

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST DURHAM)

At a Meeting of **Area Planning Committee (Central and East Durham)** held in the Council Chamber, County Hall, Durham on **Tuesday 12 March 2013 at 1.00 pm**

Present:

Councillor P Charlton (Chair)

Members of the Committee:

Councillors J Bailey, A Bell, J Blakey, G Bleasdale, P Charlton, D Freeman, J Moran and J Robinson

Prior to the commencement of the meeting, the Solicitor advised that apologies had been received from both the Chair and Vice Chair of the Committee. As such, the Solicitor sought nominations for Chair of the meeting. Seconded by Councillor Bleasdale, Councillor Blakey nominated Councillor P Charlton.

Councillor P Charlton took the Chair.

1 Apologies for Absence

Apologies for absence were received from Councillors S Iveson, P Taylor and C Walker.

2 Substitute Members

Councillor M Dixon substituted for Councillor S Iveson.

3 Minutes

The Minutes of the meeting held on 12 February 2013 were confirmed as a correct record and signed by the Chair.

4 Declarations of Interest

There were no declarations of interest.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

5a 4/13/00021/VOC – 85 Gilesgate, Durham, DH1 1HY

The Committee considered a report of the Planning Officer regarding the variation of condition no.1 (approved Plans) of planning approval 4/10/00451/FPA (Sub-division of existing dwelling to form one 4-bedroom dwelling and one 6-bedroom

dwelling) to allow conversion of roof space to provide an additional two bedrooms, at 85 Gilesgate, Durham, DH1 1HY (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting. It was reported that since the officers report had been published, a further 2 letters of objection had been received, neither of which raised any new planning considerations.

Ms D Hardy, local resident, addressed the Committee, speaking on behalf of neighbours of the property and in support of the officers recommendation to refuse the application.

Ms Hardy did not object to the student population living in the area and indeed in 85 Gilesgate, rather her concerns related to parking and the unacceptable impact the additional parking would have on residential amenities, in particular, no.83 Gilesgate. Reference was made to saved policy H9 of the Durham City Local Plan which required that all developments protected highway safety and provided sufficient off street parking, particularly in relation to Houses of Multiple Occupancy (HMO's). Ms Hardy advised the Committee that the application clearly contravened policy H9.

Members were advised that 85 Gilesgate had no sole parking facility, therefore parking outside the property proved at times to be inconvenient and dangerous.

Whilst it was acknowledged that the applicant encouraged tenants in the property to car share or use public transport, Ms Hardy advised that she had witnessed no evidence of car sharing. The entrance arch to number 83 Gilesgate was often blocked by vehicles from no.85 and it stood to reason that HMO's would create intensive parking.

The Committee were advised that the road from 83-90 Gilesgate was outside of the remit of the County Council and the Highways Authority had indicated that the parking outside of no.85 was uncontrollable, though they concurred that should the application be approved it would impact further on parking.

In relation to residential amenity, Ms Hardy advised that the proposals would mean a significant increase in noise disturbance and increase of movement to and from the property. The Committee were advised that the applicant had not justified why they were seeking a variation of a condition, which technically should only be altered under certain circumstances. Ms Hardy urged the Committee to ensure the consistency of the site and refuse the application.

Mr P Smith, on behalf of the applicant Bill Free Homes, addressed the Committee. He advised Members that the grounds for recommendation for refusal was that the application contravened policies H9 and T1 of the Durham City Local Plan.

Mr Smith stated that policy H9 was not listed in the officers list of relevant policies which skipped from H2 – H16. Mr Smith was therefore concerned that the officer had drawn a conclusion on the case prior to all the evidence being assessed.

Members were advised that the officer had written on 20 February 2013 to say that in spite of not having all statutory responses, he intended to recommend refusal of the application.

The applicant believed that he had complied with all of the conditions from the 2010 approval and further advised that he had a letter from the occupier of no.86 Gilesgate, which stated that no.85 was well managed and that the students did not block her car. It was pointed out that this resident was the only one who could be blocked in by occupiers at no.85.

The Committee were advised that the applicants were a highly accredited company, the only company in Durham to hold the coveted AFS Unipol Accreditation. Furthermore they were finalists in the Sunday Times Student Landlord of the Year competition to be announced in May.

Mr Smith advised that the Committee had evidence within the application from the head of The University Security, that he had never had a call regarding behaviour of tenants at 85 Gilesgate. The officers consultation with the police confirmed that they had not been involved in intervening in parking disputes to the front of the property, contrary to the claims of the owners of no.83. Mr Smith pointed out that the only time the police attended was to wrongfully arrest him personally, for defending the rights of the tenants and the occupier of no.86 in relation to a fence wrongly erected by the occupiers at no.83.

