

**At a meeting of the PLANNING AND HIGHWAYS (EAST) COMMITTEE held REMOTELY on MONDAY 1<sup>st</sup> FEBRUARY, 2021 at 5.00 p.m.**

**Present:-**

Councillor E. Gibson in the Chair.

Councillors Bewick, D. Dixon, M Dixon, Doyle, Foster, Hodson, O'Brien, Scanlon, P. Smith, Stewart, Waller and D. Wilson.

**Appointment of the Chairman.**

In the absence of the Chairman and Vice Chairman, a nomination was sought to Chair this meeting of the Committee. Councillor Stewart having moved the nomination of Councillor Elizabeth Gibson and the motion having been duly seconded, it was:-

1. RESOLVED that Councillor Elizabeth Gibson be appointed Chairman for this meeting of the Committee.

**Declarations of Interest**

Declarations of interest were made by Members in respect of the following items of business:-

Item 4 - Reference from Cabinet – 8 December 2020 Supplementary Planning Documents (SPD)

Councillor Doyle declared a pecuniary interest in the item with regard to the Draft Allocations and Designations Plan and left the meeting at the appropriate point on the agenda taking no part in any discussion or decision thereon.

Item 5 - Applications made under the Town and Country Planning Acts and Regulations made thereunder – Planning Application 20/01763/SUB - Change of use of existing residential care home (Use Class C2) to children's day nursery (Use Class E). (Resubmission) Rowlandson House, 1 Rowlandson Terrace, Sunderland

Councillor Scanlan declared an interest in the matter on the grounds that when the initial application had been considered by the Development Control (South) Sub-Committee, she had spoken in objection to the application as a Hendon Ward Councillor and therefore believed she could not consider the application with an open mind. Councillor Scanlan left the meeting at the

appropriate point on the agenda taking no part in any discussion or decision thereon.

### **Apologies for Absence**

Apologies for absence were submitted to the meeting on behalf of Councillors Butler and A. Wilson.

### **Minutes of the last meeting of the Planning and Highways (East) Committee held on 20th November, 2020**

2. RESOLVED that the minutes of the last meeting of the Planning and Highways (East) Committee be confirmed and signed as a correct record.

### **Reference from Cabinet – 8 December 2020 Supplementary Planning Documents (SPD):-**

**(A) Draft Allocations and Designations Plan**

**(B) Land East of Washington (Washington Meadows) Supplementary Planning Document Scoping Report**

**(C) Draft Development Management Supplementary Planning Document.**

The Assistant Director of Law and Governance submitted a report (copy circulated) which set out for the advice and consideration of this Committee, reports which were considered and approved by Cabinet on 8 December 2020 to undertake public consultation on the Draft Allocations and Designations Plan, the Land East of Washington (Washington Meadows) Supplementary Planning Document Scoping Report and the Draft Development Management Supplementary Planning Document.

(For copy report – see original minutes)

Catherine Auld, Joint Head of Business Investment & International Manager presented the report, highlighting the key issues arising from the Supplementary Planning Documents and addressed questions and comments thereon.

With regard to the draft Allocations and Designations Plan, Councillor M. Dixon welcomed the designation of the land behind Morrisons supermarket in South Bents and the Hillview Playing fields as green belt. Councillor M. Dixon also referred to the future redevelopment of the site currently occupied by the Civic Centre and asked if there were any covenants on the site which would restrict future land use to a specific type, for example a return to its former use as park land. He also asked whether any consideration was given to alternative land uses other than housing, for example relocating the railway station or the cinema.

Councillor Bewick referred to paragraph 4.1 of the Cabinet report on the draft Allocations and Designations Plan which stated 'The A&D Plan proposes to allocate sites for housing across the city to deliver approximately 4246 new homes by 2033. These sites are mainly brownfield sites and were all within the existing urban area.' He asked if a list was available of the city's current Green Field sites.

With regard to the specific enquires made by Councillor M. Dixon and Councillor Bewick, Ms Auld advised that she did not have that specific information to hand but would provide the Committee with an answer following the meeting.

