

PLANNING AND DEVELOPMENT COMMITTEE

A meeting of the Planning and Development Committee was held on Thursday 8 February 2024.

PRESENT: Councillors J Rostron (Chair), I Blades (Vice-Chair), D Coupe, J Ewan, M McClintock, I Morrish, M Nugent, J Platt, J Ryles and G Wilson

ALSO IN ATTENDANCE: E Swannick, J Roebuck, A Murphy-Brown, K Rowley, T Wilson, L Salvati

OFFICERS: P Clarke, C Cunningham, A Glossop, J McNally and S Thompson

23/26 **DECLARATIONS OF INTEREST**

| Name of Councillor | Type of Interest | Item/Nature of Interest |
|-------------------------|------------------|---|
| Councillor I Morrish | Non-Pecuniary | Agenda Item 4, Item 1, Ward Councillor, Member of Marton West Community Council |
| Councillor M McClintock | Non-Pecuniary | Agenda Item 4, Item 1 Ward Councillor and Member of Nunthorpe Parish Council |
| Councillor J Rostron | Non-Pecuniary | Agenda Item 4, Item 2, Ward Councillor |
| Councillor J Platt | Non-Pecuniary | Agenda Item 4, Item 3 & 4, Ward Councillor |

23/27 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 11 JANUARY 2024**

Councillor McClintock requested that the minutes be amended as he had declared an interest at the meeting on 11 January 2024.

The Democratic Services Officer advised Councillor McClintock that the minutes had been amended to include the Declaration.

The minutes of the meeting of the Planning and Development Committee held on 11 January 2024 were then submitted and approved as a correct record.

23/28 **SCHEDULE OF REMAINING PLANNING APPLICATIONS TO BE CONSIDERED BY COMMITTEE**

The Head of Planning submitted plans deposited as applications to develop land under the Town and Country Planning Act 1990.

22/0524/MAJ, Land at Ford Riding Centre, Nunthorpe, erection of 45 dwellings along with open space and associated infrastructure (Demolition of existing buildings)

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework along with detailing consultee and other responses.

Members heard that planning permission was sought for the demolition of some existing buildings on the site and the erection of 45 dwellings, including 18

bungalows, with associated access, landscaping and infrastructure on land at the Ford Close Riding Centre to the east of Brass Castle Lane.

The dwellings proposed consist of:

- 13. no three bed dwellings
- 15. no four bed dwellings
- 17. no five bed dwellings

18 dwellings (40% of the proposed dwellings) were bungalows, all the properties were detached dwellings.

Members were advised that the site was allocated for housing in the Local Plan therefore the principle of residential dwellings on this site would be acceptable. It was considered that the proposed development would provide a good mix of dwelling types which were of a high-quality design and materials, in an attractive landscaped setting with an appropriate layout. The development would not result in a significant detrimental impact on the amenities of existing local residents. Members heard that localised and strategic works to the highway network would mitigate against the impact of the development on the local highway network.

The Head of Planning explained that the site was located to the east of Brass Castle Lane, south east of the junction with Fulford Way. It comprised of 5.5ha of open fields and mature woodland. Part of the site had an existing dwelling and buildings relating to the riding school located along the northeast boundary of the site.

Members heard that a previous planning application submitted on 8 December 2020 which sought the demolition of existing buildings and the erection of 69 dwellings (including 19no. bungalows) with open space and infrastructure had been refused.

Members were advised that consultation letters had been sent to local residents and following receipt of revised plans a further consultation exercise had been carried out. Objections had been received from residents from 6 properties.