Mr Smith advised that he had letters from the alternative transport providers including a division of the largest Multimodal transport provider in Europe (Arriva), praising the applicants transport policies.

The Committee were advised that the objectors told of near misses on the road, however they were not recorded and there were no records of any accidents arising from parking issues. The applicant did acknowledge the danger at the brow of the hill and as such instructed their tenants to turn left at all times and make a loop back into Durham.

Mr Smith advised that the applicants were successful in what they did, which could not be achieved by ignoring the amenity of neighbours. The site was a well managed city centre site and every application they had made had always warned of disaster if approved. Mr Smith believed that the easiest way of making a risk assessment about the future was to look at the past. He reiterated that there had been no police visits, no university security visits and no accidents, however the objectors still stated that residents in no.85 were causing an affray. He called for the H9 argument to be dismissed.

In referring to policy T1, Mr Smith advised that the applicant had policies in place that provided for alternative transport which were in line with T10, which discouraged vehicle parking off the public highway in new development so as to promote sustainable transport choices.

On 5 February 2013, Mr Smith advised that the traffic officer wrote that the creation of two separate dwellings was likely to increase the expectation of residents for

parking. The applicant had therefore pointed out that the property was already two dwellings and it was clear that the officer had not commented upon the current application but the previous one. Having drawn this to the officers attention a more considered reply was sent.

In the 2008 application, again for 12 bedrooms, Members were advised that the Highways Authority raised no objections adding that the new proposals may not lead to an increase in parking demand. Subsequently in the 2010 application for just 10 bedrooms, a negative conclusion was drawn from Highways, noting that it would raise the expectation for parking. Mr Smith as such argued there was a lack of consistency.

Mr Smith referred to an application for a bigger development in the city which was recently approved, though 85 Gilesgate was closer to the University facilities.

Reference was also made to an application which was made in Gilesgate in 2007 which was refused. Mr Smith was highlighting what he believed to be an inconsistent approach by the Highways Authority and he believed that sufficient evidence had been presented to show that the objection on the grounds of T1 was inconsistent with current planning policy T10. He concluded by requesting that planning approval be granted.

The Principal Planning Officer responded to all comments made as follows:

- Members were reminded that despite references made to previous planning applications and decisions, each application must be determined on its own merits, as different applications often related to different locations and circumstances.
- The objectors concerns were fundamentally the same as the concerns of the Planning and Highways concerns, relating to parking implications and road safety.

The Highways Officer was in attendance and addressed the committee. He advised that the issue of parking was well covered within the officers report at paragraphs 50 and 51, and having personally visited the site, he was particularly concerned with junction visibility and access onto Gilesgate. He therefore concurred that additional traffic would create increased risk of danger.

Councillor M Dixon queried why the variation to the original condition had not just been included in the original application. Having read the officers report, he accepted the expert advice of the Highways Officer and as such moved approval of the recommendation to refuse the application.

Councillor Blakey supported the motion, stating that having seen the site she would be concerned with the introduction of any more traffic to that area. Councillor Freeman also supported the officer recommendation, citing refusal on the grounds of parking demand, residential amenity and highway safety.

Resolved: That the application be refused for the reasons set out in the officers report.

5b PL/5/2010/0532 – Plot 1, Maple Crescent Garage Site, Seaham, SR7 7UT

The Committee considered a report of the Planning Officer regarding a retrospective application for a private garage at Plot 1, Maple Crescent Garage Site, Seaham, SR7 7UT (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members of the Committee had visited the site earlier in the day and were familiar with the location and setting.

Mr L Hobbs, local resident, addressed the Committee. He advised that he had lived in Maple Crescent, next to the garage site, for 20 years and had suffered misery due to the failings of the Council in relation to the site. The original fence around the perimeter of his property had been destroyed as a result of anti social behaviour. Following that, he had agreed with the Council to erect a new fence 3 inches closer into his boundary. Having done that, the garage had been erected on Plot 1, and this encroached onto his property by 7 inches.

Mr Hobbs referred to the provisions of the Party Wall Act 1996, which required specific notification to be provided to neighbouring properties prior to development.

Mr Hobbs advised that prior to the erection of the garage, he had pointed out that there would be issues with the building, however his concerns were not acknowledged. The guttering was not attached correctly to the garage and instead was supported in place by Mr Hobbs' fence. The guttering was also not positioned on a gradient as such there was no run off.

