

## COUNCIL MEETING – 9 JULY 2019

### REPORT OF THE ADDITIONAL PLANNING COMMITTEE

8 May 2019

Present: Councillors Morrall (Chairman), Bell (Vice-Chairman), Aslam, Griffiths, G Lawman, Lloyd, Maguire, Scarborough, Stevenson and M Waters.

Miss J Thomas (Director of Place and Strategic Growth), Mrs L Jelley (Senior Development Control Officer), Mr C Law (Senior Development Control Officer), Ms E Granger (Legal Adviser) and Mrs C A Mundy (Democratic Services Officer).

(Councillor R Gough attended the meeting as a speaker.)

#### 1. APOLOGIES FOR ABSENCE

**RESOLVED** to note that an apology for absence was received from Councillor Graves.

#### 2. DECLARATIONS OF INTEREST

**RESOLVED** to note that in accordance with the Localism Act 2011, the council's code of conduct and the council's constitution, no declarations were made.

#### 3. CONFIRMATION OF MINUTES – 10 APRIL 2019

**RESOLVED** that the minutes of the planning committee held on 10 April 2019, be, confirmed and signed.

#### 4. REPORT OF THE DIRECTOR OF PLACE AND STRATEGIC GROWTH

**RESOLVED** that the annexed circulated report of the director of place and strategic growth, be received on the applications for planning permission, listed building consent, building regulation approvals and appeals information.

#### 5. PLANNING APPLICATION WP/19/00069/FUL – 22 OXFORD STREET, FINEDON, WELLINGBOROUGH, NORTHAMPTONSHIRE, NN9 5HA

The annexed circulated report of the director of place and strategic growth was received, including late letters, on planning application WP/19/00069/FUL, for a front extension of existing detached garage (works have commenced) at 22 Oxford Street, Finedon for Mr Donato Zampino.

The report detailed the proposal, description of the site, the planning history, relevant planning policies, outcome of consultations, representations received and an assessment of the proposal. The application is retrospective and has been submitted in response to an enforcement investigation.

The director of place and strategic growth recommended that the planning application be refused for the reasons set out in the report.

A request to address the meeting had been received from the applicant, Mr Zampino.

The chairman allowed the speaker to address the meeting and the committee was given the opportunity to ask questions of clarification.

The applicant confirmed that he had no intention to use the garage for the purpose of a business, it would be used for the storage of classic vehicles, and if the application was approved he intended to render the garage in keeping with his dwelling. Members were given the opportunity to ask points of clarification.

The site viewing group visited the site on 7 May 2019; members of the site viewing group informed the committee of their findings and considered that the increase in the size of the garage was minimal and that there was no impact on the local neighbourhood. The garage was used to store classic vehicles and would be rendered to match the host dwelling within a three month period.

The chairman then invited the committee to determine the application.

Members took into consideration the potential of noise emanating from the garage should restoration work be undertaken but considered that as this was not a commercial activity, planning law allows for the maintenance and repair of classic cars. Any noise issues experienced by neighbouring properties would be referred to the council's environmental enforcement officers to take action.

Members commented on the benefit of site viewing process which they considered was vital in the decision making process.

It was proposed by Councillor Bell that the planning application be approved, subject to the condition to render the garage, and this was seconded by Councillor Morrall.

On being put to the vote, the motion for approval was unanimously carried.

**RESOLVED** that the planning application be approved with the following condition:

1. The external walls of the garage shall be finished in white render to match the host dwelling. This work shall be completed within three months of the date of this permission.

Reason: To ensure that the extension matches the external appearance of the host dwelling and thereby maintains the visual quality of the area in accordance with policy 8 (d) (i) of the North Northamptonshire Core Spatial Strategy.

**6. PLANNING APPLICATION WP/19/00088/LDE – WHITES NURSERIES  
AGGATE WAY, EARLS BARTON, NORTHAMPTON,  
NORTHAMPTONSHIRE, NN6 0EP**

The annexed circulated report of the director of place and strategic growth was received, in relation to application WP/19/00088/LDE for a lawful development certificate for existing shipping containers, hard stand areas and the mixed use of existing buildings for B8 (storage), B1 (business) and A1 (retail) for Whites Nurseries, Aggate Way, Earls Barton, Northampton, Northamptonshire, NN6 0EP

The report detailed the proposal, description of the site, the planning history, relevant planning policies, outcome of consultations and an assessment of the proposal.

The director of place and strategic growth recommended that the application be refused for the reasons set out in the report.

Requests to address the meeting had been received from the applicant, Mr Edward White, Parish Councillor Colin Wells and ward councillor, Councillor R Gough. Parish Councillor Wells had subsequently withdrawn his request.