The objections included:

- Object to anymore houses in this area
- Loss of green space
- Increase in traffic
- Inadequate parking/fronts dominated by parking
- Increase in noise
- Impact on wildlife
- Additional tree planting should run the full length to make a natural green wall
- An "executive" bungalow has four or more bedrooms on the ground floor, no such properties have been included
- They have not proposed any bungalows only dormer properties
- Not enough community assets/amenities
- Not in accordance with the Marton West Neighbourhood Plan
- The local plan is out of date in relation to its assessment of current housing need in 2022;
- Middlesbrough Council have breached its legal requirement to review its local plan every five years;
- Latest housing land supply figures (April 2021) confirm that there is no requirement for land at this site to be developed;
- Council have failed to implement adequate infrastructure;
- Development is outside the local plan;
- Goes against Planning Inspectors comments in previous appeal; and,

- The whole planning concept is flawed. The development is part of the wider Grey Towers Village, Grey Towers, Bridle Woods and Ford close are being looked at as separate developments when in reality they are in the same land and location carved into sections.

Objections had also been received from Marton Community Council, Nunthorpe Parish Council and the Ward Councillor for Nunthorpe Councillor M Smiles full details of the objections were outlined in the report.

Members heard that a number of comments had been received in objection to the bungalows that had been proposed stating they were not bungalows and should be single storey. It was explained to Members that *Ward v Paterson* [1929] 2 Ch 396 defines a bungalow as a building of which the walls, with the exception of any gables, are no higher than the ground floor, and of which the roof starts at a point substantially not higher than the top of the wall of the ground floor, and it does not matter in what way the space in the roof of a building so constructed is used. As a result a bungalow does not specifically mean rooms cannot be located in the roof space.

The Head of Planning explained that the application site was allocated for housing in the Housing Local Plan policy H30 which allowed for a maximum of 50 dwellings policy H1 allowed for additional dwellings if the design and quality of the development was not compromised. This application sought the erection of 45 high quality executive dwellings which was in accordance with policy H30.

It was also advised that the development did meet the National Planning Policy Framework aims and objectives regarding increasing and delivering a wide choice of high quality homes. In addition the provision of 18 bungalows was in accordance with the Marton West Neighbourhood Plan and enhanced the types of dwellings available adding to the quality of the development.

Members were advised that the development had been considered in relation to the impact on capacity and safety of the local highway network.

Speed Limit

The 30mph/40 mph speed limit boundary on Brass Castle Lane would be relocated circa 45m South. This would result in the 30mph scheme and the street lighting being extended to a point South of the proposed site access.

A new gateway feature at the change in speed limit would be introduced, consisting of signage and lining to reinforce the change in speed limit and to influence driver behaviour.

Pedestrian Infrastructure

A new footway would be provided to the sites Northern boundary on Brass Castle Lane to connect into internal footpaths which in turn connect into adjacent routes and the Grey Towers Farm development

Public Transport

Tactile paving and crossing points across the junction with Brass Castle Lane and Brass Castle Lane itself would enable pedestrians/cyclists to access the existing footway/cycleway on the northern side of Fulford Way/ Brass Castle Lane. Improvements would be made to the Eastbound and Westbound bus stops serving the site consisting of hardstanding, easy access kerbs, flag, shelters and real time display.

In addition to the above physical works being delivered a financial contribution towards strategic highways infrastructure would be made and secured through a S106 Agreement.

The Committee was advised that the analysis of the development determined that the proposals were for a sustainable development, which would assist in economic growth in the town. The proposed layout and dwellings were of a high-quality design and would provide a pleasant and sustainable environment offering a good mix of dwelling types. Landscaped areas would enhance ecological potential and would benefit the wider community. There are no statutory objections to the proposal in terms of the sustainability of the site or the ability to meet necessary flood, ecology, highways and noise mitigation.

The application site was an allocated site within the approved Housing Local Plan. It meets the requirements of policy H30 other relevant local policies (DC1, CS4, CS5), the Marton West Neighbourhood Plan and national policies.

Members heard it is the planning view that none of the material objections raised would result in a significantly detrimental impact on the character of the area, the nearby residents or the community as a whole.

The proposals do not conflict with local or national policies relating to sustainability, design, transport, open space or flood risk. The development would support the spatial vision set out in the development plan.

