

## City of Durham

At a Meeting of the **DEVELOPMENT CONTROL COMMITTEE** held in the Gala Theatre, Durham, on Thursday, 21<sup>st</sup> June, 2007, at 5.30 p.m.

**Present:** Councillor Norman (in the Chair)  
and Councillors Cowper, Crooks, Freeman, Guy, Holland, Howarth, Laverick, Lodge, Marsden, Plews, Simmons, Simpson, Southwell, Stoddart, Taylor, Walker and Young.

**Also Present:** Councillors D. Smith and Wilkes.

### 77. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bell, Kinghorn, Rae and Wolstenholme.

### 78. MINUTES

The Minutes of the Meeting held on 31<sup>st</sup> May, 2007, were confirmed as a correct record and signed by the Chairman.

#### Report of Director of Legal and Administration Services

### 79. LAND ADJACENT TO SNIPERLEY PARK & RIDE (MINUTE 226(j), 6<sup>th</sup> SEPTEMBER, 2006, REFERS)

On 6<sup>th</sup> September, 2006, the Development Control Committee had considered an application submitted by MA Allan & Partners for outline planning permission for the erection of 30 no. flats in a three storey development with associated parking on land adjacent to the park and ride terminal at Sniperley.

The application had been recommended for refusal, and Members had endorsed that recommendation, specifying 10 reasons for refusal.

A decision letter had subsequently been issued to the applicants.

The Director of Legal and Administration Services had recently received correspondence from Blackett Hart and Pratt Solicitors, representing the applicants. They had advised that their client's planning agent had drafted a letter on 2<sup>nd</sup> September, 2006, on the client's instructions, withdrawing the planning application. The letter was delivered to the City Council's offices on Monday, 4<sup>th</sup> September, 2006, 2 days before the Development Control Committee meeting, but the correspondence had not come to the attention of the Planning Officer dealing with the application until after the Committee had considered the proposal and determined to reject it.

Had the letter from the applicant's agent purporting to withdraw the application been received by the Officer dealing with Committee items that evening, the application would automatically have been withdrawn from the consideration of the Committee.

Although the applicants could have appealed against the decision to refuse permission for their proposal and also had the opportunity of submitting a further application for the same site, they had asked the City Council to rescind its earlier decision and retrospectively mark the application as withdrawn rather than refused.

There was no specific provision for a decision to be rescinded, contained within the Town & Country Planning Act 1990, though in the event of an application being approved, then the facility was provided to revoke that earlier decision to grant planning permission.

It was unfortunate that the request to withdraw the application had not come to the attention of the relevant Officer before the Committee meeting and there was no satisfactory explanation as to why this had occurred. It would have been advisable in the circumstances had the applicant's agent spoken on the telephone to the case officer or communicated with the Planning Section by email, rather than simply hand deliver a letter which was not in any way marked as urgent, and did not, on the face of it, highlight the fact that the application was about to be considered by the Committee. The letter simply stated that it was a formal request for the application to be withdrawn to give time for further consideration of the site's potential and discussions with Officers regarding other possible means of pursuing the applicant's objective.

The Director of Legal and Administration Services was satisfied that there was no reason why the City Council should not agree to rescind its earlier decision, and if it were to refuse to do so, there was a significant risk that any complaint to the Ombudsman would be upheld as maladministration.

**Resolved:** That the decision taken the Development Control Committee on 6<sup>th</sup> September, 2006, to refuse planning permission for application 06/00643/OUT, be rescinded.

### **Report of Head of Planning Services**

## **80. REPORTS FOR INFORMATION**

Reports in relation to the following items had been circulated:-

- (a) Notice of Planning/Enforcement Appeals which had been lodged with the City Council:
  - Appeal by S Doran – Site at 50 Oatlands Way, Durham, DH1 5GL.
- (b) Notice of the Outcome of Planning/Enforcement Appeals which had been lodged with the City Council:
  - (i) Appeal by Highway Media UK Ltd – Site at 7 Adolphus Place (Facing Tesco), Dragonville, Durham, DH1 2RG.
  - (ii) Appeal by Melorform Holdings Ltd – Site at Builders Yard, Land to rear of Providence Place, Gilesgate Moor, Durham.
- (c) Applications – Determined under Plenary Powers
- (d) Building Control Applications

**Resolved:** That the reports be noted.

## **81. DECISION MADE BY THE COUNTY COUNCIL**

**CM4/07/303  
Durham County Council**

**Bowburn County Junior School, Surtees Avenue,  
Bowburn, Durham  
Erection of kitchen ventilation equipment to existing  
flat roof**

The above application was considered by the City Council under delegated powers on 5<sup>th</sup> April, 2007, when

it was resolved to raise objection to the proposed kitchen ventilation equipment on the grounds it was considered detrimental to visual amenity in this location, due to its size, position and detailed design, contrary to Policy Q7 of the City of Durham Local Plan 2004.