Councillor Hodson referred to the 'Land East of Washington (Washington Meadows) Supplementary Planning Document Scoping Report' and asked if it was this document that would be used to consider any proposed extension of the Metro to Washington. Ms Auld advised that the potential location of proposed metro stations and associated car parks would be contained within the Allocations and Designations Plan. Sitting behind this would be the Metro Future Studies Plan which provided the strategic context. The idea of Washington Meadows as a residential site would then be supplemented by the sustainable transport option should the extension of the Metro line be brought forward in the future.

Councillor M. Dixon on behalf of Councillor Doyle, placed on record his congratulations to the Planning Policy Team for their delivery of the Development Management Supplementary Planning Document which he believed to be an example of best practice.

Councillor Hodson referred to the growing number of household minor extensions and renovations which featured the use of plastic cladding and plastic walls and fences. He asked if the Planning Team would have the ability to intervene in respect of such unsympathetic changes and whether it could be done retrospectively.

The representative of the Executive Director of City Development advised that there were a number of permitted development rights available that did not require planning approval. In the first instance a check would need to be made to ensure that works and materials used were permitted under these rights. Where the local authority could control the use of materials it would certainly look to ensure that it was in keeping with the surrounding area.

There being no further questions or comments for Ms Auld the Chairman thanked her for her presentation and it was:-

3. RESOLVED that the report be received and noted and that the Committee's comments be referred back to Cabinet as part of the consultation process.

**Planning Application Reference 20/01763/SUB Resubmission  
Change of use of existing residential care home (Use Class C2) to  
children's day nursery (Use Class E). (Resubmission with additional  
noise survey work and revised car parking / traffic analysis).  
Location: Rowlandson House 1 Rowlandson Terrace Sunderland SR2  
7SU**

The Executive Director of City Development submitted a report (copy circulated) in respect of the above

(for copy report – see original minutes)

The representative of the Executive Director of City Development presented the report advising the Committee of the key issues to consider in determining the application.

Members were informed that the building concerned was located within the Cedars Conservation Area and sited at the north west end of the Edwardian period Rowlandson Terrace and on the corner of Ryhope Road and Villette Road. The property was served by a lane to the rear where a set of double gates opened into a yard area covering 162 square metres. The immediate highway network was characterised by a four-arm signal-controlled junction with pedestrian phases across all arms, double yellow lines also surrounded the site to prevent illegal parking on or in the vicinity of the junction.

With regard to the history of the matter Members were advised that the resubmission followed the refusal of planning application ref 19/00121/FUL. Change of use of existing residential care home (Use Class C2) to a non-residential institution (Use Class D1) to operate as a children's day nursery at a meeting of the Development Control (South) Sub-Committee held on 28<sup>th</sup> October, 2019. The reasons for refusal were:-

1. The proposed children's day nursery would afford prospective children with a poor standard of amenity, particularly in respect to provision of external amenity space, and
2. The proposed use of the premises as a children's day nursery was not compatible with the prevailing character of the locality which was dominated by single family houses and would result in harm to the amenity of surrounding residential properties by virtue of noise, disturbance and on-street parking generated by such a use.

This decision was subsequently appealed to the Planning Inspectorate and the decision was upheld dated 23<sup>rd</sup> June 2020. Having given consideration to the appeal decision, the applicant had resubmitted the application, supported by additional information to seek to address the effect of the development upon living conditions of nearby residents in respect of noise, disturbance and parking.

Members' attention was drawn to the key issues to be considered in determining the application as detailed in pages 66-68 of the agenda, namely:-

1. The principle of the development.
2. The impact upon residential amenity in terms of noise, disturbance and parking
3. Highway safety impacts.

