections to this application from residents in Howden-le-Wear which represented nearly  $\frac{1}{4}$  of households in the village. The proposed scheme was proposing a new care home and retail units and was too big which would result in it having an adverse effect on the community. The site was not in a sustainable location and there was a lack of need for the development, as well as a lack of an access road.

The development was proposing a community hub, however, such facilities already existed in the village, with the Victoria Centre, the Methodist Community Room and also the village hall which had recently undergone a £ $\frac{1}{4}$  m refurbishment. The proposed retail units would not be sustainable with some shops in the village centre being empty for a number of years. The proposed access was along a lane with one way in and one way out which could lead to parking, obstruction and speeding problems. There was direct access onto the lane from the local primary school and concerns had been expressed that road safety measures would be needed if the application was to be approved.

The local school was already oversubscribed and the neighbouring school in Crook was not on a direct bus route, which would lead to an increased use of cars to transport pupils to school. The proposed development would include a 57 bed care home, yet a care home already existed in Crook which was 1 mile away.

The proposed development was outside the development plan limits for the village and was in open countryside. It would lead to the loss of mature trees and the adverse effects to the community were too great. Councillor Patterson asked the Committee to refuse the application.

Mr M Allen, local resident, addressed the Committee to object to the application. There was united opposition to the scheme in Howden-le-Wear and residents considered the proposed development to be out of scale, unwanted, unacceptable and deeply flawed. There had been over 170 objections to the development which

represented nearly  $\frac{1}{4}$  of households in the village. There was a level and united nature of disapproval for the scheme by residents in Howden-le-Wear.

The proposed development would have a negative transformational effect on Howden-le-Wear which would change the village feel which currently existed. While the need for development was recognised, any development should be appropriate and scaled in consultation with the local community. Mr Allen asked the Committee to reject the application.

Mr Twyman, representative of the applicant, addressed the Committee in support of the application.

Paragraphs 100, 132 and 137 in the report all related to the design of the proposed buildings. However, feedback from residents was that they did not want the character of the village to change and so the development had been designed to blend in with the village.

The settlement plan of Howden-le-Wear was extending along the roads and therefore any new houses which were built would follow along the roads. Phase 1 of the development would be in a secluded core area and the visual impact would be reduced, with trees will obscuring the view of the buildings.

Paragraph 78 in the report referred to the proposed development having no direct links into the centre of Howden-le-Wear, yet this applied to many streets in the village. Paragraphs 96 and 97 of the report referred again to the design of the proposed buildings being poor, yet they had a high degree of resemblance to the local village pattern.

Referring to public transport, Mr Twyman informed the Committee that Howden-le-Wear was a village in a rural location and as such many residents chose to walk rather than use a bus.

The proposed development would have low pitched roofs, the properties were not over embellished and reflected the local build vernacular. Existing trees and ecology would be protected.

Mr Twyman asked the Committee to approve the application.

Councillor Jewell informed the Committee that the application was unusual in that it was two separate developments on two different sites. The development would encroach onto open countryside and was not fully sustainable and appeared to be a development within a community without support from the community. He considered it would have a negative effect on the area as a whole and **moved** that the application be refused.

Councillor P Taylor praised the representations put forward by the local Member and local resident. The concerns of local residents were massive and the application was a poor and unacceptable development on green and agricultural land. It was a fragmented development which was away from the community and Councillor Taylor **seconded** refusal of the application.

Upon a vote being taken it was

**Resolved:**

That the application be refused for the reasons contained in the report.

**c DM/16/02335/FPA - Philips Components Ltd, Belmont Industrial Estate, Belmont, Durham**

The Committee considered a report of the Senior Planning Officer regarding an application for a distribution centre with associated vehicular and pedestrian access, car parking and landscaping, and erection of 4 units (blocks 1, 6, 8 and 9) for mixed industrial and storage use at Philips Components Ltd, Belmont Industrial Estate, Belmont, Durham (for copy see file of Minutes).

G Blakey, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site and setting and proposed site plan.

In **moving** approval of the application, Councillor Conway informed the Committee that he could understand the objections made regarding traffic movement. Investment was needed in the roads on this Industrial Estate and this development would increase traffic movements. The Industrial Estate needed direct access onto Junction 62 of the A1(M) and Councillor Conway asked that this be included in the new County Durham Plan.

Councillor Nicholson **seconded** approval of the application.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the following:

- i) £15,000 in lieu of on-site provision of Durham Biodiversity Action Plan grassland habitat.

and subject to the conditions contained in the report.

## **6 Appeals Update**

The Committee received an update from S France, Senior Planning Officer, on an appeal against the refusal of planning permission for Retrospective change of use of land to leisure use including motor sport (sui generis), incorporating ancillary operational development (DM/15/02137/FPA) on land to the South of Quickburn Quarry and Drover House Lane, Satley (for copy see file of Minutes).

The report confirmed that the Appeal had been dismissed by the Planning Inspectorate.