The chairman allowed the speakers to address the meeting and the committee was given the opportunity to ask questions of clarification.

Mr White explained that he and his brother had taken on the wholesale/retail fruit and vegetable business following the sudden death of their father ten years ago. They ran a farm shop, and also had a hard standing area and shipping containers for storage on the site. They employed 20 local people and supported local charities with the donation of produce. They now wished to enhance the business which would result in further employment for local people and considered that the evidence they had supplied was sufficient for a Certificate of Lawfulness to be granted.

Councillor Gough, as ward councillor, addressed the meeting and expressed concern that the certificate of lawfulness had not been granted. As ward councillor he was aware that Whites Nurseries had used this site for a number of years. He considered that the council should support business growth, particularly in relation to small business, which benefited the community. He asked that the committee support the request.

The legal adviser informed the committee that it was unusual for this sort of application to come before a planning committee, as it was normally dealt with by officers; however a request had been made for this to be considered by the committee.

She clarified that the matter before them was an application for a certificate of lawfulness to establish the lawful use of the site for storage (B8), business (B1) and retail (A1) to prove that the hardstanding, shipping containers and buildings are immune from enforcement action, as the mixed use of the site does not benefit from planning permission. The shipping containers and other buildings do not benefit from planning permission either.

She advised that the issue of whether to grant a lawful development certificate depended entirely on factual evidence and the responsibility rests with the applicant to provide the necessary evidence to support the application. If the applicant can prove that the land has previously been developed it would support the applicant's case to enable such agricultural rural site to be developed for a non-agricultural, non-rural, retail mixed uses in open countryside. The decision required from committee was whether or not the use of the site was lawful, as evidenced by the applicant.

The director of place and strategic growth informed members that if they considered there was insufficient evidence at the current time to grant a certificate, this would not preclude the applicant from providing further information.

The lawful development certificate would be a material consideration when determining a new application; however the determination of a future planning application should not affect the decision as to whether or not a certificate of lawfulness should be granted at the current time.

The chairman then invited the committee to determine the application.

A lengthy debate ensued with members asking a number of questions of clarification. Particular reference was made to the validity of the statutory declarations, whether the shop was a farm shop or a retail shop and whether or not business rates were paid.

Officers' clarified that the applicant did not have planning permission for the use of a building as a shop and the storage building had been approved for agricultural purposes only. There was no planning permission for the storage buildings or the hardstanding. The applicant's evidence was that these had been in situ for a continuous period of 10 years or more. They had produced aerial photographs, purchase invoices and sworn statements in this regard.

It was proposed by Councillor Maguire that the application for a lawful development certificate be refused and this was seconded by Councillor Bell.

On being put to the vote, the motion for refusal of a lawful development certificate was lost with four votes in favour and six votes against.

**RESOLVED** that the application for a lawful development certificate be granted.

**7. PLANNING APPLICATION WP/19/00091/FUL – 17-18 CAMBRIDGE STREET, WELLINGBOROUGH, NORTHAMPTONSIRE, NN8 1DJ**

The annexed circulated report of the director of place and strategic growth was received, on planning application WP/19/00091/FUL, for a change of use from retail shops into mixed restaurant and takeaway use (sui generis) and to include an external extractor unit on the rear elevation, (amended description), for Mr Caner and Mr Sahin.

The report detailed the proposal, description of the site, the planning history,

relevant planning policies, outcome of consultations and an assessment of the proposal.

The director of place and strategic growth recommended that the planning application be approved subject to the conditions set out in the report.

The chairman then invited the committee to determine the application.

It was proposed by Councillor Morrall that the planning application be approved and this was seconded by Councillor Aslam.

On being put to the vote, the motion for approval was unanimously carried.

**RESOLVED** that the planning application be approved subject to the following conditions:

1. The development shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To prevent the accumulation of planning permissions; to enable the local planning authority to review the suitability of the development in the light of altered circumstances; and to conform to the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following plans/details:

Proposed Floor Plans 2810/PA/03 (registered 15 February 2019)

Proposed Elevations 2810/PA/04 (registered 15 February 2019)

Location Plan (registered 15 February 2019)

Extraction Information (registered 1 April 2019)

Reason: To ensure that the development is carried out in accordance with the approved plans.

3. The development hereby approved shall be carried out in accordance with the details submitted for the means of ventilation for the extraction and dispersal of cooking smells/fumes as set out in approved plans/details in condition 2. The use shall not commence until the extraction and ventilation has been installed and is fully operational and thereafter permanently retained.

Reason: To ensure the amenity of adjoining properties and to protect the general environment in accordance with policy 8 (e) (i) of the North Northamptonshire Joint Core Strategy.

