

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Council Offices, Spennymoor on **Thursday 22 September 2016 at 2.00 pm**

### **Present:**

**Councillor H Nicholson (Chairman)**

### **Members of the Committee:**

Councillors B Armstrong, D Bell, K Davidson, J Gray, S Morrison, A Patterson, G Richardson, L Taylor, F Tinsley, C Wilson and S Zair

#### **1 Apologies**

Apologies for absence were received by Councillors D Boyes, J Clare, M Dixon and C Kay.

#### **2 Substitute Members**

Councillor J Gray substituted for M Dixon and F Tinsley for J Clare.

#### **3 Declarations of Interest (if any)**

No declarations of interest were received.

#### **4 Minutes**

The Minutes of the Meeting held on 21 July 2016 were agreed as a correct record and signed by the Chairman subject to Councillor L Taylor's apologies being recorded.

#### **5 Applications to be determined**

##### **a DM/16/01931/FPA - 16 Meadhope Street, Wolsingham**

The order of business was amended in order for application 5 e) on the Agenda to be considered first.

Consideration was given to the report of the Planning Officer regarding an application for the retrospective installation of UPVC windows at 16 Meadhope Street, Wolsingham.

The Planning Officer gave a detailed presentation which included plans and photographs of the site. Members had also attended a site visit to the property.

Councillor Shuttleworth, Local Member, addressed the Committee in support of the application having requested that it be called to Committee. He referred to the recent renovation as high standard and reflected on the properties' previous years, having been pebble dashed and unsightly. The wooden framed windows which were manufactured in the 1980's were unable to last more than ten years, regardless of their treatment. Furthermore the permission which had been granted in November 2014 only referred to the construction of UPVC windows and did not refer to sliding sash style windows. The current windows which had been installed were an upgrade to the previous windows as Members would have observed on the site visit, and they benefitted the visual appearance of the street.

The Principal Planning Officer confirmed that when planning permission was granted in 2014, a detailed plan showing sliding sash style windows would have been attached to the planning permission; however in response to Councillor Patterson he confirmed that a copy was not available to the Committee.

Councillor Davidson confirmed that the Committee could not consider debating the quality of UPVC or wooden frames; the point of Article 4 was to ensure that the character of the windows was correct in relation to the conservation area. The windows installed were not a sliding sash window and that is what had been required by the previous permission granted. He referred to the significance of planning control and the Article 4 Direction which removed permitted development rights in order to preserve, and in this case enhance, the characteristics of buildings. The fact that the building had been previously been pebble dashed and now wasn't indicated that the area was improving and to ensure that it continued to improve for future generations, Councillor Davidson moved the recommendation for approval.

Councillor B Armstrong referred to the number of properties listed within the report which had been refused permission for applications with regard to non-sliding sash windows and considered approval would be unfair to those who had conformed to the required standard. In addition, if the Committee allowed one application, it would set a precedent for future applications and therefore, in order to protect the historical character of the Wolsingham Conservation Area, Councillor Armstrong seconded the recommendation.

Councillor Richardson referred to the photograph of the building and high standard of work done to the property. With regards to the rest of the street, there were existing windows of all shapes and sizes and he did not see a problem with the application and could therefore not support the recommendation to refuse.

Councillor Morrison noted issues with the style and design of the windows which had been installed and suggested that Members should show consideration as to whether the design of the windows were of a satisfactory standard.

## **Resolved**

That the application be refused on the grounds outlined in the report.

**b DM/16/02622/FPA - Caravan, Spring Lane, Sedgfield**

Consideration was given to the report of the Planning Officer regarding an application for the conversion of redundant storage/workshop building to form a single dwelling.

The Senior Planning Officer gave a detailed presentation which included plans and photographs of the site.

