

CHESTER-LE-STREET DISTRICT COUNCIL

DIRECTORATE OF DEVELOPMENT SERVICES

REPORT TO PLANNING COMMITTEE

8 MAY 2006

REPORT OF THE PLANNING SERVICES MANAGER

- ITEM 1** District Matters Recommended Refusal

- ITEM 2** District Matters Recommended Approval

- ITEM 3** Planning General

**COPIES OF ALL PLANS, ELEVATIONS AND SUPPORTING DOCUMENTATION
CAN BE VIEWED IN THE PLANNING SERVICES DIVISION PRIOR TO THE
COMMITTEE MEETING**

**COPIES OF PLANS AND ELEVATIONS FOR APPLICATIONS WHERE THE
APPLICANT / OBJECTORS / SUPPORTERS WISH TO SPEAK OR FOR OTHER
MAJOR APPLICATIONS WILL BE DISPLAYED IN THE COUNCIL CHAMBER PRIOR
TO AND DURING THE COMMITTEE**

REPORT OF THE PLANNING SERVICES MANAGER

ITEM1 District Matters Recommended Refusal

1.

Reference: 05/00520/FUL

Proposal Part retrospective application for erection of retaining wall and 2.4m high perimeter fencing plus construction of free standing hay barn / cart shed and stables.

Location Land to The West of Beamish Transport Burnthouse Bank Pelton Fell
Chester-le-Street Durham

Applicant Martin Cresswell

The Proposal

Detailed planning approval is sought, part in retrospect, for the construction of a retaining wall and erection of a steel palisade fence and gates at this parcel of land adjacent to Burnthouse Bank, Chester le Street. Permission is also sought for the construction of a barn / cart shed and a new stable block.

The south-western part of the site has been cleared of buildings and levelled (because of the ground levels in the area retaining walls have been partially constructed between the site and the allotment area to the northwest). A timber stable building, which currently appears to be unused, is situated on the application site. This building would be removed were the scheme to proceed.

The 'foot print' of the proposed cart shed / hay barn measures 14 metres x 9 metres. The eaves and ridge height of this building would measure 3.8 metres and 5.4 metres respectively.. The 'foot print' of the stable buildings would measure 15 metres x 5 metres. Although plans of the proposed stable building have been requested from the applicant, these had not been provided at the time of drafting this report.

Following initial confusion as to whether or not the existing stable buildings were to be retained and relocated on site the applicant has confirmed that the existing stables are to be removed and it is proposed to construct a new stable building on site. It has been stated that both the hay barn/ cart shed and stables would be clad with metal sheeting to form the roof and walls.

The application site, which is irregularly shaped, is located at Burnthouse Bank, as illustrated on the attached Ordnance Survey plan. An existing Transport Depot lies immediately to the southeast although this application is unconnected to that operation. The large steel frame building serving this business is located at the eastern end of the

site. The remainder of the property, which is used for vehicle parking, is enclosed with steel palisade fencing which has been painted green. A number of stables constructed from corrugated metal sheeting stand to the south of the application site. An allotment area, which contains a variety of buildings, is situated to the west of the application site - this stretches up Burnthouse Bank to Glenside Terrace.

Site History / Supplementary information provided by the Applicant

The applicant has stated that the application site forms two plots. He has owned the front part of the site for two years and was the tenant of this site for twenty before that. He then bought the adjacent plot approximately eighteen months. It has been stated that both these plots and the adjacent site to the south have been used as stables for a significant number of years.

The site had apparently suffered from severe fly tipping problems and a pair of gates was erected in order to alleviate this problem. It has been estimated by the applicant that he has spent £3,500 clearing the fly tipped rubbish from the site.

Members may recall that an earlier planning application (App. No. 05/00182/FUL) to erect an industrial building on this site was withdrawn by the applicant in May 2005 prior to the planning application being determined by the Planning Committee. The applicant, who runs both a building cleaning business and a building contractors operation, had previously stated that he would like to relocate the above businesses to the application site. However, bearing in mind the Policy objections to the use of the land for industrial purposes the applicant has now decided to utilise the enlarged site for stabling and to store hay and his horse drawn vehicles in the proposed building.

The applicant points out that the building would be well screened because of a combination of the existing boundary fencing and the topography of the site. The location of the hay barn / cart shed has been relocated further away from Pelton Fell Road and the scale of the proposed building has also been reduced compared to the earlier proposal for the industrial building.

Consultation Responses

Durham County Council, as Highway Authority, have raised no objection to the proposal.

Durham County Council's Forestry Officer was surveyed the trees within the site. It has, therefore, been recommended that one of the four trees within the site - an Oak near to the entrance of the site is worthy of retention. It has also been stated that this tree would also benefit from being pruned in accordance with good arboricultural practice outlined within BS 3998 and that excavations within 3 metres of the tree be carried out by hand. A replanting scheme has also been suggested along both the northern and southern perimeter of the site.

The application has been advertised via the posting of a site notice and by direct notification to the two members of the public who commented upon the earlier planning application. As a result, two letters of objection has been received and a summary of these objections is outlined below for Member's consideration.:-

- Concern was raised that the submitted layout illustrated both a hay barn / cart shed and a stable block. Although elevational drawings were available to illustrate the hay barn/ cart shed, no drawings were available showing the stable block. It was, therefore, unclear whether the existing stable block was to be relocated or replaced by a new building.
- The proposed building was considered to be unduly large and fears were expressed that this would be used for business / storage use. It was noted that although it was estimated that the site equestrian activities would only generate one vehicle per day, this appears unduly low bearing in mind the need to feed and water the horses, remove waste material and transport the horses, hay and carts to and from the site.
- The existing access was felt to be 'totally inadequate' and the proposed use would unacceptably intensify the usage of this access.
- That no details had been provided regarding drainage from the proposed stables and no details had been provided regarding disposal of manure from the site.