The Design & Planning Director of Stonebridge Homes addressed the Committee in support of the application and highlighted the following points

- The s106 agreement would secure contributions to mitigate the impact of the development.
- Local highways improvements including the extension of the 30mph speed limit to the boundary to the south of the entrance on Brass Castle Lane, traffic calming measures at the site entrance, a pedestrian crossing providing connectivity onto Fulford Way and bus stop improvements on Brass Castle Lane
- Contributions to strategic highway improvements, off-site affordable homes, improvements to Marton West Beck, and maintenance of Bonny Grove, West Moor Farm and Fairy Dell as identified in the Marton West Neighbourhood Plan.
- Executive Development was policy compliant
- The SUDS pond had been re-designed to include two significantly smaller, landscaped and organically shaped drainage basins
- SUDS would offer significant ecological benefits alongside other ecological mitigation including bird, bat and bee boxes, hedgehog highways and ecologically valuable landscape planting
- Tree belt had been re-designed to retain the existing tree belt and the footpath has been positioned close to the trees
- Pedestrian routes would be enhanced by a woodland sculpture trail
- The bespoke house types had been inspired by existing homes on Cheltenham Avenue and the McInnes Estate, the proposed bungalows met the legal definition of a bungalow and 40% of the new homes constituted a bungalow in accordance with the aspirations of the Marton West Neighbourhood Plan.
- A refuse vehicle swept path analysis had been completed confirming refuse vehicles would be able to navigate the road however the circular road had been widened further in response to Nunthorpe Parish Council's comments.

Two objectors From Marton West Community Council addressed the Committee and raised the following objections on the basis of the following material planning considerations:

- Failure to comply with NPFF, Paragraph 33 of the NPFF.
- Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary
- Reviews should be completed no later than five years from the adoption of the plan and should take into account changing circumstances or relevant changes in national policy
- Relevant strategic policies would need updating at least once every five years if their applicable local housing need figure has changed significantly
- Local housing need approved in the Local Plan was 410 dwellings per annum
- April 2023 the Council's local housing need was assessed at 253 dwellings per annum
- There had been a significant change in housing need a reduction of almost 40%
- Strategic Housing Policy not reviewed since 2014, it is 10 years old and should have been reviewed in 2019
- The Strategic Housing Policy contained in the Local Plan is no longer effective or relevant
- Five Year Housing Land Supply Assessment shows that Middlesbrough had in excess of 7 years deliverable housing supply published 31 January 2024
- Housing Delivery Test showed a figure of 257% which signified Middlesbrough had over-achieved it's housing delivery against homes needed
- Approved increases in dwellings over and above the housing allocations in the Housing Local Plan 2014
- Marton West Neighbourhood Plan MW4 requires a proportion of executive bungalows our interpretation of bungalow is single storey dwelling
- Executive Housing defined as typically high-quality detached accommodation having 4+ bedrooms set in own grounds in region of 7 dwellings per hectare
- Density of site
- The net Biodiversity Net Gain legislation becomes mandatory on 12 February 2024.

In response to the objections the Head of Planning stated that:

Whilst it is a requirement to review the Local Plan every 5 years, Members will be aware that a consultation had been launched on the draft review of the Local Plan. It is over 10 years after the adoption of the Local Plan that this new Plan will be adopted. The Government have measures in place if they felt the Local Authority is failing in its duty and can intervene by either directing the Local Authority to prepare a Local Plan or take that responsibility over themselves. The Government are aware that Middlesbrough Council had not delivered a Local Plan and had not intervened. The Local Plan is still considered relevant and up to date for decision making for the following reasons:

- There have been appeal decisions that have considered the Local Plan to still be relevant in decision making, this includes the previous appeal on this site.
- There is still a five year housing land supply, which is a key indicator of whether the plan is up to date or not.
- The Council exceeds the Housing Delivery Test.