With regard to the impact upon residential amenity in terms of noise, disturbance and parking, the Committee was informed that in terms of noise, the applicant had provided a noise assessment that demonstrated modifications to the internal fabric of the building were to be implemented to dampen the impact of any potential raised internal noise levels. Having regard to potential impact of increased noise from children playing outside, the layout of the building suggested that the only area that could accommodate outside play was within the enclosed rear yard area. The supporting noise assessment also demonstrated that this area would not lead to levels of noise that were above the existing ambient noise levels. In light of this, the existing layout of the building, its location adjacent to a road junction, the proposal was not considered to lead to conditions that would be detrimental to levels of amenity currently afforded to the neighbouring residential dwellings

With regard to Highway safety impacts, the application was supported by a Transport Statement and additional supporting documents taking into account the appeal decision provided by the planning inspector. Following consultations with the Transportation Development section, the section advised that it did not object to the planning application subject to the imposition of conditions as detailed in its consultation response as outline on pages 63-64 of the agenda.

In conclusion the representative of the Executive Director of City Development advised that the proposed change of use of the building was considered to be justified, the principle of the development was considered to be acceptable and that it was not considered that it would lead to conditions prejudicial to residential amenity. Furthermore, with the impositions of the conditions detailed in the report, it was not considered that the proposal would impinge upon the free passage of traffic or create conditions prejudicial to highway or pedestrian safety. As a result, the application was recommended for approval subject to the conditions as detailed in the report.

The Chair thanked the Officer for his report and invited questions from the Committee.

Councillor Doyle referred to paragraph 9 of the Planning Inspector's decision letter which outlined his view that the acoustic report did not provide robust evidence that noise levels would not be detrimental to residential amenity. He asked what was different about the new acoustic report and why did Officers believe it now provided the robust evidence the previous report lacked.

With regard to paragraph 19 of the decision letter which advised that the application had not demonstrated the suitability of the front yard as a play area, Councillor Doyle asked why a condition was not imposed to specifically prohibit this use. In addition, Councillor Doyle referred to the Inspector's view that the travel document condition would be difficult to enforce, and in any event would not actively prevent the parking of vehicles in the back lane. He asked that because the condition was being retained, did this signify that Officers believed that the introduction of a Traffic Regulation Order ('TRO') on its own would not be an effective deterrent to parking.

In response the representative of the Executive Director of City Development advised that with regard to the issue of noise, the applicant, following the Inspector's report had been very keen to provide this robust evidence. His noise consultants had measured current levels of noise and had extensively modelled expected noise levels from the nursery. This had shown that noise levels would be significantly lower (approx. 20DBA) than the levels currently enjoyed by the properties to the rear. The modelling had been submitted to the Council's Environmental Health Team who had tested the modelling and found it to be robust and acceptable.

With regard to the small front yard, following the Inspector's finding that it was not suitable for use as a play area, the Applicant had confirmed that it was no longer proposed to be used for this purpose. The Officer advised however that should member's find it appropriate, a condition could be imposed to restrict the use of this specific area.

With regard to the travel leaflet, the TRO would prevent parking under statute. The travel leaflet would be an advisory document advising staff and parents that not only was parking to the rear prohibited but that this would be enforced. The Highways Engineer confirmed this position and added that the Travel Leaflet not only explained the operation of the parking prohibition, it also provided a full picture of accessible access to the school including bus routes, footpaths, pedestrian crossings and cycle routes. It was therefore thought to be a valuable addition.

Councillor Doyle then asked the representative of the Executive Director of City Development to expand on his answer regarding the new acoustic survey and in particular, in what way was it more robust than the survey submitted with the original application. In response the Officer advised that with the original application the issue had not been the robustness of the acoustic report itself but in its coverage, namely that it lacked information in respect of the rear yard. The subsequent acoustic report had addressed this issue identified in the Planning Inspectors report and shown that there would not be an uplift in ambient noise levels.

Councillor Doyle referred to the consultation response from Environmental Health that stated "the numbers of children allowed in the rear yard area should be managed at all times" and asked whether assurances had been received from the applicant that measures would be put in place to manage the use of the rear yard. The Officer replied that this had not been the subject

of the proposed conditions, however following any grant, a satisfactory management plan would be sought in conjunction with the requirements of other regulatory bodies responsible for licensing the operation of the nursery such as Ofsted.