Relevant Planning Policies and Considerations

The application site is located in open countryside between the settlements of Chester le Street and Pelton Fell. The application site lies within The Great North Forest and stands adjacent to a Local Site of Nature Importance.

County Durham Structure Plan

Policy 4 the County Durham Structure Plan provides general advice with regard to development within the countryside. The Policy seeks to preserve and enhance the appearance of the countryside by advising that new development should, wherever possible, be located within the existing physical framework of towns and villages. However the Policy goes on to advise that development, which exceptionally needs to be located in the countryside, should respect the character and appearance of the countryside.

Chester-le-Street Local Plan

Policies NE2 and RL11 of the Chester-le-Street Local Plan provide relevant advice concerning development beyond settlement boundaries and equestrian facilities respectively.

Policy NE2 advises that generally development outside of settlement boundaries will be strictly controlled. However the Policy does recognise that certain forms of development are appropriate within the countryside and advises that where such developments are considered acceptable in principle the proposals must protect or enhance the character and quality of the countryside.

Policy RL11 of the Local Plan provides specific advice in regard to equestrian facilities. The Policy acknowledges that such facilities are, in principle, acceptable uses in the countryside and will be permitted provided that:

- New facilities are appropriate in scale and situated next to existing buildings and do not detract from the landscape;
- The number of stables proposed and the number of horses to be grazed relate to the amount of grazing land available;

- New commercial establishments where tracking facilities are needed are in close proximity to existing bridle ways; Other types of commercial establishments should either be close to bridle ways or make provision within the scheme to adequately exercise horses;
- New commercial establishments are close to existing residential accommodation, which will allow proper supervision at all times;
- The proposal fulfils the criteria of Policies NE4 and RL10 (which relate to green belt issues which are not applicable to this proposal as this site is not located within the green belt).

In terms of assessing the proposals against the criteria noted above it is accepted that the continuation of the earlier equestrian use at this site is acceptable 'in principle' in planning policy terms.

It is acknowledged that the design of the revised scheme is a significant improvement upon the earlier proposal to use this site for industrial purposes - in that the cart store/ hay shed has been relocated away from Pelton Fell Road and this has been reduced in size. However, it is felt that the proposed hay barn / cart shed remain overly large when compared with the adjacent buildings and other structures located within the adjacent allotment area.

It is noted that at a similar equestrian scheme to the rear of Newfield Road (App. No. 04/00595) the proposed cart lock up and tack room was significantly lower than this scheme measuring 2.75 metres and 4.0 metres in height, respectively to eaves and ridge level.

Notwithstanding the difference in ground levels between the application site and Pelton Fell Road and the existing screening it is considered that the sheer size and massing of the proposed hay store and cart shed would render it out of keeping with the surrounding area.

Because of the lack of detail provided regarding the scale of the proposed stable building planning staff were unable to assess the visual impact of this element of the scheme.

Similarly, no details have been provided regarding either the number of stables proposed or the amount of grazing land available in this area. Based upon the limited information provided and the limited land available within the application site to utilise as a paddock planning staff are unable to assess this proposal against criteria ii) of Policy RL12.

The applicant has stated that the proposal is for his own private use and not designed as a commercial livery yard.

Other Material Considerations

Highway Safety

Notwithstanding the concerns raised by local residents regarding both highway safety and the potential traffic flow to and from the site the Highway Authority considered the proposed access to the site to be satisfactory in highway safety terms and have raised no objection regarding this proposal.

Environment Improvements

It is acknowledged that significant amounts of fly tipping have been removed from the site and the subsequent erection of the gates across the entrance to the site has prevented further tipping. The development of the land for equestrian purposes could, therefore, further improve the visual amenity of this part of the site particularly if supplementary planting is carried out and measures taken to safeguard the long term well being of the existing Oak tree at the entrance to the site. However, it is better to construct a well designed and appropriately scaled building rather than build a poorly designed building and then try to screen this.

Conclusion

In conclusion, whilst the principle of using the application site for equestrian use is considered satisfactory in land use terms.

It is also acknowledged that the applicant has made amendments to the earlier proposal for the site which improve the design of the proposal, however, it is considered that the scale and massing of the cart shed / hay store is still unduly large when compared with the existing buildings and structures on the adjacent allotment site.

Also because of the lack of detail provided the Local Planning Authority is unable to adequately assess the visual impact of the proposed stable block, nor is it able to adequately assess whether the number of stables proposed is proportionate to the grazing land available.

RECOMMENDATION

Refuse FOR THE FOLLOWING REASONS:-

Extra 1.

The proposed cart shed / hay store would be contrary to Policy RL11 i) of the Chester le Street Local Plan in that its scale and massing would be unduly large when compared with the existing buildings and other structures located within the adjacent allotment gardens and the adjacent stable site.

Extra 2.

Because of the lack of detail provided regarding the proposed stable block the Local Planning Authority are unable to adequately assess the visual impact of this element of the proposal nor are they able to assess whether the number of stables proposed is proportionate to grazing land available. The proposal is, therefore, considered to be contrary to Policy RL11 i) and ii).

ITEM 2 District Matters Recommended Approval

2.

Reference: 06/00082/OUT

Proposal Outline application for erection residential development (with details of means of access)

Location 12 - 14 Front Street Pelton Chester-le-Street Durham DH2 1DD

Applicant Mr Dawson

The Proposal

This report relates to an outline application for residential development on land between 12 - 14 Front Street, Pelton. The site is commonly referred to as the 'Stone Cave' site, this being the name of the former retail / storage premises located on the land.