A late representation had been received from Sedgefield Town Council and Councillor A Wills had attended to put forward representations on their behalf. He referred to the previous application which had been refused and the subsequent appeal which had been dismissed by the Planning Inspector. With regards to Paragraph 55 of the NPPF, no special circumstances had been presented by the applicant to satisfy that the building was capable of conversion or reuse without substantial or complete rebuilding, and no structural assessments or building surveys had been carried out to establish whether the building was safe to be converted. The only addition to the original application was a visual assessment by a chartered building engineer and chartered surveyor, however this had still not determined that the building was sound or capable of conversion. He referred to the outcome of the appeal which had concluded that the development was unacceptable as it would be in an isolated, and thereby unsustainable, location. He advised that any business which had previously been carried out at the site, had ceased in 1993 and the building had not been used since, nor had there been any attempt to clean up the site. The appeal was dismissed on the basis that it did not satisfy the criteria of the NPPF - it did not amount to a sustainable form of development, contrary to the overarching sustainability objectives of the Framework. Therefore on behalf of the Town Council, he reiterated their opposition to the application and urged the Committee to refuse it.

Councillor Tinsley advised that the Committee could not support the application on the sole basis that the site would be cleaned up and considering there had been no material change since the original application, he moved the recommendation to refuse.

Councillor Davidson agreed that there was nothing contained in the report which would overturn the original decision and that of the Planning Inspector and seconded the recommendation.

In response to a query from Councillor Wilson, the Senior Planning Officer confirmed that the site was subject to a standard contaminated land condition, however there had been no issues raised with regards to contamination and there had been some work undertaken to remove waste from the site.

### **Resolved**

That the application be refused on the grounds outlined in the report.

**c DM/16/01871/FPA - Land to the West of Corbrae, Todhills**

Consideration was given to the report of the Planning Officer regarding an application for the erection of a single detached dwelling on land to the West of Corbrae, Todhills.

The Senior Planning Officer gave a detailed presentation which included plans and photographs of the site. Members had also attended a site visit to the property.

Councillor Geldard addressed the Committee in support of the application. As Local Member and Leader of Spennymoor Town Council, he was also aware of many key Councillors in favour of the application. The application had been put forward by an applicant with a growing family, who had lived in the community for all of her adult life and whose family had lived in the area for generations. This application would allow her to continue to reside in the area and free up her existing undersized property for her parents to occupy. The site had formerly housed a farmhouse and farm buildings which had rendered the land useless for grazing or crops. Without redevelopment the land would be left vacant and useless for years to come. Although the land had been described as greenfield, there was clear evidence to argue that it was brownfield land and therefore meet the objectives of the NPPF. He urged the Committee not to reject the application on grounds which were arguable, and not to uproot the family.

Councillor Thompson, Local Member, addressed the Committee in support of the application. He expressed disappointment that the application was recommended for refusal and commented on the grey areas considering the absence of a Local Plan. With reference to Paragraph 55 of the NPPF, he confirmed that the objective was to promote sustainable development in rural areas and housing should be located where it would enhance or maintain the vitality of rural communities. The support that could be given to nearby villages was evident; Byers Green was 500m away via a DCC maintained footpath and the Primary School which was under capacity and had only been built 9 years ago, could be attended by the two children who would occupy this property. With regards to the bus service, Councillor Thompson pointed out that it was adequate enough to support the village of Byers Green, which was home to a Pub, Club, Post Office, a recently established restaurant and it had also recently had an application approved for 6 apartments. With this in mind, to hear Byers Green and Newfield being described as lower order settlements and having their sustainability questioned was surprising. To refuse this application would be bad news for rural communities. He reminded Members that although the emerging County Durham Plan could not be given any weight, some consideration should be given as it progressed through the stages of preparation. Consideration should be given to the suggestion that Mid Durham would provide 18% of the housing requirement in County Durham and of that, 11% would be windfall developments. He urged Members not to dismiss the application as it would dismiss the right of many people to do the same.

