

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Spennymoor - Council Offices, Spennymoor on **Thursday 19 April 2018 at 2.00 pm**

Present:

Councillor H Nicholson (Chairman)

Members of the Committee:

Councillors J Atkinson, D Bell, L Brown, J Chaplow, J Clare (Vice-Chairman), E Huntington, C Martin, A Patterson, G Richardson, L Taylor, F Tinsley and S Zair

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members in attendance.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The Minutes of the meeting held on 22 March 2018 were agreed as a correct record and signed by the Chairman, subject to the following amendment:

Minute 5(h) – Smiddy Burn Bridge – first line of the third paragraph from the end to read ‘Councillor Clare considered there was little impact on visual amenity’ rather than ‘Councillor Clare considered there was impact on visual amenity’

5 Applications to be determined

a DM/18/00040/FPA - The Aclet Hotel, Watling Road, Bishop Auckland

The Committee considered a report of the Planning Officer regarding an application for the demolition of an existing public house and erection of 1 no. retail unit (class A1) and 1 no hot food takeaway unit (class A5) at The Aclet Hotel, Watling Road, Bishop Auckland (for copy see file of Minutes).

A Williamson, Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photograph, site photographs of the public

house, indicative location of the proposed pedestrian crossing and proposed site layout.

The Planning Officer informed the Committee that since the publication of the report a further letter of comment had been received from a resident of Watling Road expressing concern about restricted vehicular access to their property following the installation of the proposed pedestrian refuge. The Planning Officer informed the Committee that the site of the pedestrian refuge was indicative and highways officers would ensure that it was sited in an optimal location for vehicular access to properties on Watling Road.

Councillor L Chappell of Bishop Auckland Town Council addressed the Committee to object to the application. Paragraph 71 of the Committee report stated that the proposed development was likely to generate additional traffic movements beyond the former public house which was ultimately proven to be unviable. Paragraph 99 of the report referred to Paragraph 32 of the NPPF which stated that development should only be refused on transport grounds where the residential cumulative impact was severe. Developments were only acceptable if they could be accommodated within the road network. Councillor Chappell asked whether, when the highways response to the development was made, consideration was made to the period between July and September when there was an extra 3,000 cars using the road for three days of the week as a result of Kynren taking place.

D Stewart, Principal DM Engineer replied that the traffic flow information for Watling Road was a 14,000 two way flow of vehicles. Kynren, which had been taking place for three years, would be included in these figures.

Councillor Chappell informed the Committee that traffic on Watling Road was often bumper to bumper and it would be suicide for pedestrians to try use the proposed pedestrian refuge. Additionally, the proposed refuge would impair access to the driveways of two properties on Watling Road.

Councillor Chappell informed the Committee that Woodhouse Close was one of the most deprived council estates in County Durham and there would be no demand for this proposed retail unit, indeed there were already four discount stores within the location.

NPPF Part 8 referred to the promotion of healthy communities. Everyone in the community of the proposed development objected to it and this was not the resident's vision of how this facility should be used. Local residents had the right to input into planning decisions and local residents did not want this development. Councillor Chappell asked the Committee to refuse the application.

Councillor T Tucker, local Member, addressed the Committee to object to the application. Councillor Tucker agreed with the views presented by Councillor Chappell on behalf of Bishop Auckland Town Council regarding the increase in traffic on Watling Road and the inadequacy of the proposed pedestrian crossing point. Watling Road was currently a very difficult road for pedestrians to cross and local residents would seek a crossing which was more in keeping with elevated traffic levels from a development.

Part 11 of the NPPF referred to developments conserving and enhancing the natural environment and a development of this scale did not enhance the natural environment.