If the Local Plan is not considered up to date, or silent on an issue, then applications will be considered against the considerations of the NPFF. The NPFF states that decision making means to approve development proposals that accord with an up to

date development plan without delay or where there are no relevant development planning policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in this Framework that protect areas or assets of particular importance, as defined by the NPPF provides a clear reason for refusing the development and there is no clear reason for refusing. Against the considerations of the NPPF the proposal would still be considered acceptable.

In reference to the five-year land supply and housing delivery tests, it was clarified that they are primarily performance measures to identify whether the Local Plan was considered up to date or not. It was advised that if we are not delivering against the housing delivery test or do not have a five year housing land supply then the plan is not up to date and it would show that the plan was failing. The fact that there is still a 7-year land supply and that we are delivering at 257% indicates that the plan is still up to date and still relevant in accordance with the Governments requirements.

It was advised that the figures quoted in respect of 267 and 253 dwellings per annum were based on housing projections and were seen as a minimum in the NPPF and not a maximum. The figure set in the new Local Plan would be 400 new homes per annum.

The Marton West Neighbourhood Plan did refer to bungalows, it was advised the Council takes case law as legal definitions and regardless of what the intention was when the policy was written the policy it did specify bungalows, and there was no definition contained within the plan.

In terms of the Biodiversity Net Gain it was confirmed that it would come in on 12 February but this application would not take this into consideration as it was received before the BNG requirements came into force on 12 February 2024.

A Member queried why the Marton West Neighbourhood Plan decided to specify a number of bungalows and where the demand was coming from. In response Members heard that it was in keeping with the rest of the Ward and there was a shortage of low-level single storey bungalows within the whole area, the demand was coming from the growing number of older residents in the local population and older residents would ideally like to downsize into appropriate accommodation.

A Member queried why only 6 residents had objected, the response given was that a lot of the residents were elderly and don't use the internet or do not have the facilities.

A Member queried the definition of bungalows the Legal Representative clarified that the legal definition for a bungalow was at paragraph 29 of the report.

Members felt that the number of houses in the application were correct in accordance with the Local Plan and the Marton West Neighbourhood Plan.

ORDERED - That the application be **APPROVED** subject to the signing of the s106 agreement

23/0291/FUL, J H Proudlock Limited, Emmerson Street, Middlesbrough, erection of 6No Industrial units for Use Class B2 & B8 (demolition of existing buildings)

Full details of the planning application were outlined in the report.

Members were advised that permission was sought for the demolition of some existing buildings on the site and the erection of 6 no. industrial units (use class B2 and B8).

Members heard that the application site was approximately 0.06 hectares. It was located on the east side of Emmerson Street, south of the junction with Stonehouse Street. The site was located in an industrial area with a builders yard as the established use, which included single storey buildings to the northside, a storage/distribution unit attached to the southside and a cash and carry/retail units to the front. There are residential dwellings located to the rear of the site with the rear boundary wall of the application site forming the rear boundary wall of the residential properties. There was also an apartment located above the cash and carry/retail unit to the front.

Members were advised that work had already commenced on site but had not been completed. As a result this application sought retrospective consent.

Following a consultation exercise three objections were received from residents who had raised the following concerns:

- In support of some form of development but have concerns
- Increased noise including roller shutters, engine noises, people shouting and having loud conversations;
- Deliveries arriving early or late;
- Drainage will overhand property;
- Unsightly design and materials;
- Height of the building is too large and is overbearing;
- Impact on light into garden;
- What are the opening hours and proposed uses; and;
- Overlooking, privacy.

In terms of Highways it was advised that the majority of Emmerson Street (including the section where this site is located), Stonehouse Street and Simpson Street, and a stretch of unnamed road located between Stonehouse Street and Simpson Street, are unadopted. As a result they are outside the control of the Local Highway Authority. Members heard that the applicant owns and controls the adjacent site to the north of the application site which was a builders yard and the submitted details proposed 6no. parking spaces within the adjacent land.

Whilst no servicing or turning area was provided within the site boundary and as such vehicles delivering/collecting goods would need to do so from within the street, this was consistent with other adjacent units in the locality.

