

Planning Services

COMMITTEE REPORT

APPEAL UPDATE (DURHAM CITY AREA OFFICE)

APPEALS RECEIVED:

Appeal by Mr T Macallan

Site at 7 Warwickshire Drive, Belmont, Durham, DH1 2LU

An appeal has been lodged by Mr T Macallan against the Council's refusal to grant planning permission for the erection of detached bungalow (revised and resubmitted) at 7 Warwickshire Drive, Belmont, Durham, DH1 2LU.

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

Recommendation:

That the report be noted.

APPEAL DECISIONS:

Appeal by Mr M Paterson

Site at Morton Acres Farm, Black Boy Road, Chilton Moor, Durham, DH4 6PY

The above appeal against the Council's refusal to grant planning permission for the erection of agricultural workers dwelling comprising two storey detached property at Morton Acres Farm, Black Boy Road, Chilton Moor, Durham, DH4 6PY, has been **withdrawn** at the appellant's request.

Recommendation:

That the report be noted.

Appeal by Hope Estates Ltd (Mr N Swift)

Site at 33 Whinney Hill, Durham, DH1 3BD

This appeal related to an application for planning permission for a two storey side extension to 33 Whinney Hill which was refused by the Development Control Committee of former City Council on 25 September 2008. The application was made in order to regularise an extension to the property which was not erected in accordance with a previous consent and without the discharge of any conditions. Although recommended for approval by officers, members resolved to refuse the application on grounds of its impact upon the character and appearance of the Durham (City Centre) Conservation Area, its impact upon amenity of neighbouring properties, its impact upon highway safety and its occupancy level in detriment to a balanced and sustainable community. Following this refusal, an enforcement notice was

served in order to secure the removal of the extension and the reinstatement of the former fenestration.

An Informal Hearing into the appeal took place on 27 May 2009 when evidence was presented to support the Council's reason for refusal and decision to serve the Enforcement Notice.

The Planning Inspector appointed to determine the appeal has issued his decision and has allowed the appeal, granted planning permission and quashed the enforcement notice. The appellant's application for an award costs has however failed and no award has been made against the Council.

The Inspector found that the extension as built was almost identical to that which had previously been approved and in fact marginally smaller. He also considered that although the brick utilised does not match the existing property that it was similar in type and texture. Furthermore, the brick used was of a more subtle tone and contrasted sympathetically with the host dwelling. He also considered that the changes in fenestration did not create imbalance in the front elevation of the property. The extension, he concluded, did not have an adverse impact upon the character of the Conservation Area.

Turning to the impact of the extension upon amenity, the Inspector found that given the similarity between the extension as erected and that already approved, no additional harm resulted.

With regards to parking, it was considered by the Inspector that the on-site parking provision for one vehicle and the residents parking scheme in operation at Whinney Hill would prove sufficient in controlling the parking situation at Whinney Hill and would not result in a situation which would be contrary to Policy T1.

The final reason for the refusal of the application regarded the level of occupation proposed at the dwelling. The Inspector noted that any dwelling can be let by students without the need for planning permission. He also found that the extension could have been built in accordance with the original consent and then later altered internally to accommodate 6 no. students without the requirement for further planning permission. With regards to Policy H9, he considered that this policy refers to the effect on amenities caused by the occupation of the house that is the subject of an application not by any cumulative effect that might be caused. In this particular situation he found that the appeal dwelling is not sub-divided and without any alteration could be occupied by a family rather than by six students. It could not, therefore contribute to any concentration of sub-divided dwellings that there might be in the area before concluding that there is nothing to indicate that the occupation of the appeal property by students has or would, either individually or collectively, adversely affect the amenities of the area.

The Inspector therefore concluded that the two storey extension and the alterations to the existing dwelling at 33 Whinney Hill have not adversely affected the character and appearance of the Durham (City Centre) Conservation Area. The development that is the subject of the appeals has not harmed the amenities of nearby residents. It has not resulted in an unacceptable increase in demand for on-street parking on Whinney Hill or in a concentration of sub-divided dwellings, and is not detrimental to the range and variety of the local housing stock or to the amenities of the area. There is therefore no conflict with any 'saved' Local Plan policies.

