

Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER: 3(e)

APPLICATION DETAILS

APPLICATION NO:	PL/5/2010/0440
FULL APPLICATION DESCRIPTION	CHANGE OF USE FROM RESIDENTIAL TO RESIDENTIAL AND FOR THE PARKING OF TAXIS AND INSTALLATION OF DIESEL TANK (RETROSPECTIVE)
NAME OF APPLICANT	MR J HOGGARTH
SITE ADDRESS	BEACONSYDE, STATION ROAD SOUTH, MURTON SR7 9SF
ELECTORAL DIVISION	MURTON
CASE OFFICER	Laura Eden 0191 5274613 laura.eden@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

Site:

- 1 The application relates to a detached bungalow that lies just outside the settlement boundary for Murton. The site is located off the B1285 Station Road South through the Broadoaks residential estate comprising of 33 houses. Beaconsyde is accessed from the estate road by a single width track approximately 70 metres long that has a children's play area to the east and four residential properties accessed by a separate shared drive to the west.
- 2 The property is set within a large plot of land approximately 0.8 hectares in size. In addition to the bungalow the site benefits from a barn, stables, a detached garage and houses a range of animals.

Proposal:

- 3 Retrospective planning permission is sought for the parking of five taxis and the retention of a diesel tank. The diesel tank is used to refuel the five taxis that are parked at the property and are owned and run by the family in addition to the four other taxis employed in the business. Accounts have been provided to show that the diesel tank is refuelled approximately once every three weeks. The applicant, his

wife and three adult children each drive a taxi vehicle that also serves as their own private transport respectively.

- 4 Both aspects of the development are located centrally within the site. The fuel tank is situated north of an existing stable block and has a capacity of 2500 litres and the parking area is situated to the west. The development is approximately 30 metres from the nearest residential property and 35 metres from the bridleway.
- 5 The application is being brought before Members following an objection by the Parish Council.

PLANNING HISTORY

91/640 – Retrospective application for cattle building approved 13/01/1992

91/772 – Bungalow approved 05/05/1992

94/34 – Bungalow approved 15/03/1994

95/256 – Garage approved 16/06/1995

PLAN/2006/0792 – Stables approved 08/12/2006

PLANNING POLICY

6 NATIONAL POLICY:

Planning Policy Statement 1: Delivering Sustainable Development sets out the Governments overarching planning policies on the delivery of sustainable development through the planning System.

Planning Policy Statement 4: Planning for Sustainable Economic Development proposes a responsive and flexible approach to planning which provides sufficient employment land and makes better use of market information. The PPS is designed to establish a national planning policy framework for economic development at regional, sub-regional and local levels for both urban and rural areas.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

7 LOCAL PLAN POLICY:

District of Easington Local Plan

Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.

Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

Policy 62 - The operation of a small business from a residence requiring planning permission will only be approved where there is no serious impact on the amenity of neighbouring properties or the character of the area.

Policy 63 - The operation of taxi businesses from dwelling houses in residential areas will not normally be approved. Within town and local shopping centres and small industrial estates, planning permission will be approved subject to noise, disturbance and traffic hazard issues being acceptable and where the vitality or viability of a shopping area is not affected and where a shortage of industrial land or buildings would not result.

Policy 73 - Extensions or alterations to existing dwellings, requiring planning permission, will be approved provided that there are no serious adverse effects on neighbouring residents, the proposal is in keeping with the scale and character of the building and the proposal does not prejudice road safety or result in the loss of off street parking.

Policy 74 - Public Rights of Way will be improved, maintained and protected from development. Where development is considered acceptable, an appropriate landscaped alternative shall be provided.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>

CONSULTATION AND PUBLICITY RESPONSES

8 STATUTORY RESPONSES:

Parish Council – Object to the application as concerned that vehicular access to the property is a bridleway therefore not fit for commercial vehicles such as taxis and tankers. Also raised concerns about childrens’ safety as access passes a play area and environmental issues as a result of pollution and trips by vehicles made day and night.

Ramblers Association – The bridleway is well used by walkers and riders therefore request either permission is withheld if it is deemed that the traffic will adversely affect users of the right of way or alternatively use conditions to protect their amenity.

9 INTERNAL CONSULTEE RESPONSES:

Environmental Health Licensing – No objections.