Mr Hobbs reported that he had liaised with Asset Management on the issue, and they had concluded that the land which Mr Hobbs claimed was his, was in their opinion, council owned land. Mr Hobbs disputed this, reiterated that some years earlier he had erected a new fence, 7 inches into his boundary, however that 7 inches out from his fence remained his land and as such the garage encroached onto his land.

Mr Madeley, applicant, addressed the Committee. Members were advised that in September 2010 he was successful in acquiring plot 1, Maple Crescent, and his intention was to erect a garage on the plot. In October 2010 he began erecting the garage, at which point his neighbour, Mr Hobbs, made a complaint, dissatisfied with the position of the garage. Mr Madeley had followed all proper processes and paid fees accordingly. He offered to place guttering along the garage and Mr Hobbs at that time, was satisfied with that proposal. Once the guttering was put in place, Mr Madeley reported that Mr Hobbs remained dissatisfied, but then heard nothing further from Mr Hobbs in respect of the garage for some 36 months.

Mr Madeley advised the Committee that he erected the garage exactly on plot 1 and had paperwork to evidence where the original plot was pre-garage.

The Solicitor advised the Committee as follows:

- Members were reminded that though there was clearly a boundary dispute between the parties, the role of the Committee was not to determine the dispute, as that would be classed as a private legal matter;
- In respect of the references to the Party Wall Act 1996 by Mr Hobbs, Members were advised that also was a private legal matter and not relevant to the remit of the Committee.

In response to questions from Members, the Principal Planning Officer advised that on such a simple build as a garage, there was no real alternative solution to the guttering on the garage. The existing guttering served its purpose, on larger builds, guttering inset into the roof could be a solution, but that was not appropriate to such a simple structure.

Councillor A Bell acknowledged that the main issues were private legal matters, he therefore concurred with officer recommendations and, seconded by Councillor M Dixon, moved approval of the application.

Resolved: That the application be approved.

5c PL/5/2012/0414 – 17, 18 & 19 Roxby Wynd, Wingate, TS28 5PN

The Committee considered a report of the Planning Officer regarding the change of use from public open space to residential curtilage including erection of fencing (partly retrospective) at 17, 18 & 19 Roxby Wynd, Wingate, TS28 5PN (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members of the Committee had visited the site earlier in the day and were familiar with the location and setting.

Mr A Turnbull, applicant, addressed the Committee. He advised that he had lived in Roxby Wynd for 14 years and during that time the land in question to the rear of his property, had never been correctly maintained. He and his neighbours had been victims of flytipping on that land, which impacted onto their properties, in addition the area had also been used as a meeting area for youths which caused a nuisance. He and his neighbours therefore wished to have the area enclosed in its entirety to resolve the issues.

The concerns of the local members for Wingate were acknowledged and Mr Turnbull clarified that the rest of the open space to the rear of the properties would remain as such and would continue to be used as recreational land as was the original intention. He advised that the area of land subject to the application was not attached to the rest of the open space and therefore enclosing it would not impact on the rest of the land.

Mr Turnbull advised that he had been forced to fell one tree within the enclosure of his property due to it being diseased, however neither he nor the other residents had any intention to remove any further trees.

Councillor Bailey advised that he was wholly against the application and concurred entirely with the Parish Council and local Members, all of whom objected to the proposals. He acknowledged the covenant which was attached to the open space and felt that approval of the application could set a precedent for future similar applications, all of which could be in contravention of the Councils Open Space policy.

Councillor A Bell acknowledged that the path to the rear of the three properties which separated the two areas of land, acted as a natural boundary, and so in principle, he had no issue with the proposals to enclose that land with fencing. However, having viewed the area on the site visit earlier that day, he had concerns regarding the quality of the fencing which would be used. He referred to other properties on the estate which had high quality sweeping fencing, however he felt that in comparison, the fencing which had already been erected to the rear of no.18 Roxby Wynd, was of a poor standard and was out of character with the surrounding area. He also feared for the resident of a nearby bungalow, whose view could be impeded by a 6 feet fence of poor quality.

Councillor Bell also expressed concerns about the existing trees. He commented that he found them to be mature trees in full leaf and good condition and felt it would be a shame if they were unprotected by a TPO.

As such, Councillor Bell felt that he could not support the application in its current form, and would have been more inclined to support in particular if the visual amenity aspect in relation to the height and quality of fencing, was better addressed.

