Advanced Copy: The Planning Committee need to agree these minutes are accurate but cannot do this until its next meeting on 27 August 2024

item 2

South Tyneside Council

Planning Committee Minutes

15 July 2024

Present: Councillors: S. Dean (Chair), P. Dean, Guy, Keegan, Kennedy, Kilgour, N. Maxwell, McKeown, Myers, Brenen, Leask, Owens-Palmer, Proudlock

Apologies: Councillors: Meling, Ford & Taylor

Also in Attendance:

Andrew Inch (Senior Manager Planning), Geoff Horsman (Team Manager – Development Management), Sean Gallagher (Senior Planning Officer), John Rumney (Corporate Lead Legal and Governance and Deputy Monitoring Officer), Dave Carr (Service Lead, Highways Asset Management), Lisa Tracey (Public Rights of Way Officer), Dan Martin (Student Planner), Drewe Russell (Planning Officer), Paul Fleming (Head of Infrastructure and Transport), Steve Green (Highways and Infrastructure Manager) & Sean Allen (Democracy Support Officer).

1. Declarations of Interest

Councillor Kilgour declared interests in relation Item 4 as she knows the wife of the applicant, has met them a couple of times and is aware of the application, but noted she is not predetermined due to this.

The Chair read out wording that explained what being “predetermined” meant for the committee as clarification for all

Members raised concerns over members of the committee not declaring interests in Item 4, noting that they felt some members were pre-determined, having been seen to campaign with the applicant.

Another member noted that it was up to each member to declare any interest and that they were all aware that by declaring or not declaring anything they felt was relevant was their own choice and were aware of any possible consequences should this not be correct, it was also noted that this had been noted in training carried out by the committee prior to this meeting.

2. Minutes

The Minutes of the 17 June 2024 were agreed as a true record by the members with the following amendments:

The declaration of interest for Cllr Kilgour was amended to reflect that she knows the wife of the applicant, has met them a couple of times and is aware of applications being made. It was noted that she had not met with both sides of the applications ST/0838/23/VC & ST/0059/24/FUL.

During the Declaration of interest, a concern was raised by Members regarding some other members not declaring an interest when they felt they should be. They felt a conflict of interest was applicable to applications ST/0838/23/VC & ST/0059/24/FUL. It was noted that all Elected Members are responsible for their own declarations of interest and by not raising one, they were content that such a declaration was not required.

Resolved: Minutes Agreed.

3. Planning Applications

Submitted: Report of the Head of Development Services.

The Committee considered the schedule of applications received for planning permission. It comprised the following;

- **ST/0237/24/FUL** – 382 Stanhope Road, South Shields

Resolved: That the applications for planning permission be dealt with as outlined in Appendix 1 of these minutes.

4. Definitive Map modification Order Application – Long Row, South Shields.

Submitted: Report of the Director of Place and Communities.

Dave Carr, Service Lead for Highways, delivered a presentation highlighting the report. The report was to consider an application to add a length of footpath at Long Row South Shields to the council's definitive map and statement, the council appointed Robin Carr & Associates to investigate the application.

The report and presentation outlined the requirements of the council to make an order to modify the DMS (Definitive Map & Statement) if a right of way that is not shown on the DMS 'is reasonably alleged to subsist' (RATS Test)

It was outlined that the Long Row application contained evidence of use, but the question was whether it amounted to sufficient evidence to demonstrate a reasonable allegation of a public right of way.

The conclusions of the Robin Carr & Associates report noted that the Reasonably Alleged to Subsist test was not met. The officers considered the following:

Section 31 HA 1980

- There is clear evidence that the claimed route could not have been used along its full length for the applicable 20-year period for the purposes of Section 31 HA 1980.
- Even within the evidenced period of use (being less than 20 years), there was also an interruption to the use. A claim based on the Section 31 presumption is destined to fail.