The description of the development has been amended during the course of the application process. The originally proposed scheme included details of the number of units, (13 number) layout and siting of the dwellings. However, as a result of concerns expressed by Officers (including from the Highways Authority who lodged an objection on the grounds of lack of appropriate off street parking provision) the applicant has now agreed to amend the description to residential in outline, together with the details of means of access, only. This will allow consideration of the issues relating to the number of units, together with the siting and layout to be resolved later, at the Reserved Matters stage.

The site is located within the local retailing centre of Pelton, as detailed in the Local Plan. The former retail / storage premises which stood on the site has fallen into a state of disrepair in recent years and Members may recall that they resolved to take action under Section 215 of the Town and County Planning Act 1990 to rectify this situation, at their meeting in June 2005. As a result of this Enforcement Action the owner of the building has recently commenced demolition of the building

Consultation Responses

Durham County Council as Highways Authority for the area raised objection to the original scheme, showing the details of the layout and siting of 13 dwellings. They considered that the layout would not meet required turning standards and also raised objection on the grounds of lack of appropriate off street parking provision. However they have raised no objection to the revised description, confirming that the proposed point of vehicular access into the site is acceptable.

The Council's Regeneration Manager raises no objections

The application has been advertised by way of press and site notice, and direct mailing to adjacent occupiers. No comments have been received

Relevant Planning Policies and Considerations

County Durham Structure Plan

Policy 2 of the Structure Plan advocates a general approach whereby the location of new development should have regard to the potential for minimising day to day travel needs, by advising that new development should be located in locations convenient for public transport. Policy 9 builds upon this advice by stating that the principle locations for new housing development should be well related to the main towns in the county. It also advises that housing development should be directed to locations which are well served by public transport and located to a reasonable range of services. Policies 70 and 71 of the Structure Plan also provide strategic support for proposals that help improve the local environment and bring back into productive use derelict land. It is considered that in principle the proposals comply with the broad aims of these Policies.

Chester-le-Street Local Plan

Policy HP6 of the Local Plan provides relevant advice on the subject of windfall housing development within settlements including Pelton. The Policy advises that residential development will normally be permitted provided the site is classified as previously developed land and the proposals fulfil the general requirements of Policy HP9 and Appendix 1 of the Local Plan.

In assessing the proposals against the requirements of HP6 it should be noted that as the site is classified as previously developed land, in principle it is compliant with the aims of this Policy.

Policy HP9 - Residential Design Criteria - provides general advice regarding the detailed criteria, which successful applications for residential development should meet. As the application has been amended to provide for outline with means of access only, clearly the varied requirements of this Policy are not relevant at this stage, and rather will need to be assessed at the Reserved Matters stage, in the event of outline approval being granted. However HP 9 does require proposals to provide for safe vehicular access. In this respect Members will note that the County Council as Highways Authority for the area have raised no objections to the proposal (which proposes the use of the existing rear access point into the site).

In assessing the proposals against the requirements of HP 9 it is considered they are compliant with the aims of this Policy.

As Members will note from the comments above the site is located within the local retail centre for Pelton. Policy R15 of the Local Plan seeks to protect the commercial viability of such centres by advising that proposals will be resisted that either cumulatively or individually would lead to more than 60% of the street level frontage being in non-retail use. In this respect the proposal, entailing the loss of retail floor space to residential development, would lead to a situation whereby the percentage of non-retail floor space would exceed the 60 % level (to 79%). Accordingly the proposals do not comply with the requirements of this relevant policy.

However consideration does need to be given to the individual site specific consideration raised by the proposal. Indeed this requirement is acknowledged in the phrasing of the supporting text to Policy R15, which advises that the 60% figure is indicative only and should not be classed as a rigid division between acceptable and no acceptable uses.

In this respect it is considered appropriate to take into account the fact that due to the dilapidated condition the building has been in for a number of years, that it has not served any meaningful retail function. As such the proposed conversion to residential use will not lead to any demonstrable loss of retail provision within the village. The applicant has also verbally indicated that his past attempts to market the property for a retail occupier have proved futile, based on prevailing market conditions and the costs that would be required to bring the unit up to a marketable condition. He has verbally stressed that residential development is the only viable use to which he feels the site could be put. Members will also be aware that Pelton does enjoy a relatively healthy local retail provision with the presence of the Co-Op store within the local centre.

In summary, and after taking into account all relevant material considerations, including the fact that the existing site has not served any meaningful retail function for some considerable time, and taking into account the positive environmental improvements to the village that a residential scheme will bring, it is considered appropriate to support the proposals as a justified departure to the general aims of Policy R15

Other Issues

Members will be aware that under normal circumstances the grant of outline planning permission normally lasts for 3 years. However in this instance concern is raised that this time period may encourage the applicant to delay in his attempts to follow through the approval and secure the desired re-development of the site. Accordingly Members will note that recommended condition extra 1 has been worded so as to ensure any outline approval for the site only lasts for 18 months. The view is taken that this will encourage the applicant to concentrate on bringing forward full details of a scheme within a quicker time frame.

Conclusion

In conclusion it is considered the proposal complies with the aims of relevant development plan policies aimed at directing residential development to sustainable locations, and also those which aim to secure positive environmental improvements for the District.

It is also considered that a clear site-specific justification exists to support the proposals as a justified departure to Policy R 15 of the Local Plan

RECOMMENDATION CONDITIONS:-

Approve SUBJECT TO THE FOLLOWING

Extra 1.