The applicant's agent addressed the Committee with regards to the reasons for refusal. The development was referred to as isolated development in the countryside, however, in reality the existing properties in Todhills were far from isolated; the site was in the middle of a row of existing dwellings and the boundaries referred to were too outdated to be relied upon. It was said that the site was unsustainable for new housing development, yet for decades it had housed a farm

house and outbuildings up to the 1980's and there was a bus stop right outside of the boundary. Although the site had been cleared, the foundations had not, which had left the land with no agricultural value. The applicant was an established member of a community in which residents wanted her to remain. This development would free up the property in which she was currently living, for her parents to move into. The NPPF stressed that a range of housing could be considered and it was for the Committee to decide whether, on balance this development was acceptable. With reference to Local Plan Policies, he confirmed that they were so far out of date, they would be disregarded by the Planning Inspector.

The Chairman reminded Members that any reference to the County Durham Plan should be disregarded and asked the Senior Planning Officer to clarify points raised regarding greenfield/brownfield land and bus services in the area. She confirmed that the NPPF considered previous development which was occupied by previous structures as brownfield land but excluded any agricultural buildings. In addition land on which buildings had blended into the landscape over the process of time was considered to be greenfield. With regards to this site the land had, over time, been grassed over and blended in to the landscape, therefore it was considered to be greenfield. With regards to bus services, there was a bus stop, but services were limited with no service on a Sunday. The area was isolated and there were no immediate amenities - to access them, it would be necessary to travel to neighbouring villages and there would be strong reliance on a private car.

Councillor Richardson confirmed that he had attended the site visit and had taken the opportunity to walk around the site, observing clear remains of the former buildings. The land was not fit to graze animals on and he did not consider it was greenfield. In addition he considered that the development was suitable for the existing area and could not support the recommendation to refuse, therefore he and seconded the application for approval.

Councillor B Armstrong confirmed that she also lived in a rural community and unlike this application, there was no nearby school and lacking a bus service. She agreed with the speakers and saw no problem with the proposal. Although the site had been described as greenfield in the report, Councillor Armstrong expressed uncertainty and considered it could be difficult to defend a decision to refuse at appeal. In her own locality, there had been applications refused on land where buildings had sat 40 years previously and following appeal, sited houses.

Councillor Tinsley added that the Committee should seek to support rural communities and there were arguable facts regarding whether the land was greenfield or brownfield, or whether it was an isolated location. It was clear from the site visit that there were remains of former buildings, in addition to a large industrial site 10m from the site boundary, and a cattery and other residential buildings stood at either side. Situated in the next settlement, there was a Primary School and a Secondary School within 1.5 miles – these were far below the usual distances for a traditional rural village. He referred to the photograph which identified that the land had previously been developed and regarded the description of greenfield land as debatable. Based on the evidence which had been put forward, he was in favour of the proposal.

Councillor Zair referred to Paragraph 55 of the NPPF which clearly cited that developments should not be permitted in isolated locations in the absence of special circumstances. He confirmed that evidenced by two local Councillors, there had been enough special circumstances to satisfy the Framework.

Councillor Patterson disagreed the site was in an isolated location. It was on a main through route with a bus service and it was within walking distance of a local Primary School. She also supported the application.

Councillor Davidson reiterated that questions had been raised regarding whether the previous development had blended into the landscape and could be defined as greenfield land.

### **Resolved**

That the development, by virtue of its location, siting and access to surrounding facilities consisted of sustainable development and represented an acceptable design and would contribute to the economic and social dimensions of sustainable development. The adverse impacts of the scheme were not therefore considered to significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF, taken as a whole and the application was approved, subject to Conditions being agreed by planning officers in consultation with the Chair of the Committee.

#### **d 3/2003/0267 - Land North of Smith Street, Tow Law**

Consideration was given to the report of the Senior Planning Officer regarding an application for the up to 38 dwellings with all matters reserved at Land North of Smith Street, Tow Law.

The Senior Planning Officer gave a detailed presentation which included plans and photographs of the site.

Councillor Hart, Local Member, had submitted a statement in support of the application which was read out in his absence. He confirmed that the long term sustainability of Tow Law relied upon attracting and retaining residents. This development would add to the local housing stock and improve the visual appeal of the town, by replacing a neglected and semi-derelict part of town with a modern development.