Environmental Health – No adverse comments to make.

Public Rights of Way – As the access road to the site includes a public bridleway if there is increased traffic as a consequence of the development consideration could be given to signage to alert both vehicular and bridleway users to the shared usage. Consideration could also be given to implementing safety measures to restrict the speed of vehicles.

Highways – The existing infrastructure is capable of accommodating the movement of five taxis. Subject to the applicant observing the rights of the Bridleway users the proposals would be deemed to be acceptable from a highways point of view.

10 PUBLIC RESPONSES:

A press notice, site notice and neighbour consultation letters have advertised the application. Twenty objections have been received from local residents in addition to a petition signed by thirty-seven residents. The stated grounds of objection include; access arrangements and impact on public safety, covenant issues, that it is a residential area not designed for commercial/industrial use, property devaluation, the proximity to the play area, disturbance through increased traffic, noise, access is a bridleway not a highway, retrospective nature of the development and question the safety of the diesel tank. In addition one letter has been received from a resident who is undecided on the application and another who is in support of it.

11 APPLICANTS STATEMENT:

The applicant has decided not to submit a statement.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=110898>). Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATION AND ASSESSMENT

The main considerations relevant to this application are;

- Policy implications
- Residential amenity
- Visual amenity
- Highways
- Safety
- Other considerations

12 Policy implications:

The site lies just outside the settlement boundary for Murton therefore under Policy 3 of the local plan is considered to be development in the countryside. PPS4 states that economic development within such areas needs to be strictly controlled however does advise that support should be given to farm diversification for business purposes provided that it is consistent with the scale and environmental impact of its rural location.

The site lies at the edge of the settlement of Murton. Although it is outside the settlement boundary it is very close to the built up area of the village therefore could be considered to represent a sustainable location for a rural business. The main consideration is whether the scale of the development is appropriate to the character of the area more generally especially given its proximity to residential properties.

In relation to a taxi business specifically Policy 63 of the local plan advises that taxi businesses operating from dwelling-houses in residential areas will not normally be approved as the operation of such a business is likely to result in noise and disturbance to residents as well as indiscriminate parking leading to conditions prejudicial to road safety. Furthermore policy guidance in relation to working from home states that permission will only be approved where there is no serious adverse impact on amenity of nearby properties or the character of the area by reason of visual intrusion, noise, other pollutants and traffic generation (policy 62).

It is acknowledged that Beaconsyde is a stand-alone property but access to the dwelling is gained through a residential estate comprising of 33 houses. Although Beaconsyde is not a typical residential plot as it is part of a small holding the surrounding area is characteristically residential in nature therefore concerns are raised about increased disturbance that would arise to neighbouring properties as all traffic passes through the estate. These concerns will be addressed in more detail later in the report.

In relation to parking spaces, given the size of the application site it is not questioned that there is ample space to accommodate the taxis. The development is therefore not considered to lead to detrimental parking standards that would negatively impact upon highway safety.

13 Residential amenity:

The registered office for the 'Local Taxis' business is at 17 Woods Terrace East. The business is owned by the applicant and employs himself, wife, mother-in-law and three elder sons in addition to four other drivers. Permission is sought to park five taxis at the property that are used by her family in connection with the above business. Only the mother owns a personal vehicle therefore the five taxis double up as private vehicles for their respective drivers. Permission is not sought to operate the business from the premises but to park the vehicles at the site and the diesel tank is used to refuel all the taxis within the business.

Concerns have been raised by local residents about disturbance caused by the increased movements caused by not only the five vehicles that park there but also the diesel tank and the associated trips caused by the other four taxis that refuel there and the refuelling tanker. Guidance contained in Policy 35 states that development should have no serious adverse effect on the amenity of people living and working in the vicinity of the development site in terms of visual intrusion, noise, other pollutants and traffic generation.

There are planning concerns raised on all these levels in relation to the current application. As a result of the taxis based at the property, and the additional taxis visiting to refuel it is considered that trip levels are above and beyond what would normally be expected of a residential property especially when considering that a fuel tanker visits the site to replenish the diesel. These journeys, which could potentially occur at anytime of the day or night, result in noise and disturbance to the adjacent residents contrary to policies 35, 62 and 63 of the local plan. The development results in an unacceptable loss of amenity and is not in keeping with the residential character of the estate.