Durham County Planning Committee had now considered the proposal and resolved to approve the application subject to conditions.

**Resolved:** That the report be noted.

## 82. RECOMMENDATIONS ON OTHER APPLICATIONS

The Head of Planning Services presented reports on the following applications and the following decisions were made:-

- (a) **07/00334/FPA**                      **Land at Meadowfield Industrial Estate, St. Johns Road, Meadowfield, Durham**  
**B and K Developments**            **Erection of 22 no. office units with associated parking provision and landscaping**

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

- (1) - The development to which this permission relates shall be begun not later than three years from the date of this permission.
- (2) - Details of any fences, walls or other means of enclosure to be erected on any of the site boundaries or within the site shall be submitted to and approved by the Local Planning Authority in writing before development commences. Development shall thereafter be completed in accordance with the approved details.
- (3) - Notwithstanding the information shown on the submitted plans details of the surface treatment of all vehicle hardstanding areas shall be submitted to and approved in writing by the Local Planning Authority before work commences and thereafter implemented in accordance with the approved scheme.
- (4) - Before any development is commenced the approval of the Local Planning Authority is required in writing to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post planting maintenance. Such a scheme as approved by the Local Planning Authority shall be carried out in its entirety within a period of 12 months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing

with the Local Planning Authority. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary, unless the Local Planning Authority gives written consent to any variation.

- (5) - There shall be no storage in the open of goods, materials, equipment, or waste materials, except in areas to be approved in writing by the Local Planning Authority.
- (6) - Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority. Roof water shall not pass through the interceptor.
- (7) - No development shall commence until a scheme for the delivery of a "percent for art", in accordance with the objectives and provisions of Policy Q15 of the City of Durham Local Plan 2004, has been agreed in writing with the Local Planning Authority. The agreed scheme shall thereafter be implemented within a timescale that will form part of the aforementioned agreement.

(b) 07/00358/FPA  
S Williams

**Former Coxhoe Picture House, The Avenue, Coxhoe, Durham  
Demolition of former picture house and erection of 5 no. dwellinghouses with associated access, parking and landscaping (revised and resubmitted)**

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

- (1) - The development to which this permission relates shall be begun not later than three years from the date of this permission.
- (2) - The development hereby permitted shall not be carried out otherwise than in accordance with the approved plans and specifications and the details agreed through the conditions of this planning permission.
- (3) - Notwithstanding the information shown on the submitted application details of all materials to be used externally and the standard of their finish shall be submitted to and approved by the Local Planning Authority in writing before the development

- is commenced, and thereafter implemented in accordance with the approved scheme.
- (4) - That notwithstanding the information shown on the submitted plans precise details of all new fenestration, glazing and head and cill details shall be submitted to and agreed in writing with the Local Planning Authority prior to development commencing and thereafter implemented in accordance with the approved scheme.
  - (5) - Details of any fences, walls or other means of enclosure to be erected on any of the site boundaries or within the site shall be submitted to and approved by the Local Planning Authority in writing before development commences. Development shall thereafter be completed in accordance with the approved details.
  - (6) - Notwithstanding the information shown on the submitted plans details of the surface treatment of all vehicle hardstanding areas shall be submitted to and approved in writing by the Local Planning Authority before work commences, and thereafter implemented in accordance with the approved scheme.
  - (7) - Before any development is commenced the approval of the Local Planning Authority is required in writing to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species heights on planting and positions of all the trees, together with details of post planting maintenance. Such a scheme as approved by the Local Planning Authority shall be carried out in its entirety within a period of 12 months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary, unless the Local Planning Authority gives written consent to any variation.
  - (8) - The proposed garages shown on drawing No. 1241/03A shall be implemented in accordance with the agreed details and retained as such thereafter for the parking of private vehicles and shall not be used as or converted into habitable accommodation, unless otherwise agreed in writing with the Local Planning Authority.

**Note:** Councillors Lodge, Simmons and Southwell declared a personal interest in the undermentioned application and remained in the meeting during consideration thereof.

(c) **07/00399/FPA**  
**Miller Homes Ltd**

**Durham County Council, Service Direct, Finchale Road, Newton Hall, Durham, DH1 5HH**  
**Erection of 199 dwellings with associated access, parking, SUD provision and footpath link improvements**