Common law dedication

- There is no evidence the landowner intended to dedicate a public right of way when laying out the majority of the route in 2007/8 or subsequently, as opposed to merely tolerating such use. Subsequent closure by the landowner is consistent with toleration of use by the public.
- There is no evidence the tenants and mortgagee consented to such a dedication and there was a period in receivership when no-one had capacity to dedicate.
- Taking these factors together, there are other possible explanations for the public use other than the creation of a right of way. At common law, the mere existence of other possible explanations suffices to prevent any inference of dedication.

The recommendation, based on the investigation was for the committee to decline to make an order to add Long Row to the Definitive Map & Statement.

Members were invited to discuss the report. A Member asked why the review was carried out by a 3rd party and why an initial report indicated that the route should be added to the Definitive Map & Statement . The officer advised that the report was outsourced due to resource issues within the team and that the initial recommendation was based on initial review which was published with the aim of obtaining more evidence.

Another member enquired why the 91 people who had stated they used the route for walking were not interviewed, Bearing in mind that the recommendation not to add the route to the definitive map was based on the evidence of 3

persons. The member noted again that there was significant concern that the voice of the public seemed to have been disregarded. That member was also unclear as to why the England Coast Path route was not a relevant consideration.

Another member considered that erection of a security fence alone did not constitute an act of ‘blocking’. The purpose of that fence had been to protect a building site. They were in favour of adding the route to the definitive map as the fence had been removed following the completion of works and the route had become a public right of way under common law.,

The officer advised in response that erection of a fence as matter of law removed access to part of the route the subject of the application.

Another member noted that while evidence from residents had been provided in support of the application, it also appeared that there had been an exercise undertaken of letters of support being sought from residents due to similarities in the wording of support letters which meant the recollection of residents may not have been accurate..

It was also noted that while the public feeling was understood, the report highlighted that there was not evidence of 20-years use, noted in item 8.2, and as per the training provided to committee members, they were bound by law and process when making their decision.

A member asked why access was sporadically allowed at times in the past, if there had been no intention for the path to be a public right of way and highlighted their concern about this.

It was raised by a Member that issues such as this have come up over time and that in this instance, designating the path would affect private land belonging to homeowners along the route..

A Member raised a point that the fencing used was a type of temporary fencing, indicating that the route would be reopened at some point, and that evidence regarding dates was vague.

Another member also raised the point that while the 20-year criteria was not met in full, the path still existed, but with diversions, so should be taken under consideration based on this. It was also queried why the coastal path from natural England had been disregarded.

The officer advised that the definition of a route for the England Coast Path did not create a public right of way, which was a separate legal issue.

Cllr Kilgour moved that the application be declined, Cllr Leask seconded this.

A vote was carried out with 6 for the application to be declined and 6 against. This meant the Chair had to use their casting vote, which was used in support of the application being declined. There were no abstentions.

The application was declined by a vote of 7 for to 6 against.

The chair noted when casting their vote, that they did so based on the officer recommendation reflecting the need for any decision to be based on the assessment of evidence against the legal tests . A Member raised their concern that the Chair was then implying that those who had voted against the recommendation were advocating unlawful decision-making. The Chair clarified that this wasn't the case.

5. Schedule of Planning Appeals

Submitted: Report of the Director of Place and Communities.

The report contained a schedule of pending planning appeals, Andrew Inch also advised of another appeal that had been lodged since the papers had been completed, for Tinos Café. The Committee were advised of this as it had been a decision they had made. They were advised they would be updated as and when the appeal had been completed.

Resolved: That the report be noted.

6. Chairman's Urgent Items

The Chair noted there were no urgent items.

APPENDIX 1

Application Number and Address: ST/0237/24/FUL 382 Stanhope Road South Shields NE33 4RB	**Applicants**: Beaumont and Partners Ltd
Proposal: Change of use from dwelling house (Use Class C3) to 7 person HMO (sui-generis). Construction of dormer window to the rear roof slope. Single storey rear extension.	
Declarations of Interest: None	
List of Speakers: None	

Decision:
Granted with conditions

The Director of Place & Communities is also authorised to amend the planning conditions as set out below prior to the planning permission being issued where this is considered necessary.