Councillor Dixon acknowledged that the area land had obviously been mistreated in the past and was not an active area of open space, however he agreed that the visual impact was a problematic issue. He trusted the officers opinion that the fencing would not affect the residents of the nearby bungalow, however he remained concerned about the quality of the fencing.

In respect of the restrictive covenant, the Solicitor advised that officers had no details on the covenant, however it would not be a relevant planning consideration. Should the Committee grant the application and it transpired that there was a restriction, that would be treated as a separate issue.

Councillor Bailey remained of the opinion that the covenant was a relevant issue, especially as it had been raised by the local Members for the area.

Councillor Blakey concurred with the concerns which had been raised in relation to the quality of the fencing and queried whether the planners could work with the applicants to arrive at a suitable design. In response, the Principal Planning Officer clarified that could be done, indeed a condition could be attached to the permission requiring a design to be agreed with officers prior to erection. As such, Councillor Blakey moved approval of the application, subject to a condition relating to the design and quality of the fencing.

Councillor Freeman objected to the application as he felt there was no benefit to the community in approving the application. He also suggested that as the open space land had been a former school site, it was possible that Durham County Council may have imposed a covenant and as such, the Planning Committee would be unable to make a decision in respect of that land. The Solicitor reiterated that it was irrelevant who imposed any restrictions over the land as a covenant was extraneous to the planning system.

Councillor A Bell queried whether a condition could be attached to the permission relating to the protection of the remaining trees. In response, the Solicitor advised that as there was no technical evidence from the arboricultural officer to suggest that the protection of the trees was appropriate, the Committee were unable to require that the trees be retained.

The applicants addressed the Committee and assured Members that they had no intention of removing the trees, which they acknowledged were in good condition. Furthermore, they agreed to do alterations to the existing fencing to bring it to a suitable standard more fitting with the character of the area, as well as erect suitable fencing at the other properties.

Councillor Dixon suggested that the materials be approved by the Chair of the Committee, Councillor P Charlton. The Principal Planning Officer clarified that a condition could be imposed regarding the materials and that the Chair be consulted on the materials.

Upon a vote being taken it was,

Resolved: That the application be approved subject to conditions detailed within the report and additional conditions considered necessary by the Committee relating to fencing design and materials with responsibility for the wording of the additional conditions delegated to the Principal Planning Officer and to be agreed by the Chair of the Committee.

5d PL/5/2012/0437 – Eden Transport Ltd, Eden House, High Hesleden, TS27 4QF

The Committee considered a report of the Senior Planning Officer regarding a residential development (outline) for 9 dwellings (resubmission) at Eden Transport Ltd, Eden House, High Hesleden, TS27 4QF (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members of the Committee had visited the site earlier in the day and were familiar with the location and setting. Members were advised that a late representation had been received from local member, Councillor A Cox. Councillor Cox supported the local residents and the 31 objections from the village. He fully agreed with their reasons of concern should the development go ahead, as outlined at paragraph 51 of the officers report. His opinion was that the application should be refused. He noted the intention of Eden Transport Ltd to relocate the business to an alternative site, and hoped that would go ahead whatever the outcome of the Committee meeting.

Mrs P Twigg, local resident, addressed the Committee, also speaking on behalf of Mr Cummings, also a local resident. She began by advising that along with 80% of the population of High Hesleden, she objected to the application for several reasons.

Mrs Twigg believed the Highways report to be flawed, advising the Committee that the proposals would lead to a significant increase in traffic on an already unsuitable road. Whilst there was road signage in the area, Mrs Twigg reported that the road was only 225 yards in length and just 50 metres from a blind bend, which gave rise to many concerns regarding road safety. The introduction of more houses would generate more traffic and more road trips, which would impact on road safety.

The Committee were advised that the site within High Hesleden was not sustainable as there were no local amenities and no infrastructure which would support such a development. Furthermore the proposed development did not accord with the Preferred Options proposals.

Mrs Twigg also expressed concerns that while the proposal was currently for 9 dwellings, there was a possibility that this could be increased in the future.

Councillor R Crute, local Member, addressed the Committee. He advised that in principle he did not disagree with the proposed development, he was however concerned that the location was unsuitable, and as such supported the objections of local residents.

The proposed estate was outside of the settlement boundary of High Hesleden and as such conflicted the Easington Forward Plan. He did not accept the site was sustainable as there were no local facilities or infrastructure to sustain it.

Councillor Crute advised that the wealth of objections from a hamlet the size of High Hesleden was phenomenal and illustrated that the local community was in total objection to the development. Their concerns were underpinned by Councillor Crute and also the local Parish Council.