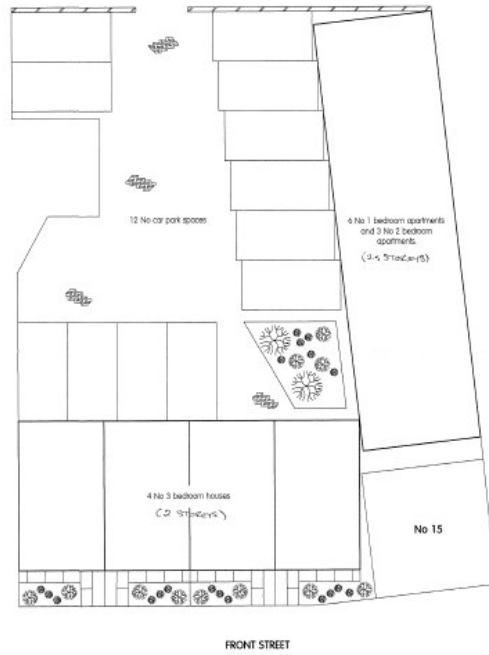
Applications for approval of reserved matters must be made not later than the expiration of 18 months beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason

In accordance with Section 92 of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).

Extra 2.

The siting, design and external appearance of the buildings, and the landscaping of the site are reserved matters in relation to this permission. The development hereby given outline planning permission shall not be commenced until all of the aforementioned reserved matters have been approved.



Proposed new development at Stonecave, Pelton

Scale 1:100

A1

3.

Reference: 06/00166/OUT

Proposal Outline application for construction of two detached dwellings

Location Land Adjacent to 3 Whitehill Hall Gardens Chester-le-Street Durham

Applicant B. S. Developments

The Proposal

This application, in outline only, seeks approval for the construction of two detached dwellings on some 0.054 hectares of vacant/grassed land. The proposed development site lies within what was the walled garden area of Whitehill Hall ~ the garden was developed for housing (via the construction of 9 detached properties) in the early 1990's.

Access to the site would be taken off the existing road network which serves the substantial and much larger area of mixed housing at Cragside, Chester-le-Street.

If developed the site would complete this small cul-de-sac of properties (the site location is shown on the attached location plan).

Site History

As mentioned above this site did originally form the walled garden of Whitehill Hall. However, an outline application (reference 02/90/180/DM) for the construction of 12 dwellings was approved by this Council's Planning Committee in June 1990.

Several conditions were attached to the approval granted. The most pertinent one in this case "Extra 1" stated:

"This approval shall be for a maximum of 12 detached dwellings no more than 3 of which shall lie outwith the walled garden".

The reason for this was as follows:-

"To achieve a satisfactory and acceptable form of development".

It follows, therefore, rather perversely, that there is no restriction on the number of dwellings which could be built within the garden area.

In support of the application the agent, acting on behalf of the applicant, has stated that:-

- The site, in my view, is clearly 'previously developed land' as defined in Annex C to PPG3. It is part of the walled garden of Whitehill Hall and, therefore, falls within the curtilage of Whitehill Hall. This is clearly shown on the attached plan, dated 1978 prepared in conjunction with the Tree Preservation Order for the wider site. Annex C makes it clear that the definition of 'previously developed land' covers the curtilage of any land which was occupied by a permanent structure.

He further states that:-

- Although the definition excludes land which has subsequently been put to amenity use. I do not consider this exclusion applies in this instance. The land was included in the site of the outline application for residential development, granted permission on 19 June 1990. It is shown on the layout plan accompanying that development as open land, which was to be mounded and landscaped, though that has not been carried out. The land is currently grassed and is in private ownership. It serves no local public amenity function and is not used for amenity purposes such as children's playspace, or sitting out area for residents.

He concludes that:-

- In summary, therefore, it constitutes 'previously developed land'. As you will be aware, it is Government Policy to encourage the efficient use of land for housing purposes and the restriction on the original permission for the development of Whitehill Hall to 12 units, would not meet current recommended density requirements. The site falls within the defined settlement boundary of Chester-le-Street and Policy HP6 in your Local Plan states that development of such sites will only be permitted where the site is classified as previously developed land and meets the general criteria of Policy HP9 and Appendix 1. Subject to the development meeting these criteria (and most of these could be secured at reserved matter stage). I would submit that the proposal complies with Local Plan Policy.

Consultation Responses

The views of the Director of Environment (Highways) and Regeneration Manager are awaited. These will be reported verbally at Committee.

At the time of collating the report, although 9 properties were consulted, no representations have been received. Any that are submitted will be reported verbally.

Relevant Planning Policies and Considerations

County Durham Structure Plan

Policy 2 of the Structure Plan advocates a general approach whereby the location of new development should have regard to the potential for minimising day to day travel needs, by advising that new development should be located in locations convenient for public transport. Policy 9 builds upon this advice by stating that the principle locations for new housing development should be well related to the main towns in the county. It also advises that housing development should be directed to locations which are well served by public transport and located near to a reasonable range of services. Policies 70 and 71 of the Structure Plan also provide strategic support for the proposals that help improve the local environment and bring back into productive use derelict land. It is considered that in principle the proposals comply with the broad aims of these Policies.

Chester-le-Street Local Plan

Policy HP6 of the Council's Local Plan provides relevant general advice of the subject of small scale (windfall) development within settlements, including Chester-le-Street. This states that development will only be permitted provided that:-

- i) The site is classed as previously developed land; and
- ii) The proposal fulfils the general intention of Policy HP9, Appendix 1 and other relevant policies of the Local Plan.

Taking the first point it is clear that the application site is previously developed land. It was within the walled garden area of Whitehill Hall and was included in the original outline application for residential development in the 1990's. No condition/planning agreements have been sought to protect it from development nor make it a play area/landscape feature. Therefore, in assessing the proposals against the requirements of HP6 it should be stated that as the site is classified as previously developed land, in principle, it is compliant with the aims of Point (i).