The Chairman queried the reduced level of off-site contributions and the Senior Planning Officer confirmed that although £1000 per dwelling would be the normal amount required, planning authorities were required to take a flexible approach in accordance with the viability of the site and £20k was deemed to be an appropriate sum in the circumstances. There were potential unknowns regarding the build cost as the area had left behind a coal mining legacy and there was also a concern regarding market values, which could potentially impact on the viability of the development. Should the market value increase, the agreement would be reviewed and there would be an opportunity to maximise the agreement.

Councillor Richardson moved the recommendation for approval.

Councillor Patterson referred to the 15m buffer zone on the application site, adjacent to Hedleyhope Nature Reserve. She queried whether the dwellings which were adjacent to the buffer zone would have permitted development rights removed in order to maintain the 15m zone. The Senior Planning Officer confirmed that the zone would be an area of reserved and maintained land beyond the perimeter of the site and would not include gardens. Councillor Patterson seconded the recommendation.

In response to concerns from Councillor Armstrong, the Senior Planning Officer confirmed that Ecology was being consulted regarding the landscaping of the buffer zone and limiting the impact on the Nature Reserve would be advised.

### **Resolved**

That the application be approved on the grounds outlined in the report.

Councillor Patterson left the meeting.

### **e DM/15/03615/FPA - Land to the Rear of 7 And 8 Meadow Close, Middleton-in-Teesdale**

Consideration was given to the report of the Senior Planning Officer regarding an application for the erection of 5 detached dwellings and 4 semi-detached dwellings on land to the rear of 7 and 8 Meadow Close, Middleton-in-Teesdale.

The Senior Planning Officer gave a detailed presentation which included plans and photographs of the site.

The Senior Planning Officer confirmed that a late representation had been received from Middleton-in-Teesdale and Newbiggin Parish Council, however the issues raised had been previously submitted and a summary was contained in the report.

Councillor Henderson had submitted a statement which was read out in his absence on behalf of himself and Councillor R Bell. As Local Members they had concerns regarding the risk of flooding in the area following heavy rainfall and as the site would be built on a gradient, the water would run downhill and cause flooding to the bungalows in Meadow Close. There were also concerns raised regarding the roads of the existing houses as the previous developer, who was a relative of the current applicant, had failed to complete the roads and drainage up to the required standard. This had impacted on the residents now for 10 years and should the Committee approve the application, Councillor Henderson requested that conditions were attached in order to alleviate the risks and reservations of the current residents. Finally, he requested that that Members visit the site before making a decision.

Mr Selby addressed the Committee on behalf of a group of residents in Meadow Close. His statement had been circulated to Members in advance of the hearing. Residents of the existing development were concerned that the development could

increase flood risk in the area. He regarded the assumptions by Northumbrian Water Ltd, that the existing infrastructure was capable of hosting the increased water flow, as being flawed. The new development would require substantial earthworks to construct the new homes and the installation of new drainage systems. Any resulting land slip or drainage malfunction may lead to the properties on Meadow Close becoming unstable. The site was greenfield and considering the building going on in nearby Barnard Castle and Startforth, there was no special circumstances to build the properties on it, a requirement of the NPPF. Mr Selby confirmed that residents were requesting the Committee to attach a number of conditions with regards to the proposal, as follows;

- Resurfacing of the access road on Meadow Close and adoption of the highway by the Council before work commenced. The road had not been surfaced adequately by the previous developer the additional traffic from nine properties would worsen the condition of the road.
- An alternative layout for the development which would improve the visual impact of the proposal, create fewer issues regarding the loss of light, and reduce flood risk.
- Proper screening and fencing of the site for health and safety reasons and the assurance that the provisions of the Party Wall Act 1996 were complied with.
- A time limit for completion of the works.
- Plans to maintain the landscaping of the area, either by the County Council or Parish Council.

The Applicant addressed the Committee and confirmed that she was the daughter in law of the aforementioned developer of the properties on Meadow Close, and wanted to see the site completed. She confirmed the need for modern starter homes and homes for retiring locals to move in to as there was a shortage of these types of properties in the area. She concluded that the site plans had been designed following advice from Planning Officers and the relevant planning policies - the four semi-detached properties were unable to be located alongside the existing semi-detached properties due to the gradient of the land. The Applicant's Agent and Architect confirmed that with regards to the concerns of residents regarding flood risk, a large on site storage container was proposed to alleviate any flood risk and although there was no intention to develop the highway before work commenced, it had been scheduled in accordance with advice from the Highways Authority.