Saved Local Plan Policy S11 of the Wear Valley District Local Plan stated that proposals for hot food takeaways would be allowed within existing shopping areas and Policy H20 set out the uses likely to be acceptable within existing residential areas, including shops up to 100 m², however the shop proposed by this application was three times this size with the proposed hot food takeaway also being over this size. In the Wear Valley District Local Plan the former District Council sought to maintain and protect the Bishop Auckland town centre and any proposals for retail development which might undermine the town centre were resisted. There was currently ample retail provision in the town centre and within walking distance of this proposed development. There was a convenience store nearby which was open for long hours and offered a similar provision to this application and Councillor Tucker asked why this had not been taken into consideration when this application was considered by planning officers and what impact this development may have on existing provision.

Under Policy S11 of the Wear Valley Local Plan a hot food takeaway proposal would only be allowed within an existing retail development. The Aclet building was formerly a public house and there was a vast difference between a fast food takeaway and a public house. The proposed development could lead to an increase in not only traffic but also noise levels. The Aclet pub was open from 4 p.m. but did not generate increases in traffic because people walked to the premises. The pub did not generate noise because local people respected their neighbours. The proposed retail development would be open all day, would have an increased footfall, increased traffic, potential to attract anti-social behaviour and would lead to a significant increase in noise for seven days a week. Councillor Tucker asked the Committee to consider refusal of the application.

Councillor Lethbridge, local Member informed the Committee that he did not wish for a large, derelict building which The Aclet currently was, which had been subject to arson attacks. However, local people did not want the site to be developed to become another convenience store and hot food takeaway. While competition between shops could not be stopped, this development would be next to large retailers and would not be competitive. The proposed hot food takeaway would be vying with hot food takeaways already in Bishop Auckland. The proposed development would lead to an increase in traffic, late night noise, food smells, and potential incidents of anti-social behaviour which would be a problem for local residents. Additionally, there was a covenant on the land which would need to be lifted to allow this application to progress.

Ms C Taylor, local resident, addressed the Committee to object to the application. Ms Taylor informed the Committee that she had never experienced any disturbance from The Aclet pub, which had been relatively quiet and safe. Customers of The Aclet would visit on foot and were mindful of surrounding neighbours. It had a mid-day delivery once a week and was the heart of community. The proposed development would lead to an increase in noise and litter and had the potential to

attract anti-social behaviour which would have a significant impact on local residents and their quality of life. The shop and hot food takeaway would have regular deliveries and would be a new place to target for vandalism and anti-social behaviour.

There was already a high number of large shops in the area and this proposed shop would not be competitive on price. Only 1% of local residents had been consulted on the proposed development and canvassing of the area had shown residents to oppose the development which would change the nature of the area.

Mr J Wallace of Lichfields addressed the Committee on behalf of the applicant, who had worked closely with Council officers to address issues which had arisen.

The Aclet pub was a disused, fire-damaged former public house which the police had said needed to be redeveloped. The hours of operation of both the retail premises and hot food takeaway had been restricted as required and deliveries would take place between 7 a.m. and 6 p.m. Refuse bins would be stored in a secure area to the rear of the development and a 3 metre high weldmesh fence was proposed around the perimeter of the plant and service areas to the rear of the site. CCTV was proposed outside of the buildings and vehicle impact resistant bollards would be installed to the front of the buildings.

The applicant was an experienced store operator with 32 shops in the region and no problems experienced. Although many would visit the outlet by foot, 29 car parking spaces were being proposed, and all highway proposals, including the pedestrian crossing, had been agreed with Council highways officers.

The Wear Valley District Local Plan was some 20 years old and since it was produced the face of retail had changed. Demand for the retail premises was not a relevant planning consideration. The potential impact upon healthy eating could be a material consideration for planning applications, there needed to be a measurable link between this and a proposed development. In this case, there were no secondary schools within 400m walking distance of the site and, whilst Aclet nursery school was situated approximately 140m to the south west of the site, this was attended by children aged between 2 and 4 years old. On this basis, it was unlikely that the new hot food takeaway would lead to any material increase in unhealthy eating amongst young people.