The appeal was **allowed** and the Enforcement Notice **quashed**.

With regards to the appellant's claim for costs, the Inspector found that the Council had provided substantial evidence for its reasons for refusal at the appeal hearing and hence had not acted unreasonably. The claim for costs was refused.

Recommendation:

That the report be noted.

Appeal by Mr A Hamilton

Site at 93 Deerness Heights, Brandon, Durham, DH7 8TY

This appeal was against the refusal to grant planning permission for the erection of a proposed 1m high close boarded timber fence to enclosure the front of 93 Deerness Heights, Brandon, Durham, DH7 8TY.

A planning application for the erection of a 1m high timber fence to the front of the premises and a 1.8m high timber fence to the rear of the premises was refused on 19 August 2008. It was considered that the fence to the front of the property would grant complete enclosure which would compromise the design principles of an open plan estate. It was considered that the fence to the rear would create a narrow corridor that would compromise personal safety and crime prevention.

A second application was submitted for the rear fence only showing the fence set back to allow greater distance between itself and the adjacent garage block. This application was approved on 28 October 2008.

In considering the appeal concerning the timber fence to the front of the property, the inspector noted that open plan frontages were a feature of the estate and a characteristic worth protecting. However the inspector considered that a 1m high timber fence along the front south east facing boundary of the property would not compromise the open plan character of the estate.

As a result the inspector **allowed** the appeal. This was subject to the condition that the front fence should only be sited along the side of the front garden adjacent to the turning area and garage block at the site. The inspector outlined that notwithstanding the submitted plans there should be no fence or other means of enclosure sited along the other two boundaries of the front garden.

Recommendation:

That the report be noted.

Appeal by Mr J Thompson

Site at Town Kelloe Paddock, Town Kelloe, Durham, DH6 4PR

Appeal against the refusal to grant planning permission for the erection of a general purpose agricultural barn at Town Kelloe Paddock, Town Kelloe, Durham, DH6 4PR.

The planning application for the erection of a general purpose agricultural barn was refused 27 August 2008. Insufficient detail was provided within the application with regards to agricultural practices, how the existing barn located on the land was fully utilised and why additional space was required. The proposed barn was not considered to be justified in terms of its size and location, contrary to Policies E7 and EMP17A of the City of Durham Local Plan 2004. In addition, a line of mature trees run along the southern boundary of the site to the rear of and within close proximity to the proposed barn. No tree report was submitted to assess the impact of the development upon this grouping of trees, contrary to Policy E14 of the Local Plan.

The Inspector considered that the proposed barn would create a large, utilitarian shed within the open countryside. The Inspector considered that the proposed barn would add to the scale and bulk of the existing building at an environmental cost and without any measures to mitigate impact. The Inspector acknowledged the requirement of the appellant to increase sheep stock, to provide storage space for plant and machinery and that grazing land is rented at Trimdon. However, as a result of the grazing land being situated elsewhere, the Inspector considered that there seemed no specific locational needs to justify developing the appeal site. The Inspector considered that the information submitted by the appellant failed to justify the barn in terms of size and location contrary to relevant Local Plan Policy EMP17A.

Although acknowledging the appellant's argument that commissioning a detailed tree report could prove costly, the Inspector considered that in the absence of this information it was not possible to assess the likely impact of the proposal upon the nearby trees which positively contribute to the character and appearance of the area. The proposal was therefore also considered contrary to Local Plan Policy E14.

As a result, the Inspector **dismissed** the appeal.

Recommendation:

That the report be noted.

Appeal by Mr W Morgan

Site at land south of Apex Cables, City West Business Park, St Johns Road, Meadowfield Industrial Estate, Durham, DH7 8ER

Appeal against the refusal of planning consent for the variation of a condition to alter the opening hours for an A3 restaurant / café from 8am – 8pm Monday to Saturday and 12pm – 3pm on a Sunday to the requested extended opening hours of 23.00 on Thursday – Saturday. The site is an industrial and business estate and located to the south of Apex Cables, City West Business Park, St Johns Road, Meadowfield Industrial Estate, Durham.

