

## **DURHAM COUNTY COUNCIL**

### **AREA PLANNING COMMITTEE (CENTRAL & EAST DURHAM)**

**AT A MEETING** of the **AREA PLANNING COMMITTEE (CENTRAL & EAST DURHAM)**  
held at County Hall, Durham on **Tuesday 25 August 2009**

#### **PRESENT**

**COUNCILLOR C. WALKER** in the Chair

#### **Members**

Councillors A. Bell, J. Blakey, G. Bleasdale, J. Brown, P. Charlton, M. Dixon (Substitute for C. Potts), D. Freeman, R. Liddle, J. Moran, M. Plews, M. Simmons, K. Thompson and B. Wilson.

#### **Other Members**

Councillors R.J. Todd and M. Wilkes.

Apologies for absence were received from Councillor C. Potts.

#### **A1 Minutes**

The Minutes of the meeting held on 4 August 2009 were confirmed as a correct record by the committee and signed by the Chair.

#### **A2 Declarations of Interest**

Councillor Thompson declared a prejudicial interest in Application PL/5/2009/0091 and withdrew from the Meeting during consideration thereof.

#### **A3 Applications to be determined by the Area Planning Committee (Central & East Durham)**

##### **(a) PL/5/2009/0091 – Abattoir and Former Co-op Site, High Lane, Haswell Residential Development Comprising Twenty Houses**

Consideration was given to the report of the Principal Planning Services Officer (Easington Area Office) which recommended the application for approval. The Principal Planning Officer explained that Members had visited the site that day, and gave a detailed presentation on the main issues outlined in the report.

The Principal Planning Officer advised Members that the Parish Council had now withdrawn their objection but would like to see McMurchies shop remain in the village. He also advised the Committee that Housing had confirmed their support for the scheme.

McInerney Homes indicated that grant funding had been received and agreement reached to let the properties to local people.

Councillor Bell expressed his concern that there was no provision for Policy 66 Children's Play Facilities attached to the conditions. He was concerned that planning permission if granted would be attached to the land and not the developer and if another developer acquired the land they would not have to provide Children's Play Facilities. He also indicated that nearby play equipment needed some improvements.

The Principal Planning Officer advised the Committee that he had addressed this issue in his report and indicated that this condition would normally be asked for but the developer had indicated high costs involved due to the contamination of the site, so there was a financial argument that they were unable to provide. Taken this into consideration and due to the fact that there was near by play equipment it was felt unnecessary to impose condition.

Councillor Bell asked if the development did not proceed then could the land be developed not on a social housing basis. He was concerned that the absence of a section 106 agreement specifying a minimum level of affordable housing might result in the site being developed without affordable housing if the proposed scheme failed for any reason.

The Principal Planning Officer indicated that the scheme was unlikely to go ahead if funding was unavailable.

The Chairman asked if any conditions could be added. The Principal Planning Officer indicated that a condition could be added for Children's Play Equipment but there was no room within the site.

Hartlepool Housing indicated that legal discussions were very advanced and that they were very close to signing the agreement and they were not looking to walk away from this development.

Councillor Bell moved and Councillor Charlton seconded that the application be deferred pending further investigation into the imposition of conditions and the requirement of a section 106 agreement. The motion on being put was lost.

That the application be **APPROVED** subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the said Authority:
  - a) A preliminary risk assessment which has identified:
    - all previous uses;
    - potential contaminants associated with those uses;
    - a conceptual model of the site indicating sources, pathways and receptors;
    - potentially unacceptable risks arising from contamination at the site.
  - b) A site investigation scheme, based on a) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- c) The site investigation results and the detailed risk assessment (b) above) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in c) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 3. Prior to commencement of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the said Authority.
- 4. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the said Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
- 5. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme of landscaping shall include details of hard and soft landscaping, planting species, sizes, layout, densities, numbers, method of planting and maintenance regime, as well as indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
- 6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 7. Prior to the commencement of the development, a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include at least 10% decentralised and renewable energy or low carbon sources unless otherwise agreed in writing by the said Authority. Thereafter, the development shall be carried out in complete accordance

with the approved scheme prior to first occupation and thereafter retained in perpetuity.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Part 1 of Schedule 2 of the said Order shall be carried out without the prior written permission of the Local Planning Authority on an application submitted to it.
  9. No development shall commence until a scheme for the disposal of surface water from the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water. Thereafter, the development shall be completed in accordance with the approved details.
  10. No development shall take place unless in accordance with the mitigation detailed within the protected species report "Haswell Bat Survey Report, June 2006" by Baker Shepherd Gillespie including, but not restricted to timing and spatial restrictions; undertaking checking surveys; adherence to precautionary working methods.
  11. Prior to the commencement of the development hereby permitted, full details of a scheme for the diversion or abandonment of the 225mm public sewer and the 75mm water main, which cross the site, shall be submitted to and agreed in writing by the Local Planning Authority and, thereafter, the development shall be carried out in full accordance with the agreed details.
  12. Notwithstanding the information shown in the submitted application, no works shall be carried out on the site which would prevent the future use of the new roadway as a vehicular access into the adjacent land to the north-east of the application site, which is currently occupied by "Lorinda Cottage".
- (b) 4/09/00431/RM - Land to the Rear of 13-16 Dryburn Road, Durham, DH1 5AJ  
Reserved matters application pursuant to outline approval  
4/06/00423 for the erection of 1 no. two/three storey dwelling  
with details of access, appearance, landscaping and layout**