Councillor Doyle then referred to page 66 of the agenda papers which stated "Whilst the local area is predominantly residential, the proposal would replace the previous use as an elderly persons care home and operate over fewer days and hours of the week, with this in mind the use is considered to be compatible with the residential character of the area and therefore acceptable in principle." He stated that he was not confident that that was a logical conclusion to come to. He believed that the hours of operation were not as an important factor as the intended land use which he felt it could be argued was not in keeping with the residential character of the wider area.

In response the Officer advised that in addition to looking at the hours of operation, the issue of traffic disturbance had also been investigated. It was felt that the issue of children playing outdoors in a residential area was not something that would be considered unusual. As such it would be more unusual for a nursery to be operating in a non-residential area. It was therefore felt that the issue of children travelling to the nursery and playing in the rear yard whilst being managed by staff was in keeping with the amenity and character of the area.

In response to an enquiry from Councillor M. Dixon, the Highways Officer confirmed that the introduction of any TRO would prohibit parking by local residents in the streets subjected to the order. The implementation of a TRO was a separate process outside of the planning regime and was not a given, with the public having the right to object and have their objections considered. He added that currently there was very little parking in the rear lane by residents because being so narrow, parking would restrict through traffic. In response to a further question from Councillor M. Dixon, the meeting was informed that the operation of the TRO could be restricted to certain hours of the day for example dropping off and picking up times.

There being no further questions at this stage the Chairman welcomed and introduced Hendon Ward member, Councillor Michael Mordey who was afforded the opportunity to address the Committee and spoke in objection to the application. Councillor Mordey briefly related the history of the application, its refusal and the upholding of that Committee decision by the Planning Inspector. He stated that the resubmission was now accompanied by a fallback position that amounted to little more than blackmail with the applicant threatening local residents with a variety of alternative 'bad neighbour' uses if they did not support the nursery proposals. He believed that it was underhand and completely shameful that the applicant was effectively saying do not oppose us or we will ensure you get something worse instead. In addition, Councillor Mordey stated that in his opinion the revised application did not address the fundamental reasons for which the original application was refused.

Councillor Mordey also objected to the fact that whilst the applicant was willing to pay for the process of developing and implementing the TRO, the local authority would be left with the ongoing revenue costs of enforcement. He also believed that the period of grace would effectively negate the effect of the TRO allowing parents ample time to pick up and drop off without penalty. No only that, it would also permanently restrict the opportunity for local residents to make use of the back lane in a way in which they had always been able to do. He believed this to be an unacceptably negative impact on the amenity of residents living in the immediate surrounding area. He stated that this was a significant ground under planning policy CF4 to allow members to reject the application and urged the Committee to do so.

The Chairman then welcomed Hendon Ward member, Councillor Barbara McClennan who addressed the Committee speaking in objection to the application. Councillor McClennan stated that she was speaking to support the points already made by Councillor Mordey and in particular that the fundamental reasons for which the original application was refused had not been satisfactorily addressed by the applicant. She believed that the noise made by 50 children playing together in the school yard would negatively impact the amenity of the local residents. Although acknowledging that it was not something that the Committee could consider on planning grounds, she expressed her concern at the threatening tone of the letter sent by the applicant to residents..

The Chairman then informed the Committee that two requests had been made to have statements read out by an Officer in objection to the application. She advised that she would allow 5 minutes per statement. The representative of the Executive Director of City Development then read out the statements received from the following members of the public in objection to the application.

i) Mr Anthony McKie

This objection centred on concerns regarding the contents of a letter sent by the applicant to local residents as part of the pre-application community consultation regarding how the building would instead be used as a bail hostel or to house asylum seekers.