In summary, the application would regenerate a currently vacant site, would provide a new pedestrian crossing point on Watling Road, would reduce the need to travel out of the area, would provide 29 parking spaces and produce 12 jobs.

Councillor Nicholson sought clarification on the distance from the site to the nearest shops and whether there would be a general increase in the volume of traffic. Councillor Nicholson also sought comment on the impact on the social fabric of the area the development may have.

The Planning Officer replied that shops on Proudfoot Drive were some 250 metres away, Cockton Hill some 800 metres away and Tindale Crescent some 1 km away.

The NPPF referred to the planning system creating inclusive and mixed communities with shops interspersed in a wider area.

The Principal DM Engineer replied that the application would lead to an increase in traffic because the public house was closed. However, the planning use that the pub currently had included Class A1 use which was now being applied for. The floor area of the public house was greater than that which was being applied for by this proposal. Although Watling Road was busy at peak times the increase in traffic from this development was not sufficient to base a refusal on highways grounds. The floor area of the development did not trigger a point at which a highways assessment was necessary. A pedestrian refuge was proposed on Watling Road, not a zebra or pelican crossing, as these were subject to criteria which this application did not meet.

Councillor Nicholson reminded the Committee that this was a brownfield site.

Councillor Brown informed the Committee it was sad that such a building was in decline, however in her Electoral Division a former public house had been brought back into use as a local convenience store. However, Councillor Brown was not happy about the proposed hot food takeaway element of the application and could not find anything within the NPPF which would override Policy S11 of the Wear Valley District Local Plan.

The Planning Officer replied that the Local Plan was 20 years old and that Policy S11 was very prescriptive. The NPPF had a more permissive approach and encouraged sustainable development. Policy S11 carried limited weight.

Councillor Patterson referred to the proposed pedestrian refuge on Watling Road and to the objection from a resident who had expressed concern about accessing their driveway with a caravan when the refuge was in place. The Principal DM Engineer replied that the site of the refuge was only indicative and that further analysis, including sweep paths, would be carried out before final installation.

Councillor Patterson thanked the residents, Town Council and two local Members for their representations made. Councillor Patterson had concern at the abundance of hot food takeaways in the area, traffic and proposed opening times. Although retail trends had changed since the production of the Wear Valley District Local Plan this could be a greater argument to protect what was already in place. Councillor Patterson expressed concern that the development could have an adverse impact on Bishop Auckland town centre. The proposed hot food takeaway would produce litter, mess and could lead to incidents of anti-social behaviour which would have an adverse impact to the amenity of neighbouring residents which was contrary to Policy S11 of the Local Plan.

In reply to a question from Councillor Tinsley the Planning Officer confirmed that Policy S11 of the Local Plan was a saved policy. Councillor Tinsley responded that the Policy did carry some weight. The building was currently a closed former public house which would decay if left. While having sympathy with the local Members, Town Council and residents, some measures had been introduced to the application to address anti-social behaviour concerns. Although the former public

house had a key use of drawing a community together, there was a need to accept that habits change. The site had a long standing use for as a public house and could re-open for this purpose or be converted to a shop or restaurant without requiring planning permission, the premises could change to Class A1 use using permitted development rights.

Councillor Atkinson, while agreeing with the points raised by Councillor Tinsley considered that local concerns about potential anti-social behaviour were very real. Councillor Atkinson expressed concern that if the retail unit experienced problems with anti-social behaviour and a low level of turnover it could itself start to become derelict and the shop close.

Councillor Zair considered that the application was a very difficult one to determine. He asked whether the applicant had consulted residents of Woodhouse Close and Henknowle about the development. Mr Wallace replied that the application fell below the threshold for consultation and no request had been received to do so. The application was for a relatively small store.

Councillor Zair considered that the lack of consultation could have resulted in the amount of objection to the proposal. The proposed pedestrian refuge could present problems for access to the driveway for a resident with a caravan and Watling Road was very busy, especially during performances of Kynren. Councillor Zair asked whether the s106 contribution of £10,000 towards the pedestrian refuge would be sufficient to cover the full cost of it. The Principal DM Engineer confirmed that the contribution would cover the full cost of the pedestrian refuge.