Consideration was given to the report of the Development Control Manager (Durham City Area Office) which recommended the application for approval. The Development Control Manager explained that Members had visited the site that day, and gave a detailed presentation on the main issues outlined in the report.

The Development Control Manager indicated that since the report was written four further objections had been received and the Parish Council had today indicated that they supported objectors.

Councillor Dixon asked if there was any factual evidence that wildlife was present on site. The Development Control Manager indicated that there was no evidence of any wildlife protected by law but a condition would be imposed so that the bushes would be removed at a time as not to affect nesting.

Councillor Wilkes the Local Councillor spoke in objection to the application and advised the Committee that two residents would be speaking to back up his comments. He indicated that the vast majority of houses in the vicinity were three or four bedrooms with lounge, dining room, family room, kitchen and a bathroom. The proposed development would have five bedrooms, a double garage, store room, study, family room and games room on various levels which was clearly a substantial development. Councillor Wilkes indicated that Policy Q8 was not been adhered to and that habitable rooms would be directly overlooked. He indicated that there would be some shadowing of properties due to the development. He also stated that minor amendments to the scheme did not address planning issues and if the development were to go ahead this would set a precedent and open the gates. He asked that the application be refused as the development was inappropriate in scale and character and was contrary to Policies H2, H13 and Q8 of the Local Plan.

Mrs Parkes an objector who spoke on behalf of the residents of Dryburn Road indicated that she believed there was three planning reasons for refusing the application which were that it was contrary to Policies Q8 and H13 and that it would set a precedent. She then went on to say that the development was out of scale and that surrounding houses which had three levels, the third level was not habitable and was mainly storage. She indicated that the distance should be 21 metres from window to window but in fact the distance was only 17 metres. The development was a large intrusion that would dominate the site. She was aware that the conditions attached could be appealed which would allow the opportunity to apply for a conservatory. She would urge that the application be refused.

Mr Laing an objector who spoke on behalf of residents of Durham Moor Crescent indicated that the development was intrusive and out of character and of harmful appearance. Habitable rooms on boundary would set an unacceptable precedent. Forty separate objections had been received and he asked that the application be refused for contrary to Policies Q8, H13 and sets an unacceptable precedent.

Mr Fish the agent indicated that the development was to provide a local family home. The Architect had had successful schemes in the City. It had taken eight months to develop scheme here today. They had listened to suggestions and made a number of revisions based on this. Further revisions had also been made to address neighbour concerns which included reducing the height and moving the development back from the road. He also indicated that the large tree would be protected. Discussions had taken place over the design and building materials to be used, which were selected to keep with surrounding areas. Scale was substantial but it was a large site, but no larger than many houses found in the surrounding area. Property was two storey with the third being disguised by fall. Many important areas in town where individual buildings had been inserted into that environment. Quality of design was what should be judged. It was a good building with a modern twist and he asked that the Committee followed Officers recommendations.

The Architect indicated that the development was a traditional building that was no wider than a double garage which would not affect amenity.

The Development Control Manager asked that the Committee did not take into consideration the question of precedent. Three storey development was not issue, the application should be determined on overall height. The height of the property was lower than existing properties in the vicinity.

Councillor Plews indicated that the Committee needed to look at the development and not the size of the rooms.

Councillor Dixon indicated that he was impressed with the orientation of the building so that it didn't overlook properties. He indicated that the proposal was less intrusive than the adjoining tennis court which had flood lights. Site was unused and previously approved for development.

Councillor Thompson asked for clarification on the 17 metres and 21 metres. The Development Control Manager indicated that it depended on orientation but the curved window did not directly face but looked across at an angle which was some distance away. He also indicated that 21 metres was a guideline and not a rule.