In addition Mr McKie contended that the Council itself had wider obligations under the Equality Act 2010 to give regard to protected characteristics, to eliminate discrimination, and to foster good community relations. Mr McKie went onto state that the applicant had demonstrated a willingness and capacity to be actively divisive in the community by issuing letters 'weaponizing' those protected in the Equality Act as a threat and an apparent belief that those described in the letter were less deserving.

ii) Mr Ajeet Chadda



This objection centred on a concern that the staffing structure proposed for the nursery would directly contradict Ofsted's statutory requirements for the Early Years Foundation Stage, which provided the legal framework for the operation of day nurseries.

The Chairman then welcomed and introduced the applicant, Dr Anton Lang, who had requested the opportunity to address the Committee and speak in support of his application. The Chairman advised that he would have 5 minutes to do so.

Dr Lang stated that it was wrong to suggest, like Councillor Mordey, that the previous application had been 'kicked out' at appeal. The Planning Inspector had given clear reasons why he did not uphold the appeal and these had centred on his uncertainties over the noise issues and traffic, highways and parking. As a result, more noise work was commissioned to address the Inspector's concerns regarding activity in the rear yard. Taking the ambient noise as a benchmark modelling had been undertaken. This data had been sent to the Environment Health team who had deemed that the anticipated noise levels were correct and acceptable. Dr Lang contended that it was much the same with the highways issues and that the proposed conditions would ameliorate any of the impacts. He stated that a lot of emotive arguments had been made today against the application however a degree of proportionality was required, without which it would be impossible to establish a nursery in any residential neighbourhood. Dr Lang argued that this was in fact the best area to build a nursery as it would allow residents to walk their children there. He felt it was therefore disappointing to have traffic and highways issues thrown up in objection to the application.

With regard to the other allowed uses for the site and their use as a possible fallback position, Dr Lang advised that it was not something that had featured in the original application or the appeal as he had felt that he had a very strong case for the nursery. He had felt that he was doing a good thing, taking over an empty building and providing a useful facility for the local residents. Fallback however was a very important issue in planning and it was something he had to look at. It was a building that needed a use and if planning permission couldn't be obtained, then alternative uses under policy C2 would need to be considered.

Dr Lang stated that the notification letter to residents wasn't underhand and it wasn't shameful. It was merely informative. The letter informed residents of the type of uses that central government and Sunderland City Council would, could and do allow in that sort of building. It was open and outlined the acceptable uses that the building could be put to and would need to be considered if planning permission couldn't be obtained for the nursery. It absolutely wasn't seeking to 'weaponize' people or denigrate other uses. It was about empowering residents, making them more knowledgeable and assisting them to take an informed decision.

There being no questions for Dr Lang from the Committee the Chairman then invited members to comment on and debate the application.

Councillor Bewick stated that he had sat on the Committee that had considered the original application. He had entered today's meeting with an open mind and taking account of all the evidence put forward, he felt that the TRO would be ignored by parents in the same way the majority of parking prohibitions around schools were. He believed the most significant result of a TRO would be its negative impact on the local residents. In addition, the position of the property on Villette Road and Ryhope Road did not make a suitable location for a nursery because of the highway and traffic conditions. For these reasons Councillor Bewick stated that he could not support the application.

Councillor Smith stated that she would be opposing the application because of the negative impact the TRO would have on the local residents.

Separately, she highlighted her concern at the contents of the letter sent by the applicant to local residents as part of the community consultation.

Councillor D. Dixon stated that having read the report, his initial thought was that it was great way to bring an empty building back into use however having listened to all the information presented during the meeting, felt that it was perhaps no longer the case.

At this point members were informed that Councillor Doyle had lost his connection and was no longer present in the meeting.

Councillor M. Dixon also expressed his concern over the contents of the applicant's letter to residents.

