

## **SOUTH AND WEST PLANS PANEL**

**THURSDAY, 10TH DECEMBER, 2015**

**PRESENT:** Councillor C Gruen in the Chair

Councillors J Akhtar, J Bentley, A Castle,  
M Coulson, R Finnigan, J Heselwood,  
S McKenna, E Nash and R Wood

### **71 Late Items**

Members received an additional paper with relation to Agenda Item 7 – Application 15/05904/FU – Former White Bear, Dewsbury Road, Tingley which included representations from a local Ward Councillor.

### **72 Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors A Smart and C Towler.

Councillor S McKenna was in attendance as a substitute.

### **73 Minutes - 19 November 2015**

**RESOLVED** – That the minutes of the meeting held on 19 November 2015 be confirmed as a correct record.

### **74 Application 15/05904/FU - Former White Bear, Dewsbury Road, Tingley, WF3 1JX**

The report of the Chief Planning Officer presented an application for the demolition of a public house and erection of two storey restaurant with drive through and associated car parking and landscaping.

Members attended a site visit prior to the hearing and site plans and photographs were displayed and referred to during the discussion on the application.

Further issues highlighted in relation to the application included the following:

- The site was located at Tingley roundabout close to the junctions of Dewsbury Road and Bradford Road.
- There had been a history of similar applications at the site that had been refused.
- There was an ongoing appeal from the applicant regarding a previously refused application.

- The proposal was for a mixed class use of A3 restaurant/café and A5 takeaway/drive through.
- There would be an agreement with the applicant for payment for improvements to bus stops.
- The site was brownfield and was largely surrounded by residential properties.
- The building on site had previously been used as a pub/restaurant and was now vacant and in a poor state of repair.
- Proximity to residential properties was shown.
- Protected trees on the site would be retained.
- Access arrangements to the site were shown including pedestrian access. The site was a main pedestrian access for students at Woodkirk Academy.
- Members were shown a previous application that was dismissed on appeal. The Inspector had not considered that the principle of the development was the main issue but the harm to residential amenity. The applicant had sought to address this concern through revised applications.
- Access to the site could be obtained from both Bradford Road and Dewsbury Road with exit only on to Dewsbury Road. These would both require visibility improvement works.
- There would be 40 parking spaces on site with spaces for 12 bicycles.
- The floor space would be half that of the existing building.
- There had been 317 letters of objection and 4 letters of support. Objections focussed on highway safety, harm to residential amenity, litter and there was also a land ownership issue. Objections had also been received from local Ward and Town Councillors.
- Members were informed that the site could still be used for use as a public house or supermarket for 24 hours a day without further permission.
- Following amendments to earlier applications which included moving the location within the site for the new building, the inclusion of acoustic fencing and reduced hours of operation on a weekend it was felt that these would have a reduced impact on amenity and the application was recommended for approval.

A local resident addressed the Panel with objections to the application. These included the following:

- This was the wrong location for this kind of operation. There had been thousands of complaints regarding this and similar applications due to the impact it would have on local residents.
- Car parking at the site was inadequate.
- Hundreds of children accessed the site on the way to and from school.
- The local authority had responsibility for public health and could refuse the application on these grounds.
- There had been no consultation between the applicant and the local community.
- The area was a traffic accident blackspot.

- Approval would breach guidance in the National Planning Policy Framework (NPPF) which stated applications of this kind should be sited in town or city centres.
- Capitol Park which was nearby would be a more suitable location.

A representative of Woodkirk Academy addressed the Panel with objections to the application. These included the following:

- The academy had a responsibility to protect the health and wellbeing of their students and promoted healthy diets as part of tackling childhood obesity.
- Fast food had an effect on children's behaviour, concentration and mood which could have an adverse effect on health and educational attainment.
- Risk of anti-social behaviour – both harmful to students and risk of their involvement.
- Additional traffic would also increase the risk on what was already a dangerous road to cross.

In response to questions from Members, the following was discussed:

- It was felt that the objections were material planning issues and the lack of sequential testing was also raised as it was not felt that this had been carried out on all suitable and immediate areas.
- There had been in excess of 6,000 objections to this application and others that had been submitted for the site.
- There had been inconsistencies across the various documentation with regards to issues such as car parking and opening hours. This had made it difficult for members of the public to understand.
- There was no benefit to children with regards to health, education and road safety.
- The operation of the public house at the site did not have an impact on nearby residents.
- Although the academy could not control children's eating habits out of school, there was a community responsibility to deal with anti-social behaviour that took place out of school.
- Students were not allowed off the school site during school opening hours and exit gates would be staffed to prevent this.
- Local residents would prefer to see this site re-used as a public house or a supermarket. There had also been discussion with the local CCG regarding the use of the site for a health hub.

The applicant's representative addressed the Panel. Issues highlighted included the following:

- Benefits of the proposals, should they be approved, included investment in the local economy and the creation of up to 65 jobs for local people.

- There had been substantial revisions to the plans following a lost appeal and these had now received the support of Council officers. The applicant was aware of residents' concerns and had sought to address these through revisions to the proposals. Revisions included moving the site of the building, no windows at the rear of the building to prevent overlooking and the provision of acoustic fencing.
- The applicant prided themselves on being a good neighbour and carried out litter patrols clearing all rubbish with patrols taking place 3 times a day.
- In response to questions from Members, the following was discussed:
  - Noise consultants had been engaged and were satisfied with the proposals.
  - Sequential testing had been completed for the area.
  - There had been some community consultation during earlier applications. The applicant was aware of community concerns to the proposals.
  - With regard to the disputed strip of land, this could only be resolved should the application be granted.