14 Visual amenity:

It is considered that the development does not have an adverse impact upon visual amenity due to where the parking area and diesel tank have been positioned on site. The development is situated approximately 35 metres from public views from the bridleway to the east and is screened behind an existing stable block. Due to the fall in level across the site the diesel tank is also mainly obscured from view as a result of the retaining brick walls. Regardless of this the tank has been finished in green therefore is not overly prominent and is not out of a character with the mixed use nature of the site.

15 Highways:

Neighbouring properties have raised numerous concerns that Broadoaks is a residential area therefore the movement of commercial vehicles and tankers through the estate is not appropriate to the character of the area. The highways section however have noted that Beaconsyde is served via a 4.8 metre wide carriageway linking up to the B1285 Station Road South. The carriageway serves 33 existing dwellings on the estate and infrastructure such as this historically could serve up to 100 dwellings. The existing infrastructure is therefore deemed more than capable of accommodating the movements of the five taxis.

The private single carriage access track from Broadoaks to Beaconsyde also accommodates a public bridleway. The track does not benefit from a separate pedestrian footpath therefore users of the adjacent children's play park or the bridleway share this access with any vehicular traffic that accesses Beaconsyde. The Ramblers Association have requested permission is withheld if it is deemed that the traffic will adversely impact on users of the right of way. The Council's Public Rights of Way Officer has offered suggestions such as signage to alert users of the track to the shared usage by bridleway users, pedestrians and vehicles in addition to safety measures to reduce the speed of traffic.

The traffic movements indicated earlier in the report are considered to be above and beyond those usually expected for a residential property especially taking into account the refuelling of the diesel tank. It is therefore considered that the increased traffic movements adversely impact on the safety of users of the bridleway through the conflict between vehicles, pedestrians and horse riders using the single shared access. This is considered to be of greater concern when taking into consideration the proximity of the access way to a children's play park. The development is therefore considered to be contrary to the intentions of policy 74 which advises that public rights of way are to be protected from development.

16 Safety:

The safety of the diesel tank has been brought into question by residents who are concerned about its proximity to the children's play area, whether it will leak and cause environmental problems and risk from becoming ignited. The environmental health section have been consulted in relation to this development and have not made any adverse representations. This is not the type of application that the Environment Agency would deal with given its scale and that the tank is double skinned therefore concerns would not be raised in relation to land contamination. Diesel is not as flammable as petrol therefore no objections have been raised in relation to its storage on site.

17 Other considerations:

Residents have also objected to the proposal as they believe it will negatively affect the value of their home however property devaluation is not a material consideration when determining a planning application. Covenant issues have also been raised however this is a legal matter that the applicant would need to investigate. The final concern that the neighbouring properties have raised is the retrospective nature of the development. It is acknowledged that this application has been submitted retrospectively. However, planning legislation allows for the submission of a retrospective planning application, and such development must be considered upon its own merits. Whether it is retrospective is not a material planning consideration for the Planning Authority to consider. In these circumstances, refusal of planning permission would lead to consideration of enforcement action if the applicant does not voluntarily resolve the breach of planning control.

CONCLUSION

18 In conclusion, the development results in an intensification in the number and frequency of vehicle journeys that would typically be expected from a residential property. This leads to unacceptable levels of noise and disturbance detrimentally impacting on the level of amenity currently enjoyed by neighbouring properties. It is not considered to be a suitable location for increased traffic, particularly given that the access to the property is via a single track. Conflict could arise between users of the right of way and the increased vehicular movements impacting on safety especially given the proximity to the children's play area. Furthermore, the adverse effects are considered to be sufficiently serious to justify refusal of retrospective planning permission and, if necessary, enforcement action to be taken if the breach is not resolved through agreement.

RECOMMENDATION

- 19 That the application be **REFUSED** for the following reason and enforcement action be taken if the breach is not resolved through agreement;

The development adversely affects the amenities of occupiers of dwellings in the vicinity by reason of noise and disturbance resulting from increased traffic movements and adversely impacts on safety through vehicular/pedestrian conflict on the public right of way and adjacent to the play area, contrary to policies 1, 3, 35, 62, 63, 73 and 74.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- Planning Policy Statements / Guidance, PPS1, PPS4, PPS7, PPS13
- Consultation Responses