1	The development to which this permission relates must be commenced not later than 3 years from the date of this permission. As required by Section 91 of the Town and Country Planning Act 1990 and to ensure that the development is carried out within a reasonable time.
2	The development shall be carried out in accordance with the approved plan(s) as detailed below Drg No 201 Rev B received 11/04/2024 Drg No 202-1 Rev C received 01/05/2024 Drg No 202-2 Rev C received 01/05/2024 Drg No 203-1 Rev B received 11/04/2024 Drg No 203-2 Rev B received 11/04/2024 Drg No 203-3 Rev B received 11/04/2024 Drg No 203-4 Rev B received 11/04/2024 Any minor material changes to the approved plans will require a formal planning application under S73 of the Town and Country Planning Act 1990 to vary this condition and substitute alternative plans.

	In order to provide a procedure to seek approval of proposed minor material change which is not substantially different from that which has been approved.
3	The external materials of the rear dormer window and rear single storey extension hereby permitted shall be of similar appearance to those corresponding materials used in the construction of the exterior of the existing building of which those additions and alterations will form a part. To ensure a satisfactory standard of development and in the interests of visual amenity in accordance with South Tyneside LDF Development Management Policy DM1.
4	Before the development is first brought into use, the cycle parking and bin storage to serve the development, as shown on Drg No 202-1 Rev C received 01/05/2024 shall be provided. The cycle parking and bin storage shall thereafter remain in place at all times for their intended purposes. In the interests of residential amenity, highway safety and promoting sustainable transport choices in accordance with South Tyneside Local Development Framework Policy DM1(B & G) and the NPPF
5	The house in multiple occupation use hereby permitted shall be limited to a maximum occupancy at any one time of seven persons and the provision of 7no. bedrooms as shown on the drawings as listed in condition 2. In order to both define and limit the number of bedrooms and occupants authorised for the use hereby permitted in the interests of local amenity and highways safety, in accordance with LDF Policy DM4.

Any Additional comments on Application

A Site visit was condicted on the 12th July 2024. The site visit was carried out with the prior approval of the Chair. The need for the site visit in advance was to view the site and consider the objections to the proposals.

The Planning officer delivered a presentation to the committee outlining the contents of the report.

The report noted that under permitted development rights, a dwelling could be converted into a 6 person HMO without planning permission having to be obtained from the Council; however, in this instance an application is required and has been submitted as the applicant is proposing an HMO that can accommodate up to 7 persons. Members were asked to note the above fall-back position.

A Member noted that an HMO in the area had been approved at the previous committee meeting and asked if this was taken into account when reviewing this application as it appeared to be the same applicant again. The offier noted that the number of HMOs in the area was a small percentage of the overall number of residential properties in the area and it was not considered that this proposal taken together with the HMO previously approved would not result in an over concentration of HMOs in the locality .It was also noted that while this current application was from the same applicant as the previouly approved HMO each application falls to be considered on its own merit.

A Member raised concerns regarding parking associated with the proposed development as in the local area there was already substantial car parking associated with a local GP practice and school. It was noted by the officer that the location was close to bus and metro routes and that their was considered to sufficient on-street car parking space in respect of the proposed development.

Two further Members considered that there was sufficient car parking in the vicinity of the site, although one of these Members noted the concerns of residents regarding crime and anti-social behaviour.

Another Member asked if the layout of the bathrooms in the plans would cause an issue as they are not all en-suite. The officer noted that there was no evidence provided on this matter to indicate an issue.

A Member raised concerns that the report noted that work had already commenced and asked what economic, social and environmental benefits would arise from the proposal. The officer noted that the property could be converted to a 6 person HMO without planning permission having to be obtained from the Council and that the physical works that had already commenced did not in themselves require planning permission. In terms of beneifts it was advised that the proposal would broaden the tenure and size mix of the housing stock in the area.

It was queried if there was evidence more HMOs were needed, the officer noted that there was no evidence to show they are not. A Member also asked if there was a risk, with the rooms being suitable for double beds, that the occupancy could exceed 7 persons. It was noted that condition 5 of the application stipulated that the maximum capacity was 7 persons at any one time.

The application was proposed by Cllr Proudlock and seconded by Cllr Leask. A vote was carried with 8 votes in favour and 4 against the application.