With regard to Policy HP9 - Residential Design Criteria - provides comprehensive advice on the detailed criteria applications for residential development should meet. However, as this application is in outline only, save for access arrangements (which would be subject to the views of the Highway Authority) and siting (which is generally acceptable) the detailed and varied requirements of this Policy cannot be assessed. These would be processed and decided at the Reserved Matter Stage if in fact outline approval was granted.

That said Point (i) of HP9 does state that development will only be acceptable where it:-

- relates well to the surrounding area, respects its predominant character, street pattern, setting and density and avoids damage to the amenities of adjoining property

Therefore, this means although an outline application may be acceptable in that the finer detail could be resolved at a Reserved Matter Stage the principle of development established by outline must be acceptable in the first place. In this regard the only issue for consideration is the loss of an area of grassed/vacant land which could be classed as having some amenity value. However, the application site at present (and presumably has been for the last 16 years) is vacant land with no planting/landscaping present or any evidence of a children's play area or amenity use. It appears as a piece of land 'left over' from the original development.

Conclusion

In conclusion it is considered that:-

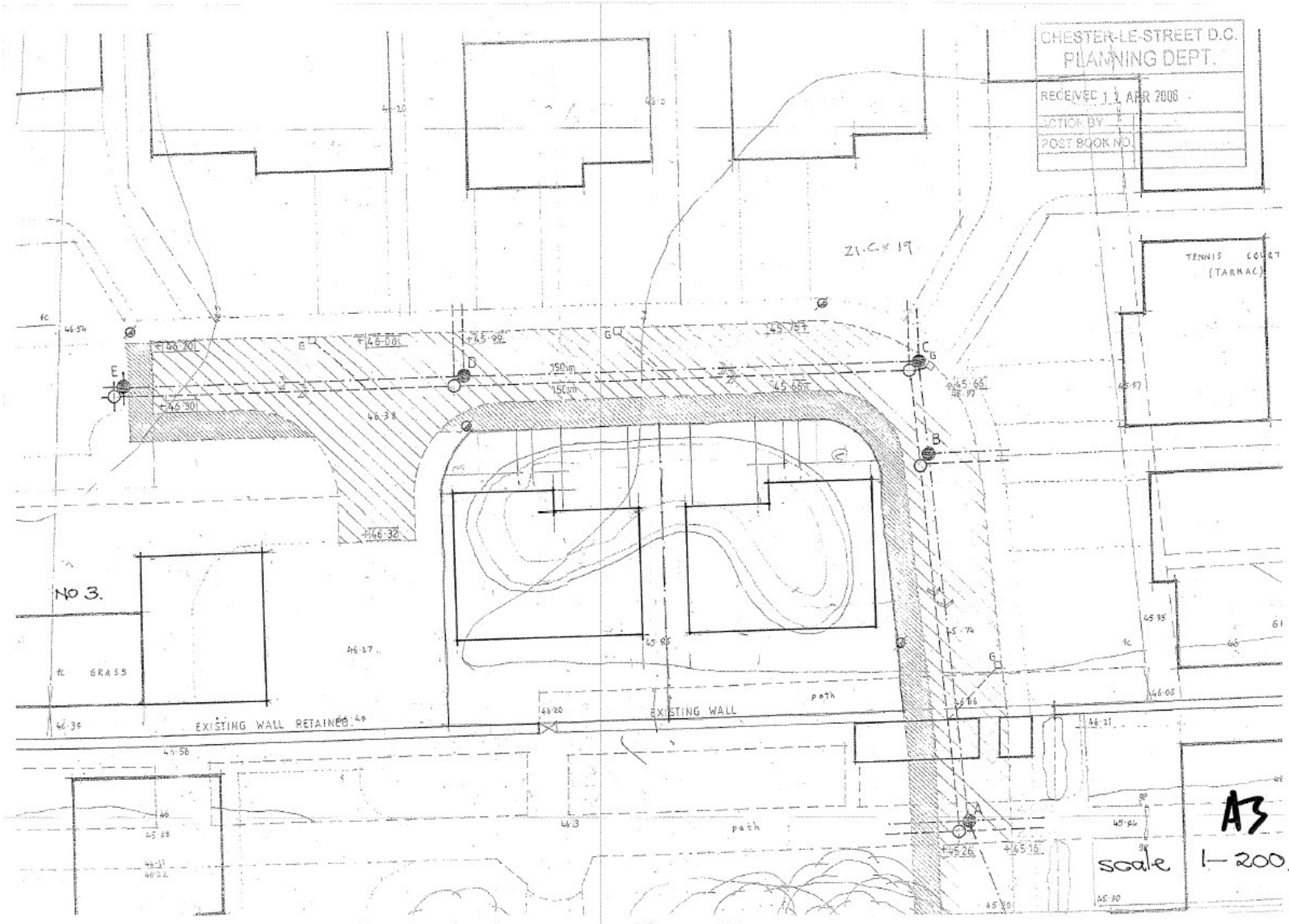
- The land, as a point of fact, is previously developed land.
- The land is vacant and unused for any purpose other than a grassed area; and
- The land is capable of development by virtue of its size and location.
- The development would accord with latest Government advice and both the Durham County Structure Plan and Chester-le-Street Local Plan.

Accordingly it is recommended that planning permission be granted.

RECOMMENDATION CONDITIONS:-

Approve SUBJECT TO THE FOLLOWING

- OL1 Approval of reserved matters required
- OL2A Outline pp time limit - new time limits
- 02 Materials Samples (domestic residential)
- 20A Means of Enclosure (Residential)
- 65 Removal of PD Rights



(3)

ITEM 3

Planning General

3.1 APPLICATION FOR SPOT-LISTING OF CHESTER-LE-STREET CO-OPERATIVE BUILDINGS, FRONT STREET, CHESTER-LE-STREET

Members may recall that at the March 2006 Planning Committee meeting, they were updated as to the initial progress of a request to English Heritage to consider granting the Co-Operative buildings (the Co-Op department store) "Listed Building" status.