In response to a question from Councillor Davidson the Applicant's Agent confirmed that a water tank would be located underneath the site to accommodate surface water runoff and reiterated that Northumbrian Water Ltd's existing infrastructure was capable of dealing with any additional flow generated.

The Chairman reminded Members that the conditions requested by Mr Selby were not something that the Committee could insist upon and the Solicitor confirmed that any conditions imposed would need to be in accordance with planning policy.

The Senior Planning Officer confirmed that the Drainage and Coastal Protection Team and Northumbrian Water Ltd were both satisfied that the proposed system



was adequate. With regards to the road surface, it was not practical to complete before work commenced, as it was the access road to the site and the top layer would not withstand the work process. He referred to condition 14 which required that upon completion of the seventh dwelling the work be completed and in addition, the final two properties not be occupied until it had been completed. He was satisfied that the conditions attached were adequate and that no further conditions could be added to the proposal.

The Solicitor confirmed that the change in layout of the site which had been requested could not be pursued as it would essentially change the permission sought.

Councillor Davidson confirmed that there were no grounds to refuse the application and felt reassured by the statements of the Senior Planning Officer. He therefore moved that the application be approved.

Councillor Tinsley had concerns regarding condition 14. If the final two properties were not occupied, residents would be left with an unfinished road once again. He suggested the removal of the final sentence, that of which stated that the dwellings were not to be occupied until the road was completed. The Senior Planning Officer confirmed that should the Committee wish to put forward a motion to amend the condition, this was a possibility, however Councillor Armstrong suggested that the removal of the paragraph would not be within the interests of the existing residents. It would allow the properties to be occupied first, which would then give the developer an unlimited amount of time to complete the resurfacing of the road. She suggested that the final sentence added pressure to the developer to finish the road as it was in their best interests for the dwellings to be occupied as quickly as possible and completing the road was the only way to ensure that. Councillor Tinsley concurred and withdrew his suggestion to amend condition 14.

Councillor Armstrong seconded the recommendation.

## **Resolved**

That the application be approved on the grounds outlined in the report.

### **f DM/16/00848/FPA - Fern House, Cotherstone, Barnard Castle**

Consideration was given to the report of the Assistant Planning Officer regarding an application for the erection of first floor and single storey extension to the rear of Fern House, Cotherstone, Barnard Castle.

The Principal Planning Officer gave a detailed presentation which included plans and photographs of the site.

The Applicant addressed the Committee and confirmed that when the property was purchased in 2014, it was in need of substantial renovation. The plan was to retain the original character of the building and work commenced immediately to install the sliding sash windows in order to improve the front elevation of the house. Many favourable comments had been made about the improvements already made and

the rear extension was always intentional. The claims by the Parish Council that the footprint of the house would be doubled, was incorrect. The increase was in fact only 17% and the extension would only take up 4.5% of the rear garden, which equated to the surface area of the existing patio. Many inaccurate claims had been made by the Parish Council and their statement may have been responsible for the objections received from other residents in the area. With regards to the original application, the balcony had been removed in order to respect privacy concerns. With regards to the additional two gable end windows, they would be obscure glazed as it they were proposed bathroom windows. He accepted the work would cause a disturbance but he had always intended to keep neighbours well informed. He was surprised that the application could be brought to Committee based on factually incorrect statements by the Parish Council and confirmed that the delay in the planning process had impacted personally and financially.

In response to a query from the Chairman, the applicant confirmed that there was a separation distance of 21m to the nearest property.

Councillor Davidson moved that the recommendation be approved and Councillor Tinsley seconded the proposal.

Councillor Richardson added that local members were comfortable with the proposal following the removal of the balcony.

### **Resolved**

That the application be approved subject to the conditions outline in the report.