In response to questions and comments from Members, the following was discussed:

- There would be improvements to access and egress from the site. The Bradford Road access would be for incoming traffic only. The fallback position was that the current access arrangements may remain should the site be re-used for something else.
- There was no policy to determine the minimum distance that a hot food takeaway or fast food restaurant should be from a school.
- Tingley roundabout was the third worst accident blackspot across the city. It was not felt that these proposals would worsen this. Large gyratory roundabouts were common accident blackspots due to high volumes of traffic.
- The Bradford Road access to the site would be sufficient for a 7.5 tonne rigid vehicle in accordance with design standards.
- Parking at the site was felt to be sufficient and generous in comparison to other similar sites.
- Concern that customers would use residential areas for parking rather than circumnavigate Tingley Roundabout to come back down Dewsbury Road.
- Concern regarding the traffic and that the proposal was unsuitable for this site. When the previous pub/restaurant had first used the site there was much less traffic.
- The application had attracted opposition from schools, residents, Ward Councillors and the local MP. The Council had a responsibility for public health and childhood obesity was a significant problem. There was not enough parking at the site and there were road safety issues for school children crossing. The proposals would also harm residential amenity and undermine local residents' quality of life.
- Any other use of the site would add to the existing traffic.

Following a motion to refuse the application, Members went into private session to discuss reasons for refusal.

**RESOLVED** – That the public be excluded from the meeting during the consideration of the reasons for refusal on the grounds that it was likely, in view of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information as follows:

Under Schedule 12 Local Government Act 1972 and the terms of Access to Information Procedure Rule 10.4(5) Information in respect of which a claim to a legal professional privilege could be maintained in legal proceedings. It is considered that if this information was in the public domain it would be likely to prejudice the affairs of the applicant. Where there may be a public interest in disclosure, in all the circumstances of the case, maintaining the exemption is considered to outweigh the public interest in disclosing this information at this time.

Following the private session, Members were given a summary of the reasons for refusal that had been discussed.

**RESOLVED** – That the application be refused in principle with the decision deferred to the Chief Planning Officer to draft detailed reasons for refusal relating to the harm to residential amenity by virtue of the noise and disturbance from the coming and goings associated with customers visiting the premises at hours when residents might expect some respite particularly up to 11.00 p.m. at weekends.

Highways safety in relation to the operation of the two accesses.

And further consideration of the public health implications of the proposal particularly with regard to the proximity of Woodkirk Academy.

All of the above to be discussed with the Chair prior to the decision being issued.

**75 Application 15/03540/RM - Nethertown Livery Stables, Old Lane, Drighlington, BD11 1LU**

The report of the Chief Planning Officer presented a reserved matters application for 23 dwelling houses with landscaping and laying out of access roads and sewers at Nethertown Farm, Old Lane, Drighlington.

Site plans and photographs were displayed and referred to throughout the discussion of the application.

Further issues highlighted in relation to the application included the following:

- Outline planning was approved for the site in March 2015.

- The site was currently occupied by a farm and had a number of authorised and unauthorised buildings.
- The application was for 23 dwellings with an area of land set to one side as greenspace.
- The proposed dwellings equated to less than the maximum volume and height of what was approved at the outline application.
- There would be 15% affordable housing contribution which would equate to 3 dwellings.
- Each dwelling would have a different design with a mix of farmyard and courtyard styles to reflect the history of the site. This would also include bungalows.
- There would be off site highways works.
- The dwellings would be a mix of stone and brick. Materials would be conditioned. There would be a dry stone wall effect to the frontage.
- The application was recommended for approval.

A local Ward Councillor addressed the Panel with concerns regarding the application. These included the following:

- The outline application was based on 19 dwellings.. this application had an increase in floor space and volume.
- The outline application had planning benefit calculated via a Section 106 agreement prior to the introduction of the Community Infrastructure Levy. It was requested that the application be deferred so a recalculation could be made.
- In response to questions from Members the following was discussed:
  - The outline application was agreed so the site would be improved and unauthorised buildings be removed. This application did not reflect what was agreed at the outline application.

The applicant's representative addressed the Panel. The following issues were highlighted:

- Although the site was greenbelt, development was permitted providing there was no further impact on openness as the land had previously been developed.
- The proposals did not exceed the volume or height of the buildings that was agreed at the outline application.
- Although there were more dwellings they were generally of a smaller size and the layout was very close to the indicative layout of the outline application.
- In response to questions from Members, the following was discussed:
  - Affordable housing had been located where it had on the site in order to make it more affordable. These properties would likely be discount for sale properties.

Further to comments and questions from Members, the following was discussed:

- All properties would have at least two parking spaces with the exception of the middle property on the block of three affordable housing units.
- There was a preference for all affordable housing to be social rented.
- Further concern regarding the increase in dwellings following the outline application and the impact on openness.

**RESOLVED** – That the application be approved in principle with the decision deferred to the Chief Planning Officer for further negotiations to enlarge windows on two side gables of properties facing onto greenspace.