Confirmation has recently been received that the Secretary of State for Culture, Media and Sport, in discussion with English Heritage, has decided not to grant the building "Listed Building" status. A full copy of English Heritage's letter of determination is appended to this report but, in dismissing this request, the Secretary of State considered that the building did not display the "exceptional architectural quality, innovation or advanced construction techniques" required of post-1914 buildings.

Furthermore, the decision letter went on to state that the building was not of the "monumental" scale of the Newcastle Co-Op building (designed by the Co-Operative Society's in-house architect L G Ekins who also possibly designed the Chester-le-Street Co-Op) nor did it "have the modern movement styling of the recently listed Co-Op store in Bradford". The building was essentially considered to lack sufficient special architectural or historic interest in a national context to justify listing.

Whilst the outcome of this request is disappointing, the building is noted as making an "important contribution" to the local street scene. The building is also located at the heart of the Chester-le-Street Town Centre Conservation Area and is therefore already afforded some protection under Conservation Area legislation.

3.2 NOTIFICATION OF PLANNING APPEAL DECISIONS

APPEAL AGAINST REFUSAL OF PLANNING PERMISSION. LAND WEST OF BRUCE STREET, DAISY HILL, CHESTER-LE-STREET

Notification has recently been received from the Planning Inspectorate of the decision reached in an appeal lodged by Mr G Walker against the Council's decision to refuse planning permission for the remodelling of land levels to form a winter feeding area and the erection of a field shelter on the above land. Members may recall that they resolved to refuse planning permission, against officer advice, at their meeting in November 2005.

The Council's decision to refuse planning permission was upheld with the appeal being dismissed. In considering the merits of the appeal the Inspector considered that the principle issue raised was the impact of the proposed development on the amenities of people living close to the application site.

In respect to this issue the Inspector noted that the Council had already been active in investigating problems with vermin in the surrounding area. He went onto consider that the increased number of horses, feed and waste material being concentrated on the land would be likely to attract flies and rats and be the source of unpleasant smells. He considered this would be unacceptable and accordingly dismissed the appeal.

A copy of the Inspector's decision letter is appended to this report.

3.3 APPLICATION TO VARY AN AGREEMENT MADE UNDER SECTION 52 OF THE TOWN AND COUNTRY PLANNING ACT 1971 IN RESPECT OF MEADOWFIELD HOUSE, EDEN HILL FARM, WEST PELTON

Introduction

A request has been made to vary (by way of not enforcing) the terms of an agreement previously made under section 52 (s52) of the Town and Country Planning Act 1971 (the 1971 Act). The purpose of the agreement at the time was to limit occupation of a newly built bungalow to those occupants connected with the adjoining veterinary practice at Meadowfield House, Eden Hill Farm, West Pelton.

The current proposal seeks to alter the terms of the s52 Agreement by way of a new agreement, secured under section 106 (s106) of the Town and Country Planning Act 1990 (as amended) (the 1990 Act), to the effect that the District Council does not, and cannot, enforce the provisions of the earlier agreement.

Background

Planning permission was granted in 1980, by Durham County Council, for the erection of a bungalow on land adjoining a pre-existing veterinary practice at Eden Hill Farm in West Pelton.

The application was approved, subject to an occupancy restriction secured by an agreement under s52 of the Town and Country Planning Act 1971, which restricted occupancy of the dwelling to only those connected with the veterinary practice. It would have been common procedure, where there was felt to be a need to tie occupancy to an existing business (such as agriculture, forestry or veterinary practices) to do so via an appropriately worded planning condition. However, in this instance, the restriction was secured through a s52 legal agreement, hence the current request to vary its terms and enforceability. It has not, however, been possible to recover the original application file relating to erection of this dwelling. Due in part to the transfer of responsibility of applications of this nature from Durham County Council to Chester-le-Street District Council in 1989, this has subsequently created difficulty for all parties in understanding the reasoning behind the imposition of the s52 agreement.

Since 1980, the provision of veterinary services in general have significantly changed, specifically with the effect that there is now only a very limited need for vets to live at, or adjacent to, a veterinary practice. The veterinary practice at Meadowfield House is owned by Westway Vets, who have a number of surgeries across the north east and which provides night-time services elsewhere. As there are no animals housed overnight at the premises, and in line with Westway's operating practices, there is no operational need for a vet to be in residence at the dwelling adjoining the practice.

The current manager of the practice, who has worked there since 1988, is currently considering retirement and, were he to continue living at the property, would be doing so at odds with the terms of the previously-made s52 agreement.

Considerations

Procedural

The procedures for varying or amending the terms of an agreement under s52 of the 1971 Act are complex and must be done either via the Lands Tribunal, or by agreement by "deed" between the parties involved. In this instance, section 86 (1) of the Local Government, Planning and Land Act 1980 transferred powers of determining planning applications, other than those relating to "county matters", to the District Council. For the consideration of any new obligation to replace the s52 agreement, Chester-le-Street District Council is considered to be the competent authority, notwithstanding that the agreement (and planning permission) were entered into by Durham County Council.

Planning Matters

At the time of the planning application, neither of the adopted development plans covering the site (the County Development Plan and the Chester-le-Street Town Map) contained any relevant policies. The emerging Durham County Structure Plan was not formally approved by the Secretary of State until 1981, but the policies contained therein were well developed and not subject to objection at the examination in public of the plan in 1979.

Policy 12 of the (emerging) Structure Plan stated that new housing development in the countryside would normally be approved only if it were to support existing agricultural or forestry workers, or those "employed in an activity already located in the countryside who must live in close proximity to their place of employment in order to be able to perform their duties". Clearly therefore, the use of the agreement to restrict occupancy was considered necessary to comply with Policy 12, thereby assuming it was appropriate for the vet to be in close proximity to the practice, and that the dwelling was in the open countryside.