Planning permission was granted last year for the change of use of the ground floor of units 1 and 2 of the industrial units to form a café / restaurant with a condition restricting the opening hours to reflect the hours of operation of the adjacent office and industrial units to serve the local need generated by the occupants of the adjacent industrial and business units. The planning application to vary the condition and extend the opening hours was refused on the 12 January 2009. The reason for the refusal related to the Council not considering that the extended opening hours were to serve the adjoining industrial units but to serve the general public which would have an impact on sustainable transport and the vitality / viability of the existing retail centres.

The Inspector considered that the main issue was whether the proposed extended opening hours are appropriate having regard to the vitality / viability of the existing retail centre and sustainable transport objectives. The Inspector concluded that the extended opening hours until 23.00 On Thursday – Saturday would be more likely to attract patronage from the general public during these hours rather than from employees of / visitors to the neighbouring industrial estate business, these being times most popular for leisure dining-out. The Inspector noted the appellants' claim that the restaurant was to serve the expanded hours of the adjoining conference facility however no evidence of the hours of operation or number of conferences were provided, and consequently he gave this argument little weight.

In addition the location of the proposed restaurant is not directly served by a bus service. Consequently he envisaged that the majority of the general public customers would arrive by car. In contrast given the proximity of residential areas to Brandon a significant proportion of customers would be likely to walk to a restaurant in that location. The proposal would therefore conflict with sustainable transport objectives.

The Inspector **dismissed** the appeal. In conclusion he considered an increase in the opening hours would be likely to result in the restaurant attracting custom from the general public rather than neighbouring businesses. Given the location of the use this would be likely to harm sustainable transport objectives and would not promote the viability or vitality of nearby local retail centres.

Recommendation:

That the report be noted.

Appeal by Mr R Breward Site at 8 Frederick Street South, Meadowfield, Durham, DH7 8LZ

Appeal against the refusal to grant planning permission for the erection of a two storey dwelling house on land to the rear of 8 Frederick Street South, Meadowfield, Durham, DH7 8LZ.

The planning application for the erection of a two storey dwelling with a garden and off street parking was refused consent on the 6th October 2008. The application is sited in an existing garden with gardens and allotments adjacent to the site and the terrace of housing to the west of the site. There were three reasons for refusing the application. The proposed dwelling was not considered to be located on previously developed land and therefore the principle of development conflicted with both the Local Plan policy and Central Government Guidance. Secondly, the application site was a garden that served an existing terraced dwelling and provided off street car parking. The concern was about the loss of the garden and parking and the detrimental impact of the dwelling on the character amenity of the area.

The third reason for refusal related to the intensification of use of a substandard narrow access road and the low density of the proposed house not making the most efficient use of land.

The Inspector concurred with the Councils decision and concluded that the application site was a separate parcel of land from the dwelling and although it was a garden it was separated from the dwelling by an access track and therefore was not previously developed land and was contrary to policy. He also accepted that the proposed density of the development (15 dph) was well below the national standard at 30 dph and therefore did not

make the most efficient use of land. With regard to the character and appearance of the area the Inspector concluded that the visual impact of the dwelling and the loss of one of the backland plots would have an adverse effect on the character and appearance of the surrounding area. He considered that a single modern two storey dwelling would appear isolated and out of place.

Finally with regard to the access arrangements the Inspector concluded that the footway was inadequate and the intensification of use of the access would create a conflict between pedestrian, cycle and vehicular access which would be dangerous to an unacceptable degree. Concern was also expressed that if the proposal was allowed it would set a precedent for similar plot redevelopment on neighbouring sites which would further exacerbate potential vehicular hazards.

As a result the Inspector **dismissed** the appeal.

Recommendation:

That the report be noted.

APPEAL UPDATE (EASINGTON AREA OFFICE)

APPEALS RECEIVED:

**Appeal by Mr M Slater
Site at 4 Barwick Street, Murton**

The appeal is by Mr M.Slater, 4 Barwick Street, Murton, against a condition attached to a planning permission for an area of raised decking at the front of 4 Barwick Street.

This was a retrospective planning application and the appeal lodged is to be dealt with by way of written representations and the Committee will be informed of the outcome in due course.

Recommendation:

That the report be noted.