Councillor Hodson concurred with Councillor Dixon's concern over the applicant's letter with local residents. However, in reference purely to the planning issues, his greatest concern, above the issue of noise, was the implementation of the TRO. Councillor Hodson contended that residents faced solely with a change of use to the building may think 'ok' but when this required a TRO which would change the way residents drive and park around their own property in perpetuity, it was difficult to argue that their amenity wasn't being negatively impacted. He added that it was an area that was already quite cramped, close to a busy junction, with no parking and with very little outside space. As a result, residents already felt it was not a good place for a nursery however on top of this they faced the prevention or at a least a restriction on the ability to park in their own back lane. Councillor Hodson stated that he felt this would be unfair on local residents and for that reason his instinct was to oppose the application.

Councillor M. Dixon asked if it was usual for local residents to be disadvantaged in this way by a TRO. He highlighted the contrast with Community Parking Management Schemes which were instigated by residents to help address issues in their neighbourhoods. This TRO was being proposed as the result of a planning application to the detriment of local residents which he felt was the 'wrong way round'. The Highways Officer

advised that the aim of the TRO was to restrict parking by 'customers' of the nursery. There was generally very little parking by residents in the back lane as it restricted the flow of traffic. He acknowledged that the restriction would also apply to residents however it was felt that there was ample on street parking to the front of the properties with the back lane used mainly for bin storage. The back lane would still be available for through traffic.

Councillor Dixon replied that it was the principle that bothered him. That residents were to be disadvantaged by a Traffic Regulation Order not because they were currently experiencing parking problems but because of the knock-on effect of a planning application.

At this juncture the Chairman asked the representative of the Executive Director of City Development to address the Committee. Members were advised that the meeting had been presented with a great deal of information and some very emotive issues had been raised however the Committee was here tonight to consider the application on its planning merits. These issues were set out in case officer's report and had been considered by officers with expertise in the relevant technical fields. In addition she was obviously aware from listening to the debate that if the Committee had concerns, it was important that the appropriate procedures and protocols were followed.

The Chairman advised that it was clear from the debate that Members were minded not to support the Officer recommendation in the report and asked Officers to advise the Committee of the likely implications of any contrary decision. The representative of the Executive Director of City Development advised that a refusal to grant the application could result in appeal and associated costs against the Council. On balance, the Officers' opinion was that the grounds in the Planning Inspectors decision letter in refusing the previous appeal had now been satisfactorily addressed and there might be a good prospect of success if an appeal was made, therefore the Committee was asked to take an evidenced based approach and take emotion out of the equation.

The Chairman then asked if any Member wished to propose an alternative motion together with supporting reasons.

It was moved by Councillor Hodson and seconded by Councillor M. Dixon that the application be refused on the grounds of its impact on residential amenity and highways concerns.

Upon being put to the vote the motion was carried unanimously and accordingly it was:-

4. RESOLVED that the application be refused on the grounds that:-

- i) the proposed use of the premises as a children's day nursery was not compatible with the prevailing character of the locality which was dominated by single family houses and would result in harm to the amenity of surrounding residential properties by virtue of noise and

disturbance and parking generated by such a use. The proposal therefore conflicts with the requirements of policy CF4 of the Council's adopted Unitary Development Plan and Paragraph 127 of the National Planning Policy Framework;

ii) the proposed use would lead to increased traffic movements of a form and degree, which would compromise the free flow of traffic on the public highway, which would lead to parking on the rear lane and endanger the safety of road users including pedestrians. The proposal therefore conflicts with the requirements of policy ST3 of the Council's adopted Core Strategy and Development Plan 2015-2033.

### **Items for Information**

Members gave consideration to the items for information contained within the matrix (pages 71 – 76 of the agenda). The Chairman referred to Planning Application 19/01497/HY4, Land North of Burden Lane, Burdon, Sunderland and suggested that subject to Covid-19 restrictions allowing, the Committee could benefit from a site visit.

#### **5. RESOLVED that:-**

- i) the items for information as set out in the matrix be received and noted and;
- ii) Covid-19 restrictions permitting, arrangements be made to undertake a site visit in respect of Planning Application 19/01497/HY4.

The Chairman then closed the meeting having thanked everyone for their attendance and contributions.

(Signed) E. GIBSON  
(Chairman)