Policy AG10 (Removal of Occupancy Conditions) of the Chester-le-Street District Local Plan relates to applications for the removal of occupancy conditions. It does so, however, only specifically in relation to forestry and agricultural workers although the considerations and "tests", by virtue of their intent, can equally be applied to the current situation.

Policy AG10 states that where there is no longer term need for dwellings for specific workers on either an established unit, or a particularly locality, requests for removal will be approved, subject to three criteria regarding its marketing. As outlined above, the applicant has demonstrated that, through changes in working practices, increased mobility and development of better care facilities and medicines, that on-site veterinary accommodation is rarely required these days. Furthermore, in support of the application, the applicant has followed the general guidance in the supporting text to Policy AG10 and has both marketed the property to those who would be eligible under the terms of its restrictions, and also had the property valued.

No expressions of interest were received, at a price that reflected the inclusion of the occupancy restriction, from those who would be eligible under the existing restrictions to occupy the premises. Furthermore, the applicant has demonstrated that there is also no operational need, nor has there been for some time, for a vet to be resident at the property.

Recommendation

It is considered that the current proposal and its supporting documentation is sufficient, in planning terms, to enable the principle of deleting the occupancy restriction. In submitting the current application, the applicant has followed the guidance applied to removing agricultural and forestry occupancy conditions and restriction. In the circumstances, it is considered reasonable to apply a similar procedure and tests to the removal of veterinary occupancy conditions. However, due to the complexity of varying agreements made under s52 of the 1971 Act, this has to be secured by the form of a “deed”.

In this instance, a new agreement, under s106 of the 1990 Act is required to discharge previous obligations (and remove the s52 agreement from the Land Charges Register). It is therefore recommended that:-

- Members approve the request to alter the terms of the s52 agreement by entering into a new, s106 agreement;
- Members approve the content of the draft s106 agreement submitted by the applicant which discharges the s52 agreement’s obligations and removes them from the Land Charges Register; and
- Members authorise the Legal and Democratic Services Manager to consider the provisions and content of the draft s106 agreement submitted by the applicant with a view to completing the s106 agreement on behalf of Chester-le-Street District Council.

3.4 PLANNING APPEALS UPDATE

Members are requested to note the content of the appended Appeals Update List for appeals received during 2005 and 2006.

**T WATSON
PLANNING SERVICES MANAGER
25 APRIL 2006**



Chester-le-Street District Council

Civic Centre, Newcastle Road, Chester-le-Street, Co. Durham DH3 3UT

Tel: 0191 387 1919 Fax: 0191 387 1583

Directorate of Development Services

25 April 2006

List of Planning Appeals and Current Status (appeals submitted during 2006)

The Planning Applications listed below have been, or are currently, the subject of appeals against the decision reached by the Planning Committee. Planning Appeals are considered by a Planning Inspector from the Planning Inspectorate, a body which is independent of Chester-le-Street District Council.

Key to Appeal Type Code

- W - Written Representations
- I - Hearing
- P - Public Inquiry

If you wish to view a copy of an Inspector's decision letter regarding any one of the appeals listed below please contact the Planning Division on 0191 387 2172 or 0191 387 2173 in order to arrange this.

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
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PLANNING COMMITTEE 8 May 2006

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
05/00142/CLU / APP/G1305/X/06 /2010026	Owlett Coachworks	Land Adjoining Owlett Coachworks Front Street Pelton Fell Chester-le-Street Durham	Certificate of Lawfulness application for an existing use comprising the parking / storage of vehicles.	P / 15.03.2006	E:425371 N:551991	Appeal In Progress /
05/00325/FUL / APP/G1305/A/06 /2005628	McCarthy & Stone (Devs) Ltd	Chalmers Orchard Newcastle Road Chester-le-Street Durham DH3 3TS	Erection of 46 sheltered apartments plus resident managers accommodation, 17 car parking spaces and associated landscaping.	W / 05.01.2006	E:427455 N:551791	Appeal In Progress /
05/00378/OUT / APP/G1305/A/06 /2012037/N	Mr Andrew Bradley - Northumbrian Water	Plawsworth Reservoir Chester Moor Durham	Outline application for a single dwelling house, including siting and means of access.	W / 13.04.2006	E:426253 N:548185	Appeal In Progress /
05/00531/ADV / APP/G1305/H/06 /1197954	Miss R. Thorne - Primesight Advertising Ltd	Park Road Service Station Park Road North Chester-le-Street Durham DH3 3SU	Installation of 2no double sided, internally illuminated, pole mounted display units. (Retrospective application - amended 21/12/05 to include second display unit).	W / 17.02.2006	E:427762 N:551939	Appeal In Progress /

25 April 2006

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Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
04/00603/FUL / APP/G1305/A/05 /1176740	John Clark & Fern Stuart	57 Hilda Park South Pelaw Chester-le-Street Durham DH2 2JR	Proposed conversion of existing garage to kitchen / dining room and construction of a replacement garage.	W / 22.03.2005	E:426596 N:551977	Appeal Allowed / 30.06.2005
04/00657/FUL / APP/G1305/A/05 /1187066	Mr & Mrs Cutter	40 George Street Chester-le-Street Durham DH3 3NE	Erection of dwelling house.	W / 06.09.2005	E:427700 N:550640	Appeal Dismissed / 16.12.2005