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

- (1) - The development to which this permission relates shall be begun not later than three years from the date of this permission.
- (2) - Notwithstanding the information shown on the submitted application details of all materials to be used externally and the standard of their finish shall be submitted to and approved by the Local Planning Authority in writing before the development is commenced, and thereafter implemented in accordance with the approved scheme.
- (3) - Details of any fences, walls or other means of enclosure to be erected on any of the site boundaries or within the site shall be submitted to and approved by the Local Planning Authority in writing before development commences. Development shall thereafter be completed in accordance with the approved details.
- (4) - Notwithstanding the information shown on the submitted plans details of the surface treatment of all vehicle hardstanding areas shall be submitted to and approved in writing by the Local Planning Authority before work commences and thereafter implemented in accordance with the approved scheme.
- (5) - No development shall take place until a scheme showing the means by which foul sewage and surface water generated as a result of the development are to be catered for has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be carried out in accordance with the approved details before any part of the development is occupied.
- (6) - Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order, no garages or car ports (other than those expressly authorised by this permission) shall be erected at any time without the

- grant of further specific permission from the Local Planning Authority.
- (7) - Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order, no outbuildings, sheds, greenhouses, or other free standing structures shall be erected at any time without the grant of further specific permission from the Local Planning Authority.
  - (8) - Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order, no fences, gates or walls, other than those expressly authorised by this permission, shall at any time be erected on the forwardmost part of any wall of a/the dwellinghouse which faces onto a vehicular highway, without the grant of further specific permission from the Local Planning Authority.
  - (9) - Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order, no extensions shall be constructed at any time to the dwellinghouse(s) without the grant of further specific permission from the Local Planning Authority.
  - (10) - Before any development is commenced the approval of the Local Planning Authority is required in writing to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post planting maintenance. Such a scheme as approved by the Local Planning Authority shall be carried out in its entirety within a period of 12 months beginning with the date on which development is commenced, or within such a longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme, and during that period all losses shall be made good as and when necessary, unless the Local Planning Authority gives written consent to any variation.
  - (11) - The existing trees and hedges on the site shall be retained and shall not be felled, lopped or topped without the written consent

of the Local Planning Authority. Any trees removed without such consent or dying or being severely damaged or becoming severely diseased shall be replaced in the same position with trees of the same species and, as nearly as possible, of the same maturity as those removed having regard for current arboricultural practice.

- (12) - That before development commences, agreement shall be reached with the Local Planning Authority regarding those trees, shrubs and hedges which shall be retained. These shall be properly fenced off from those parts of the land to be developed and shall remain so protected, to the satisfaction of the said Authority, until the cessation of building works. Details of this fencing shall be submitted to and approved in writing by the Local Planning Authority.
- (13) - No development approved by this planning permission shall be commenced until:
- (a) A desktop study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information, and, using this information in a diagrammatical representation [Conceptual Model] for the site of all potential contaminant sources, pathways and receptors has been produced.
  - (b) A site investigation has been designed for the site using the information obtained from the desktop study and any diagrammatical representations [Conceptual Model]. This should be submitted to and approved in writing, by the Local Planning Authority, prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable:-
    - a risk assessment to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected, and
    - refinement of the Conceptual Model, and
    - the development of a Method Statement detailing the remediation requirements.
  - (c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been undertaken.
  - (d) A method statement detailing the



- remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation, has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on site.
- (14) - The development of the site should be carried out in accordance with the approved Method Statement.
- (15) - If, during the 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 Local Planning Authority for an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with.
- (16) - Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement[s]. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
- (17) - Notwithstanding the provisions of Article 3 and Class F of Part 1 of Schedule 2 of the Town and Country Planning [General Permitted Development] Order 1995, or any order revoking or re-enacting that Order, no provision for a hard surface, other than those expressly authorised by this permission, shall be permitted at any point beyond the forwardmost part of the dwellinghouse facing a highway without the grant of further specific permissions from the Local Planning Authority.
- (18) - The proposed garages shown on the approved drawings shall be implemented in accordance with the agreed details, and retained thereafter for the parking of private vehicles, and shall not be used as or converted into habitable accommodation, unless otherwise agreed in writing with the Local Planning Authority.
- (19) - Prior to their occupation, dwellings on

- vulnerable site boundaries, plots to be identified, shall be the subject of noise attenuation measures, to include, inter alia, screen walling, double glazing, and trickle ventilation, a scheme for which must first be approved in writing by the Local Planning Authority.
- (20) - Full details of the proposed Sustainable Urban Drainage System shall be agreed in writing with the Local Planning Authority and implemented in accordance with that agreement prior to the occupation of any dwelling within the approved development.
- (21) - No development shall commence until a scheme for the traffic signal control of the Pit Lane – Bek Road junction has been approved in writing with the Local Planning Authority, and no dwelling shall be occupied prior to the completion of the abovementioned junction improvement.
- (22) - No dwelling shall be occupied prior to the approval in writing by the Local Planning Authority of a scheme for cycle provision improvements along Finchale Road – Pit Lane, between the junctions with Caterhouse Road and Bek Road.
- (23) - No dwelling shall be occupied until a pedestrian island has been constructed on Pit Lane adjacent to the site access.
- (24) - On-site demolition shall be carried out in the following manner:
- (a) No demolition of existing buildings which contain potential roost sites shall be undertaken during the hibernation period [November to March inclusive].
  - (b) Demolition works shall follow a method statement, to be agreed in writing with the Local Planning Authority, to address the risk that roosts may be present that could have been overlooked by the already undertaken summer survey.
  - (c) Prior to full demolition, all external timberwork with a risk of providing cover for roosting bats shall be removed by hand with appropriate care.
  - (d) Prior to full demolition, all external demolition of the northern and southern gatehouses and house as described within Bat Survey of Durham County Council Service Direct Depot at Finchale Road, Framwellgate Moor, Co. Durham, AJT 24 – 10 – 06 Rev. A, roofs shall be removed by hand and the remaining structure allowed to stand for a period of 5 days prior to the completion of demolition.
  - (e) All works on site shall be undertaken as