4. Any new or alternative means of ventilation for the extraction and dispersal of cooking smells/fumes, to that which has been approved under condition 2 shall be submitted to and approved in writing by the local planning authority prior to its installation. The details shall include details of its method of construction, odour control measures, noise levels, appearance and finish. The approved scheme shall be installed in accordance with the approved details.

Reason: These details need careful consideration and formal approval and to safeguard the amenity of adjoining properties and to protect the general environment in accordance with policy 8 (e) (i) of the North Northamptonshire Joint Core Strategy.

5. The premises shall not be open outside the hours of 11:00 to 22.30 Monday to Saturday or at all on Sundays or Bank Holidays.

Reason: To prevent harm being caused to the amenity of the area and to safeguard the amenity of nearby occupiers in accordance with policy 8 (e) (i) of the North Northamptonshire Joint Core Strategy.

**8. PLANNING APPLICATION WP/19/00095/FUL – LAND BETWEEN MEADOW CLOSE AND 202 SIDEGATE WORKS AREA 3 BOVIS WELLINGBOROUGH ROAD, FINEDON, WELLINGBOROUGH, NORTHAMPTONSIRE**

The annexed circulated report of the director of place and strategic growth was received, on planning application WP/19/00095/FUL, for earthworks comprising ground levelling/cut and fill associated with the construction activity.

The report detailed the proposal, description of the site, the planning history, relevant planning policies, outcome of consultations and an assessment of the proposal.

The director of place and strategic growth recommended that the planning application be approved subject to the conditions set out in the report.

The chairman then invited the committee to determine the application.

Members considered that the additional information provided by the applicants, available on the website, was exemplary and should be commended.

Councillor Aslam proposed that the planning application be approved and this was seconded by Councillor Lawman.

On being put to the vote, the motion for approval was unanimously carried.

**RESOLVED** that the planning application be approved subject to the following conditions:

1. The development shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To prevent the accumulation of planning permissions; to enable the local planning authority to review the suitability of the development in the light of altered circumstances; and to conform to the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out other than in accordance with the following drawings/details:  
Location Plan 10842 PL 10 Rev B received February 2019

Site sections C2661 drawing number 120 received February 2019  
Cut and fill analysis C2661 drawing number 121 Rev C received April 2019  
(Amended plan)  
Indicative site levels 1 of 3 C2661 drawing number 110 Rev B received  
February 2019  
Indicative site levels 2 of 3 C2661 drawing number 111 Rev E received April  
2019 (Amended plan)  
Indicative site levels 3 of 3 C2661 drawing number 112 Rev B received  
February 2019

Reason: To define the permission and to conform with the requirements of the  
Town and Country Planning (General Development Procedure) (Amendment  
No.3) (England) Order 2009.

3. The development hereby permitted shall not be carried out other than in  
accordance with the construction management plan dated 30 January 2019  
received by the local planning authority 18 February 2019. The approved  
details shall be adhered to throughout the construction and earthworks period.

Reason: In the interests of highway safety, residential amenity, waste  
minimisation and ecological considerations in accordance with policy 8 and  
policy 4 of the North Northamptonshire Joint Core Strategy.

4. The development hereby permitted shall be carried out in accordance with  
the ecological appraisal by fpcr dated November 2018 and received by the  
local planning authority on 18 February 2019.

Reason: In order to ensure ecological protection on site in accordance with  
policy 4 of the North Northamptonshire Joint Core Strategy.

5. Prior to commencement of the earthworks hereby permitted **a working**  
method statement for otters and reptiles shall be submitted to and approved in  
writing by the local planning authority. The development shall only be carried  
out in accordance with the approved details.

Reason: To ensure that adequate ecological protection is provided to otters  
and reptiles and to ensure best working practices in accordance with policy 4  
of the North Northamptonshire Joint Core Strategy.

6. No development shall take place within the area indicated until the applicant  
or agents or successors in title has secured the implementation of a  
programme of archaeological work in accordance with a written scheme of  
investigation which has been submitted to and approved in writing by the local  
planning authority. The development shall thereafter be carried out in  
accordance with the approved details.

Reason: To ensure that any features of archaeological interest are properly  
examined and recorded in accordance with policy 2d of the North  
Northamptonshire Joint Core Strategy.

**9. APPLICATIONS FOR PLANNING PERMISSION, LISTED BUILDING CONSENT, BUILDING REGULATION APPROVAL AND APPEAL DECISION INFORMATION**

**RESOLVED** that the decisions on applications for planning permission, listed building consent, building regulation approvals and appeal decision information determined by the director, in accordance with delegated powers; as set out in the report of the director, be noted.

Chairman

The meeting closed at 8.25pm.