

**At a meeting of the DEVELOPMENT CONTROL (SOUTH SUNDERLAND)
SUB-COMMITTEE held in the CIVIC CENTRE on TUESDAY, 8th SEPTEMBER,
2009 at 4.30 p.m.**

Present:-

Councillor E. Gibson in the Chair

Councillors Ball, Copeland, M. Dixon, Ellis, M. Forbes, T. Martin, Miller, Morrissey, O' Connor, Tye and Wood

Declarations of Interest

08/04691/FUL – Installation of a mezzanine floor to the existing store.

Councillor Tye made an open personal declaration that he had not previously objected to the application as suggested in the report but had only raised concerns for consideration by the Planning Officer and that he would be considering the application objectively with an open mind.

Councillor E. Gibson made an open declaration that her husband as Ward Councillor had similarly not objected to the application but had only raised concerns for consideration by the Planning Officer and that she would be considering the application objectively with an open mind.

Apologies for Absence

Apologies for absence were received from Councillors Charlton, Fletcher, P. Watson and A. Wright

Applications made under the Town and Country Planning Acts and Regulations made thereunder

The Director of Development and Regeneration submitted a report and supplementary report (copies circulated) relating to the South Sunderland area, copies of which had also been forwarded to each Member of the Council, upon applications made under the Town and Country Planning Acts and the Regulations made thereunder.

(For copy reports – see original minutes).

08/04691/FUL – Installation of a mezzanine floor to the existing store

Alistair Close addressed the committee on behalf of ASDA. He advised that:

- The application had previously been deferred due to concerns over staff parking and the routing of deliveries which had been addressed.
- Staff would be required to display a permit and park at the far end of the car park in a designated area to ensure that there was space available for customers to park closer to the store.
- There were 2 hour parking restrictions in place and fines were issued for people overstaying.
- The suggested alternate delivery route via the Southern Radial Route was not practical or sustainable as there were more junctions which would increase waiting times and the route ran through more residential areas and the city centre.
- The additional floorspace would be selling non food goods and as such the development would not lead to an increase in deliveries of fresh produce. Only fresh produce was delivered at night.
- The proposed Section 106 agreement would ensure that if there were any problems with on-street parking on Leechmere Road as a result of the development then there would be the funds available for the council to introduce waiting restrictions through a Traffic Regulation Order.
- The development would create jobs and represented further investment by Asda in the city.

Councillor Tye stated that he did have reservations about the development however he was content that the outstanding issues had been resolved. He still had some reservations however on balance they were not sufficient to hold up the development. He wanted to see what effect there would be at Christmas.

Councillor Wood agreed that there was no reason to reject the application and that Christmas was most likely to be the most problematic time. The route for delivery vehicles to take was purely an operational decision to be made by ASDA.

1. RESOLVED that the application be approved for the reasons set out in the report and subject to the 9 conditions set out therein and subject to the completion of a Section 106 agreement.

09/01069/FUL – Change of use from shop and dwelling house to mosque and social/educational centre (Class D1) and flat (Class C3) to include demolition of rear boundary wall and provision of 3 car parking spaces

Mr Kahn spoke on behalf of the applicant. He stated that:

- In his view, on-street car parking was not an issue as the surrounding streets were mostly empty.
- There were only high amounts of parking on Friday afternoons and there was sufficient on-street parking available at that time.
- Prayer is spiritual and as such there would not be noise from worshipers when entering and leaving.

- The closest neighbours to the development did not have an issue with noise and there was a petition of over 200 signatures supporting the mosque.
- This was the most suitable site for the mosque which was to be the city's only Pakistani mosque. The worshipers at the mosque were of a different denomination to the attendees of the Chester Road mosque.
- It was his opinion that noise and parking were not sufficient reasons for refusing the application.
- The Council could potentially grant a temporary consent for the facility.

Councillor M. Dixon queried the use of a Tannoy system and whether this would cause a disturbance.

Mr Kahn advised that they were only small speakers and the volume would be lower than that of a Television, the speakers would be for internal use only and would not be able to be heard outside.

Mrs Mathews, a local resident, spoke against the application. Her objections centred on the following points:

- The development had originally been refused planning permission in 2006 and the mosque had continued to operate unlawfully since this date.
- There had been complaints regarding the on-street parking and traffic caused.
- There was noise from the Tannoy and from chanting.
- There had been a petition of 255 residents who had objected to the application.
- This was the wrong location for the mosque; it was on a narrow road next to a junction.

In response to questions from Members, Mrs Mathews advised that she had been told that the Tannoy caused a disturbance late at night however she did not live close enough to be affected. She believed that there had been complaints made to environmental health regarding the noise.

The representative of the Director of Development and Regeneration advised that he was not aware of any complaints to environmental health however during consultation in relation to this application the environmental health team had advised that there was the potential for noise disturbance as a result of the Tannoy system. There was also potential for disturbance from vehicle movement.

Councillor Miller stated that this was a residential area with narrow streets and that this development was located on a narrow junction which would cause significant traffic issues. He asked the representative of the Director of Development and Regeneration to clarify whether the application would have been refused had the application been submitted before the change of use took place.

The representative of the Director of Development and Regeneration confirmed that it would have and that the original planning application had been turned down and the subsequent appeal had been refused. An enforcement notice had been issued in relation to the current use of St Marks Road and a further appeal against the notice had also been unsuccessful. The notice remained live and the deadline for

compliance had now expired. Enforcement proceedings in relation to the notice had been held in abeyance whilst this planning application was under consideration. The changes as part of the new application did not resolve the planning objections and as such in the Officer's view the application should be refused.