Members raised concern over the height of the wall and that it would impact on sunlight for the residential properties.

Concerns were raised by Members on parking and vehicles accessing the site via the narrow street and how the units would be serviced without causing harm to the use of the highway.

ORDERED that the application be **REFUSED** for the reasons outlined below.

- Vehicle access narrow to units
- Lack of parking facilities
- Impact on residents
- Inadequate and poor servicing arrangements

23/0556/VAR,136, Low Lane, Middlesbrough, TS5 8EE, variation of condition 3 & 4 (use Restrictions) on planning application 22/0714/COU to allow property to be used as care facility to children and young adults

*** In order to address the Members as a Ward Councillor, Councillor Jim Platt recused himself from the Committee for consideration of the item***

Members were advised that planning permission was granted under application 22/0714/COU for the change of use of the property from a residential dwelling to a children's home. In order to restrict the use to the principles on which were being considered at that time, conditions were applied which restricted the property to provide accommodation for children only (excluding staff) and also limited the number of children resident at any one time.

Members heard that this variation application sought to amend the wording of the conditions to enable the proposed use to a care home which would enable the provision of care for the intended use of young adults between the ages of 16 and 25 years. The application sought no changes to the previously approved operational development of the building. The daytime and night staff numbers would not be increased from the previously approved scheme and as set out within the supporting planning statement may be reduced (subject to individual needs) to 7 staff during the day and from 3 to 2 staff during the night. It was indicated that residents would be encouraged to complete their own housekeeping resulting in their being a reduced demand for a dedicated housekeeper post.

It was advised the proposed variation to amend the proposed use of the building to include young adults would result in no significant operational changes to the use of the building given there would be no significant increase in the previously approved staffing levels or alterations to the approved internal and external layout, including parking provision. It was considered the proposed variation would therefore have no significant impact on the amenity of the neighbouring properties or on highway safety, acting as residential accommodation in a residential area. It is considered that the scale of the premises and its intensity of use requires control to prevent it from being out of character with the surrounding area. The proposed variation to the use is considered to be in accordance with the requirements of the Local Plan Policies H1, H11, CS4, CS5, CS18, CS19 and DC1.

Following the consultation process there had been 9 neighbour objection comments (including 2 from the Ward Councillors). The objections related to the proposed change to the principle use as a children's home, impact on amenity of neighbours, parking for visitors/staff and construction vehicles having impacts on traffic and highway safety, whether there was a need for the use, anti-social behaviour/crime, alternative locations, devaluation of properties Members were advised a number of the objections raised are not material planning considerations.

The Representative from Courtyard Care Group addressed the Committee and informed them that the provision had been developed with local social care commissioners. There would be no fundamental differences and any impact could reduce with fewer staff being employed. There would be a maximum of 5 residents and a staff compliment of 7. The home would provide permanent long-term homes for service users and help promote independent living. Members were advised that the home would be registered with the Care Quality Commission.

A resident read out objection comments from the Ward Councillor which included:

- Majority of local residents are over 60
- 2nd planning application in 8 months
- Private agency delivering the service

- Very expensive provision
- Local area caters for elderly and not young people
- Significant change to the original application
- Residents would be encouraged to be active in the local area – is this the right location
- Increase in traffic
- Speeding
- Concerns of locating vulnerable adults in area with elderly residents and high volumes of traffic
- Personal safety of residents not taken into account

A second Ward Councillor addressed the Committee to object against the application, objections included:

- Application had been approved for a children's home not a home for young adults
- Substantial number of residents had objection previously
- Volume of traffic
- Parking facilities
- Parking on road
- Residents do not want this facility
- Not a local company, extortionate charges

ORDERED - That the application be **APPROVED**

23/0631/MAJ, Discovery Special Academy, Sandy Flatts Lane, Middlesbrough, Middlesbrough, TS5 7YN, erection of single storey Secondary School building (class F1) with associated works including landscaping, fencing and extension to parking area

Planning permission was sought for the erection of a special educational needs (SEN) secondary school on the existing Discovery Academy site, which is on the northern side of Sandy Flatts Lane.