Councillor Zair considered the proposed s106 contribution to be very disappointing in that it provided nothing for the local community. He considered that the application failed to safeguard residential amenity and failed to satisfy Policies H20 and T1 of the saved Local Plan and could not support approval of it.

Councillor Richardson informed the Committee that he had experienced pedestrians having difficulty using pedestrian refuges and that Watling Road was a very busy road. He referred to the covenant on the land which prohibited such a development as was proposed and sought advice on this.

C Cuskin, Planning and Development Solicitor informed the Committee that restrictive covenants were private matters and not a planning consideration. It would be for the applicant to work with whoever the beneficiary of the covenant was, however, planning permission would not allow the applicant to override the covenant.

Councillor Clare informed the Committee this was a very difficult application to determine. If the Committee was minded to refuse the application it would need valid planning grounds to do so, should the applicant go to appeal. Although reference had been made about protection of the town centre, a retail impact report had suggested the application site was far enough from the town centre to have no impact. Whether there was demand for the shop and hot food takeaway was a commercial decision to be made, not a planning issue. Given the degree of

opposition to the application consultation with the local community would have been wise, with only the minimum level of consultation having been met.

The acceptability of the proposed development on highways grounds was made on the basis of indisputable facts and figures and local people saying that they 'knew the road' would not be defensible against a Planning Inspector should the application be taken to appeal.

While the appropriateness of the scale of the development had been questioned, and it had been suggested that the shop was too large for the area and circumstances, Councillor Clare advised that very limited weight be given to this. While the application for the hot food takeaway did not accord with Policy S11 in that it was not within an existing shopping area, it should be remembered that the public house already had Class A1 use.

Councillor Clare referred to the representations made regarding the impact of the development on residential amenity. This was a two-edged sword in that the current public house building was derelict, had been vandalised and subject to an arson attack. While it had been argued that convenience stores were gathering places for young people and associated problems, it was speculation that the development would result in increased levels of anti-social behaviour. Councillor Clare considered that the balance was to consider whether the impact of the hot food takeaway on residential amenity was sufficiently detrimental to refuse the application.

Councillor Zair moved that the application be refused on the grounds that it did not accord with Policy T1 of the local plan because it would lead to an increase in traffic, Policy GD1 because it would not contribute to the quality and built environment of the surrounding area and Policy H20 because of the impact of the development on the amenity of residents.

The Planning and Development Solicitor advised the Committee that refusal on the grounds of Policy T1 would not be sustainable because of the advice of highways officers on the application. The Solicitor indicated that Councillor Zair had previously referred to unacceptable impacts upon the residential amenity of surrounding occupiers. Councillor Zair confirmed that he wished to refuse the application as it was contrary to Policy S11 in conjunction with Policy H20.

This was moved by Councillor Zair and seconded by Councillor Richardson;

Upon a vote being taken it was

Resolved:

That the application be refused on the grounds that it would attract anti-social behaviour and generate noise and odours with significant adverse impacts upon the amenity of neighbouring residents, contrary to saved Policies S11 and H20 of the Wear Valley District Local Plan. These adverse impacts upon residential amenity would significantly and demonstrably outweigh the benefits and would not meet the criteria of paragraph 14 of the NPPF.

Councillor Tinsley left the meeting.

b DM/18/00589/LB - 28 Market Place, Barnard Castle

The Committee considered a report of the Planning Officer regarding a listed building application to make good an ATM recess and fixings from signage at 28 Market Place, Barnard Castle (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation of the application which included a site location plan and photographs of the listed building.

Councillor Martin informed the Committee he could see no problem with the application and moved approval of it. Seconded by Councillor Brown.

Upon a vote being taken it was

Resolved:

That the application be approved subject to the Conditions contained in the report.