Members were advised that Councillor Crute had been a local member in the area since 1987 and had never received any complaints relating to transport from the business, contrary to the claims of the applicants.

Councillor Crute also expressed concerns regarding flood risk, a lack of affordable housing provision, and that the proposed development was not in keeping with the character of the village.

The Committee was advised that a Neighbourhood Plan was in the process of being developed for the area which was a preferred option to determining any future development for the village. Councillor Crute further advised that the application contravened the local Parish Plan, the NPPF and the emerging County Durham Plan.

Mr R Newlove, agent for the applicant, addressed the Committee. He began by advising that Eden Transport had been a long established business on that site and over the years the business had grown, to the point that now, larger premises were required in order for the business to expand.

In relation to the concerns expressed in the letters of objection, Mr Newlove highlighted that the applicant, rather than proceed with the proposed development, could instead sell the land and then the residents would be left with no guarantees as to who may take over the site. Furthermore in response to the points raised about the area being unsustainable, Mr Newlove highlighted that it was in fact the residents who found the village to be unsustainable and therefore they may, in time, leave the village for a more sustainable location themselves.

In relation to the style of housing, the Committee were advised that the proposals were not to introduce unsuitable housing to the area, indeed similar properties to those proposed, existed in the village already.

Mr Newlove advised that both the Neighbourhood Plan and the emerging County Durham Plan were not valid reasons for refusing the application as both were some time off being implemented. Mr Newlove referred the Committee to pages 46 and 47 of the officers report where the benefits to the application were listed.

The Principal Planning Officer responded to all comments made as follows:

- Speeding/road safety – there was no direct correlation between speeding issues and the introduction of 9 new dwellings to the area;
- Future applications – The Committee were advised that a previous application for a high density development on the site had been refused, as such this development would not exceed 9 dwellings;
- There were significant highway safety benefits in removing the number of HGV trips and replacing with private vehicle trips.

The Highways Officer addressed the Committee and referred Members to paragraphs 72-74 of the report which set out the Highways issues. The Committee were advised that the estimate of 72 two way vehicle trips was calculated using a nationally agreed method, and that the estimated amount of trips for the size of development was well within acceptable limits.

In relation to the access arrangements to the site, the Highways Officer believed them to be the best proposed arrangements he had seen, greatly improving the area and positively beneficial to the area. The junction would be substantially improved and it could only be classed as a benefit to see the removal of numerous articulated wagons from a road network that struggled to support them.

In response to a query from a Member, the Solicitor clarified that because of the size of the development there was no Section 106 requirement, and the only obligation on the developer was to relocate the business within the County and that the relocation occurred prior to commencing with the development.

Councillor Dixon fully supported the application, commenting that the access improvements were extremely impressive and the removal of a HGV company, plus the introduction of 9 dwellings, could only be a good thing for the area.

Councillor Bell agreed, commenting that having seen the site on the visit earlier that day, he felt that residential properties would be more in keeping with the area as opposed to the existing haulage company. He did express concerns regarding the lack of 106 monies for future community benefit, and queried whether the applicant could be required to make a financial gesture to the area. The Principal Planning Officer that as the trigger for requiring 106 monies was 10 units, this development fell below that threshold and so any contribution would have to be made voluntarily by the applicant. The agent for the applicant advised that the applicant was to make a massive spend on achieving the access improvements which would in the long run be good for the area.

Upon a vote being taken it was,

Resolved:

That the application be approved subject to the conditions detailed within the report.

5e PL/5/2012/0303 – Land adjacent to road from High Hesleden to Monk Hesleden

The Committee considered a report of the Senior Planning Officer regarding the erection of 5 stables, tack room, hay store and formation of access at land adjacent to road from High Hesleden to Monk Hesleden (for copy see file of Minutes).

The Senior Planning Officer gave a detailed presentation on the application which included photographs of the site. Members were advised that a late representation had been received from local member, Councillor A Cox. Councillor Cox agreed with the officers conclusions and recommendation that the application be refused.

In response to a query from a Member, the Senior Planning Officer clarified that the permission which was granted to a neighbouring field in 2011, had generated less concern among officers with regards to access requirements. That application had been less visible whereas the trimming of splays required on the current application would make the proposed development much more visible from the road.

In view of the visual impact of the application, upon a vote being taken it was,

Resolved: That the application be refused for the reasons set out in the officers report.

6 Appeal Update

A series of appeal updates were circulated for the Committee to note (for copy see file of Minutes).