Members were advised that whilst the application site was allocated on the adopted Local Plan Proposals Map as part of the Green Wedge, planning permission was granted in March 2021 for the creation of a SEN primary school at the site, which included a new school building and the associated playing areas and car parks. The land was, therefore, considered to have an established educational use.

Members heard that the site is located on land that is designated as Green Wedge, and includes both Primary and Secondary Open Spaces. Whilst local policies seek to safeguard such land from development, it is the officer view that the provision of a Special Educational Needs (SEN) secondary school should be considered as an exception, as the development would have an over-riding benefit to the community as a whole, which would outweigh the loss of this part of the Green Wedge.

It is considered that the proposed development would not result in the significant loss of open space. The application site occupies a relatively small area of the larger Green Wedge allocation, and that the green character and open appearance of the Green Wedge would not be significantly harmed.

The Committee were advised that 6 letters of objection were received from local residents. The following objections were made:

- Parking at drop off and pick up times causes disruption now along Sandy Flatts Lane and this would become worse, pedestrians are forced to walk

along the road

- The car park expansion would not stop vehicles parking along Sandy Flatts Lane
- There will be more noise from the additional traffic expected
- The existing access road of Sandy Flatts Lane is not wide enough
- Road needs to be widened to take into account for the vehicles including coaches
- Primary school is nearly at full capacity
- Trees need to be felled to accommodate the new building
- Overbearing visual impact
- Existing school an eyesore and out of character
- Layout and density of the building inappropriate
- Building is close to a live high pressure gas main

Members were advised that there were no objections from Highways subject to conditions. Car parking had been provided in accordance with the Tees Valley Highway Design Guide, the majority of pupils arrived by pre-planned managed travel. A swept path analysis demonstrated that the internal layout was suitable, and a Travel Plan is currently being implemented and would be further conditioned. As such it was not considered that grounds could be sustained that there is a high likelihood that unmanaged car parking would occur to the detriment of free flow of traffic or highway safety.

The Head of Planning advised that conditions are attached to the planning application including mitigation around ecology and tree loss, increasing bio-diversity net gain by 10%.

A resident spoke in objection to the application the following objections were raised:

- Why has work started on 5 February 2024 without agreement of the Planning Committee
- Proposed land for initial school there was a condition that the land would be left green and planted, this has not happened
- Saplings not planted
- Use of transport told no coaches would access site, coaches have been on site with over 25 seats
- Overspill of parking internally in car park
- Outside of school reckless parking
- 62 cars noted on one day
- Road is not wide enough to take vehicles, road needs widening to 6.7 meters
- Dangerous pot holes
- Design of road was to take only 300 vehicles per day
- High volume of traffic had worn the roads
- Pot holes in the road every 6 months having to be realigned compared to every 18 months
- Dangerous gas pipelines
- Council responsible for building works close to gas pipelines

The Head of Planning advised that he was not aware of any work that had begun and any work undertaken would be at the applicants own risk.

It was advised that HSE guidelines are used regarding pipelines.

A Member queried if in the previous planning permission there were any conditions regarding the green wedge in this application. The Head of Planning stated that the area was not within the previous planning application so there would have been no conditions put in place.

Members raised concerns that there was no representative present from the school to explain the reason for the application.

ORDERED: That the application be deferred to a future meeting of the Planning and Development Committee to request that a representative from the school attend the meeting to answer queries from Members regarding parking and clarity on how the school is operating in terms of the impact on traffic and access to the school site by vehicles.

23/29 **APPLICATIONS APPROVED BY THE HEAD OF PLANNING**

The Head of Planning submitted details of planning applications which had been approved to date in accordance with the delegated authority granted to him at Minute 187 (29 September 1992).

NOTED

23/30 **PLANNING APPEALS**

NONE

23/31 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

NONE