**Resolved:** That the application be approved subject to the following conditions:-

1. The development hereby approved shall be carried out only in accordance with the approved plans, specifications and conditions hereby imposed.
2. The development shall not commence until details of a scheme for foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the development.
3. Development shall not commence until a detailed scheme for the diversion of the surface water and foul public sewers apparatus has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water Limited. Thereafter the development shall take place in accordance with the agreed details.
4. Before the occupation of the dwelling hereby approved the vehicular access and driveway shall be constructed with a porous material, in accordance with details which shall have been first submitted to and agreed in writing by the Local Planning Authority. Such surfaces shall be laid to a minimum depth in accordance with details which shall also have been first submitted to and agreed in writing by the Local Planning Authority.
5. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme of landscaping shall include details of hard and soft landscaping, planting species, sizes, layout, densities, numbers, method of planting and maintenance regime, as well as indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
6. No development shall commence nor shall any materials or machinery be brought on the site until details showing the exact position of protective fencing around trees and adjacent to the site have been submitted on a plan, and agreed in writing by the Local Planning Authority. This fencing shall be erected at a distance of not less than 12 times the diameter of single stem trees or 10 times the diameter of multi-stem trees 1.3m high or higher and 3 metres from hedges.

- a) The protected fencing shall comprise a vertical and horizontal framework of scaffolding, well braced to resist impacts, supporting either cleft chestnut pale fencing (in accordance with BS 1722: Part 4) or chain link fencing (in accordance with BS1722: Part 1)
  - b) No alterations of ground levels, and no storage of any materials are to take place within the protective fenced areas.
  - c) Ground levels within the fenced areas shall not be altered and any trenches which are approved to be excavated within the root zone or branch spread shall be done so by hand digging or tunnelling only, no root over 50mm being cut and as many smaller roots as possible retained. If trenches are to remain open for more than 24 hours all exposed roots must be protected with earth cover. Trenches shall be completely backfilled in consolidated layers within seven days.
  - d) Notwithstanding the tree surgery works agreed by this permission in accordance with the arboricultural report, no removal of limbs or other tree surgery works shall be done to any of the protected trees within the site unless the prior written approval of the Local planning authority has been sought.
  - e) No underground services trenches or service runs shall be laid out without the prior written approval of the Local Planning Authority with the agreed works being undertaken in accordance with the National Joint Utilities Group ('Guidelines for planning, installation and maintenance of utility services in proximity to trees'), and BS 5837:2005 'Trees in Relation to Construction'
7. Prior to the commencement of development, a scheme detailing sections of existing and proposed finished land levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.
  8. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
  9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A to E of Part 1 and Class A of Part 2 of Schedule 2 of the said Order shall be carried out without the prior written permission of the Local Planning Authority on an application submitted to it.
  10. Any on site vegetation clearance should avoid the bird breeding season (March to end of August), unless the project ecologist undertakes a checking survey immediately prior to clearance and confirms that no breeding birds are present. The survey shall be submitted to and approved in writing by the Local Planning Authority prior to the removal of vegetation during the bird breeding season.

## **A4 Appeal Update**

### **(a) Appeals Received**

The Development Control Manager (Durham City Area Office) gave details of the following appeals which had been lodged with the Planning Inspectorate:

- (i) An appeal had been lodged by Barry Martin and Associates against the Council's imposition of condition 3 of planning approval 4/08/969. Grounds of appeal sought to remove condition 3 which stated "No development shall commence until a planning obligation pursuant to Section 106 of the Town and Country Planning Authority and is to that Authority's approval. The said obligation shall restrict the occupancy of Cornforth Moor Farmhouse to a person or persons employed on a full-time basis in connection with the equestrian stud farm and race horse training facility". The site was on land surrounding Cornforth Moor Farm and between A1 and A688, Tursdale, Bowburn, Durham, DH6 5NR.

The appeal was to be dealt with by way of written representations and the Committee would be advised of the outcome in due course.

- (ii) An appeal had been lodged by Barry Martin and Associates against the Council's imposition of condition 3 of planning approval 4/08/977. Grounds of appeal seek to vary the wording of condition 3 to read "No horses shall be brought into the on foot and shall not cross the A688 on foot". The site was on land to west of A688 Cornforth Moor, Bowburn, Durham.

The appeal was to be dealt with by way of written representations and the Committee would be advised of the outcome in due course.

- (iii) An appeal had been lodged by Barry Martin and Associates against the Council's refusal to grant planning permission for the change of use of land to equestrian riding school to including erection of log cabin for residential occupation by facility manager, erection of 8 bay stable block with tack room, managers office and hay store together with associated parking provision and landscaping on land between A1(M) and A688 Cornforth Moor, Tursdale, Bowburn, Durham.

The appeal was to be dealt with by way of written representations and the Committee would be advised of the outcome in due course.

- (iv) An appeal had been lodged by Mr and Mrs G Walker against the Council's refusal of prior notification for the erection of lean-to extension to existing agricultural building at land to rear of Three Horse Shoes Public House, Leamside, Durham.

The appeal was to be dealt with by way of written representations and the Committee would be advised of the outcome in due course.



- (v) An appeal had been lodged by Mr I Harriman against the Council's refusal to grant planning permission for a change of use to hot food takeaway at 48 Canterbury Road, Newton Hall, Durham, DH1 5PY.

The appeal was to be dealt with by way of written representations and the Committee would be advised of the outcome in due course.

**Chair**