- detailed within Method Statement for Clearance and Translocation of GCN [Section 7 within "Ecological Scoping Survey and Great Crested Newt Method Statement, Penny Anderson Associates Ltd, October 2006"].
- (25) - No windows shall at any time be inserted within the gable walls of plots 47 and 182 unless first agreed in writing with the Local Planning Authority.
  - (26) - No development shall commence until a scheme for the delivery of a "percent for art", in accordance with the objectives and provisions of Policy Q15 of the City of Durham Local Plan 2004, has been agreed in writing with the Local Planning Authority. The agreed scheme shall thereafter be implemented within a timescale that will form part of the aforementioned agreement.
  - (27) - Before any of the dwellings hereby approved are occupied the footpath links from the development into the adjacent nature reserve shall be provided and available for public use in accordance with details to be submitted to and agreed in writing with the Local Planning Authority.
  - (28) - No development shall take place until a "Planning Obligation" under Section 106 of the Town & Country Planning Act 1990 and substantially in the terms of the draft annexed to this permission has been executed.
  - (29) - No work shall be carried out on the site on any Sunday or Bank Holiday nor between the hours of 6.00 p.m. and 8.00 a.m. Monday to Friday, and 1.00 p.m. and 9.00 a.m. on a Saturday or any other day.

**The Chairman had agreed to accept as a matter of urgency and due to the time factor involved, the Supplementary Report of the Head of Planning Services in relation to an Enforcement Matter at Finchale Abbey, Durham.**

### **83. ENFORCEMENT MATTER – FINCHALE ABBEY, DURHAM**

Finchale Abbey was the remains of a Benedictine Monastery which had been ruinous since the Reformation. Designated as Schedule Ancient Monument in 1923, the boundary was enlarged in 1996 following archaeological investigation which revealed the sub-surface remains of the former Abbey precincts.

Officers from the Heritage & Design section were recently alerted to the fact the works were taking place within the boundary of the Scheduled Ancient Monument by English Heritage's Scheduled Ancient Monument Inspector.

An inspection revealed that concrete bases had been constructed for the installation of permanent residential trailer homes, along with associated earthworks and roadways. A wall of suggested medieval origin had also been demolished.

English Heritage's Scheduled Ancient Monument Inspector visited the site on Friday 8<sup>th</sup> June, and advised that all work should cease forthwith, which was agreed. It appeared that the works were potentially still ongoing following the siting of a residential park home on one of the bases.

Having regard to the serious nature of the activity authorisation was sought under delegated powers to serve a Temporary Stop Notice in relation to the installation of concrete bases, associated earthworks, roadways and servicing of the siting of residential homes on the site of the Scheduled Ancient Monument. The City of Durham Local Plan 2004 Policy E24 stated that the Council would preserve Scheduled Ancient Monuments and their setting in situ.

A Temporary Stop Notice lasted for a period of no longer than one month during which time English Heritage would be able to carry out further investigations as to any potential damage caused to the sub-surface remains.

A meeting had subsequently been held with the owners and their representatives when an undertaking was given that work would cease until such time as the matter was resolved. It was their intention to submit formal applications for the required permissions following discussions with English Heritage and the completion of any archaeological survey deemed necessary. Having regard to the undertaking given no further action was required at this stage, although the situation would need to be kept under review.

Discussions had taken place over the last year concerning a number of alleged further breaches of Planning Control associated with the remainder of the site outside the Scheduled Ancient Monument boundary. It was accepted that park homes did not enjoy the same planning definition in law as residential caravans. The owners were advised to submit an application for a Certificate of Lawfulness covering the area where residential caravans were being replaced with park homes and an application for planning permission for the retention of the engineering works carried out, comprising service roads, hardstandings and mounding. They were also informed of the need to apply for planning permission for five park home plots and the associated service road that lay outside of the 'established site'. They undertook at the recent meeting to submit further applications in an attempt to regularise the whole site.

A full report would be presented to the Committee with the applications.

**Resolved:** That the report be noted.

The Meeting terminated at 6.50 p.m.

Chairman