PLANNING COMMITTEE 8 May 2006

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
04/00660/FUL / APP/G1305/A/04 /1170813	Mr & Mrs Shield	13 Lindom Avenue Chester-le-Street Durham DH3 3PP	Proposed single storey rear extension to provide utility room and garden room.	W / 07.01.2005	E:427881 N:551059	Appeal Dismissed / 01.06.2005
04/00711/TEL / APP/G1305/A/04 /1171160	Turner & Partners Telecom Services	Highway Verge Outside Arizona Chemical Vigo Lane Chester-le-Street Durham	Installation of telecommunications equipment including 15m slimline street furniture monopole and associated radio equipment housing and ancillary development.	W / 06.01.2005	E:427794 N:553929	Appeal Allowed / 21.06.2005
04/00719/COU / APP/G1305/A/05 /1174067	Mr Jackson	Land North East of 136 Warkworth Drive Chester-le-Street Durham DH2 3TW	Change of use from public open space to private garden and erection of 2m high, close boarded timber fence.	W / 07.02.2005	E:426503 N:550095	Appeal Dismissed / 04.07.2005
04/00728/COU / APP/G1305/A/05 /1180079	Mr L. Crawford	Land North East of 99 Picktree Lodge Chester Le Street Durham	Retrospective application for change of use & enclosure of land to the side of 99 Picktree Lodge.	W / 13.05.2005	E:428016 N:553727	Appeal Dismissed / 18.08.2005

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Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
04/00811/COU / APP/G1305/A/05 /1178622	Mr S Batty	Land to The West of 129 Rydal Road Chester-le-Street Durham DH2 3DS	Change of use from open space to domestic garden (retrospective)	P / 20.04.2005	E:426894 N:550313	Appeal Allowed / 10.08.2005
04/00836/FUL / APP/G1305/A/05 /1185913	Stuart Allison	24 Graythwaite Chester-le-Street Durham DH2 2UH	Erection of detached single garage at front of dwelling (siting and roof design amended 21/01/05)	W / 08.08.2005	E:425940 N:551125	Appeal Allowed / 07.11.2005
05/00015/OUT / APP/G/1305/A/0 5/1183530	Mr S. Wales	Land South of 12 Woodlands Chester-le-Street Durham	Erection of dwelling house (Outline).	W / 29.06.2005	E:427284 N:551898	Appeal Dismissed / 29.09.2005
05/00108/OUT / APP/G1305/A/05 /1187709	Bruce Coyle	Land North East of Ravenscroft Stoney Lane Beamish Durham	Proposed erection of 1 no dwelling.	I / 15.09.2005	E:422993 N:553406	Appeal In Progress /
05/00118/TEL / APP/G1305/A/05 /1186410	O2 (UK) Ltd	Land South West of Roundabout Waldrige Road Chester-le-Street Durham	Erection of 15 metre high streetworks monopole with associated equipment housing and ancillary works.	I / 30.09.2005	E:425697 N:550444	Appeal In Progress /

PLANNING COMMITTEE 8 May 2006

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
05/00244/OUT / APP/G1305/A/05 /1189483	Mr M. Calzini	Land South of Courtney Drive Perkinsville Chester-le-Street Durham	Erection of 2 no single storey dwellings (outline with details of access provided).	W / 28.09.2005	E:425675 N:553439	Appeal Dismissed / 01.02.2006
05/00248/FUL / APP/G1305/A/05 /1185820	Mr S. Levison	West House Waldrige Road Chester-le-Street Durham DH2 3AA	Extension to existing care home.	W / 05.08.2005	E:426776 N:550751	Appeal Dismissed / 10.11.2005
05/00245/TEL / APP/G1305/A/05 /1185984	O2 (UK) Ltd	Land South of Carlingford Road Chester-le-Street Durham	Erection of 12m high telecommunication pole (Imitation telegraph pole), including 3 antenna and associated equipment cabinets and ancillary development.	I / 05.08.2005	E:426865 N:550388	Appeal In Progress /
05/00260/OUT / APP/G1305/A/05 /1186137	Mrs N. Marsden	Twizell Hall Farm Twizell Lane West Pelton Chester-le-Street Durham DH9 6SN	Proposed construction of detached dwelling.	I /	E:421877 N:551932	Appeal Valid /

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Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
05/00271/FUL / APP/G1305/A/05 /1187017	David Ewart	31 Northlands South Pelaw Chester-le-Street Durham DH3 3UN	Conservatory to front of property.	W / 19.08.2005	E:427236 N:552423	Appeal Allowed / 16.11.2005
05/00272/FUL / APP/G1305/A/05 /1187019	Mr S. Brannen	29 Northlands South Pelaw Chester-le-Street Durham DH3 3UN	Conservatory to front of property.	W / 19.08.2005	E:427244 N:552424	Appeal Allowed / 16.11.2005
05/00385/FUL / APP/G1305/A/05 /2005406	Garry Walker	Land West of Bruce Street Sacriston Durham	Re-modelling of land levels to form winter feeding area (retrospective). Installation of feed shelter and erection of retaining wall (part retrospective).	W / 22.12.2005	E:423784 N:548599	Appeal Dismissed / 05.04.2006
05/00380/FUL / APP/G1305/A/05 /1192917	P. Kettle	Land South West of Woodstone Terrace Bournmoor Chester-le-Street Durham	Proposed erection of a 5 no compartment stable block and 1 no tack room.	W / 02.11.2005	E:430913 N:549996	Appeal Dismissed / 17.02.2006

PLANNING COMMITTEE 8 May 2006

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
05/00449/FUL / APP/G1305/H/11 92895	Miss Rebecca Thorne / Primesight Advertising Ltd	Hett Hills Garage Hett Hills Pelton Fell Chester-le-Street Durham DH2 3JU	Installation of 1 no free standing, internally illuminated, double-sided, 6 sheet advertisement panel.	W / 31.10.2005	E:423832 N:551428	Appeal Dismissed / 05.12.2005