Councillor Wood commented that there was a clear Officer recommendation and that to make an alternate decision there would need to be clear reasons given by the Committee; in this situation he could not see any robust planning reasons for making an alternate decision to approve the application either permanently or temporarily..

2. RESOLVED that the application be refused for the reasons set out in the report.

09/02274/LAP – Erection of single storey extensions to the north and eastern side of the property, conversion of existing garage to day lounge and construction of single storey extension to south west side of property (Amended description 19.08.2009)

3. RESOLVED that the application be approved for the reasons set out in the report, subject to no new objections being received by 17th September, 2009 and subject to the 10 conditions set out in the report.

09/02378/FUL – Change of use from warehouse to retail showroom and alterations to west elevation (retrospective)

The application was noted was being withdrawn.

09/02704/FUL – Amendments to previously approved applications 05/02829/LEG, 07/00727/FUL and 07/04252/FUL for the conversion of Brookfield House into 5 apartments and erection of 11 dwellings (Retrospective)

Mr Ian Self spoke on behalf of the applicant. He advised that:-

- It was necessary for this application to be submitted as there had been minor changes to the originally approved development.
- This application would allow the Local Planning Authority to maintain control over the development.
- Weight should be placed on the fact that there was already an extant planning consent in place and that this development had been described by officers as being 'minor changes' to the previously approved scheme.
- The ground level on which the units have been built has been reduced as a result of excavation works and as such even though the brickwork on the villas appeared higher on the new plans, the actual ridge heights were in fact lower than the previous scheme as a result of the lower ground level. As a consequence, the amendments improve visual amenity for the benefit of the neighbouring properties.
- The dwellings were in the correct locations on the site.

- The Section 106 agreement had been signed by the Applicant and would be completed immediately and delivered to the Council should the application be approved.,

Dr Patnaik, a local resident spoke against the application. He stated that he was not against the principle of the development as a whole but was objecting on the following grounds:

- There would be an increased loss of visual amenity and privacy to him and his family as a result of the proposed changes.
- There would be a loss of light, especially in the sunlounge and kitchen.
- The balcony was too close to his property and would affect privacy
- In his view, the level of the land had not been reduced and the proposed development was now higher than the previously approved scheme.

In response to a query from Councillor Miller, the Representative of the Director of Development and Regeneration advised that the general spacing standard of 21 metres applies between main facing windows in habitable rooms and 14 metres where a main facing window faces a elevation with secondary or no windows. The window at the gable end of the villa facing Dr Patnaik's house was a bathroom window with frosted glass and was 16 metres from the rear elevation of his property. Accordingly, the proposal complies with the minimum spacing requirements.. There was also a restraint on the window to prevent it being opened far enough to look out of it towards neighbouring properties. The balcony would have a screen in place to prevent people from looking towards Dr Patnaik's house and in order to see past the screen would require users of the balcony to lean over the side.

Mr Patnaik stated that the bathroom window overlooked his disabled daughter's bedroom and that the balcony had been designed for a few people and that they could potentially lean over to see round the screen.

Councillor O'Connor stated that he sympathised with Dr Patnaik but he felt that there were no valid planning grounds to justify a refusal of the application.

Councillor T. Martin asked whether it would be possible to refuse the application on sound planning grounds.

The representative of the Director of Development and Regeneration advised that the principle of the development had already been approved by virtue of the previous planning permission and the proposed amendments accord with the relevant planning policies.

Councillor M. Forbes queried why the loss of light had not been taken into account.

The representative of the Director of Development and Regeneration advised that there was only a minor loss of light with there being no more than 2 hours in winter, there would need to be a substantial loss of light for there to be a problem. Further, the protection of purely private rights was outside the scope of the planning system and access to light was only a relevant issue insofar as it impacted on residential amenity. In response to a further query from Councillor M. Forbes, he advised that

there was a clear reduction in the ridge height of the building as constructed and there was a shallow embankment on the site.

Councillor M. Dixon asked whether it would be possible to remove the balcony to help accommodate Dr Patnaik's family needs due to the sensitive nature of the case.

The representative of the Director of Development and Regeneration advised that the balcony had been relocated and it would be very difficult to see into Dr Patnaik's house. The balcony was provided to give an outlook onto the garden in the middle of the development site. Similarly, it would be very difficult to see into Dr Patnaik's garden from the small bathroom window of the villa.

4. RESOLVED that the application be delegated to the Director of Development and Regeneration for determination to either:
 - a. Grant permission subject to the receipt by the Council of satisfactory revised plans and information, for the reasons set out in the reports and subject to the planning conditions specified therein and also subject to completion of a Section 106 agreement by 16th October, 2009 or such other date as is agreed by the Director of Development and Regeneration; Or:
 - b. Refuse permission should the Section 106 agreement not be completed by 16th October 2009 or such other date as is agreed by the Director of Development and Regeneration.

09/02913/SUB –Redevelopment and extension to existing retail store, service area and adjacent retail units with associated works to car park and landscaping (Resubmission)

The chair moved that a site visit be undertaken to assist in the future consideration of this application. This was unanimously agreed and as such it was:

5. RESOLVED that a site visit be undertaken.

Town and Country Planning Act 1990 – Appeals

The Director of Development and Regeneration submitted a report (copy circulated) concerning the above for the period 1st July, 2009 to 31st July, 2009.

(For copy report – see original minutes).

6. RESOLVED that the report be received and noted.

(Signed) E. GIBSON,
Chairman.