

CHESTER-LE-STREET DISTRICT COUNCIL

DIRECTORATE OF DEVELOPMENT SERVICES

REPORT TO PLANNING COMMITTEE

11 SEPTEMBER 2006

REPORT OF THE ACTING PLANNING SERVICES MANAGER

- ITEM 1** District Matters Recommended Refusal
- ITEM 2** District Matters Recommended Approval
- ITEM 3** District Council Development
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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
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TO AND DURING THE COMMITTEE**

REPORT OF THE ACTING PLANNING SERVICES MANAGER

ITEM1 District Matters Recommended Refusal

1.

Reference: 06/00305/OUT

Proposal Outline application for residential development (All matters reserved).

Location Kimblesworth Industrial Estate Elm Crescent Kimblesworth Durham

Applicant Lambton Guernsey Ltd

The Proposal

Outline planning permission is sought for residential development on the site of Kimblesworth Industrial Estate, Elm Crescent, Kimblesworth. The applicant has requested that all matters relating to siting, external appearance, design and means of access are reserved for future consideration should the application be approved in outline.

Currently, the application site is utilised by a handful of small businesses which operate from a range of single storey buildings. A number of further buildings also occupy the site but are derelict and unused. However, of the businesses currently operating from the application site, two are small scale car repair and body shop operations, a further unit advertises antique furniture storage and restoration whilst the other single storey building is occupied as an office for Disability Outlook. The largest of the businesses currently operating from the site, Springs Roofing, is estimated to employ the majority of the 50 to 70 people who work at the various businesses on the Industrial Estate.

The site is located at the southernmost point of Kimblesworth, within the settlement boundary for the village, and immediately adjacent to the District boundary with Durham City. The site, which is split into two levels, and the remaining buildings were formerly part of the Kimblesworth Colliery, which extended further to the south, and is now surrounding by reclaimed land to the south and east. These areas are now heavily wooded screening the site from wider views. The northern site boundary is wooded with semi-mature trees and scrub planting with open farmland on the opposite side of Elm Crescent. To the west of the site, at a higher level, are 6 residential properties whose gardens back on to the site but are again partly screened by trees and scrub planting.

In support of the application, the applicant has submitted a Planning Statement, setting out the general principles of the proposal and the justification behind the submission of the current application; a Transport Assessment setting out the predicted implications in terms of traffic generation arising from the proposals; and a Phase 1 Environmental Due Diligence Report which is a desk-based study of the environmental factors relating to the application site. Although submitted in outline, the applicant has indicated that the following form of development is "envisaged":-

- Existing buildings within the site would be demolished;
- The site would allow for the construction of up to 50 dwellings (which would equate to a density of 58 dwellings per hectare);
- Building heights of up to 3 or 4 storeys, where appropriate;
- Appropriate mix of house types, sizes and affordability;
- Provision of new vehicular access, internal access roads, footpaths and appropriate levels of car parking;
- Provision of new cycle and pedestrian access arrangements; and
- Provision of new trees and landscaping.

In summary, the applicant contends, by way of justification to support the application, that the proposal is located in a sustainable location within the urban area of Kimblesworth, with good access to services by a range of transport modes. It is also suggested by the applicant that there is little or no need to protect the site for industrial uses and that those uses are historic and no longer appropriate with demand limited. The reuse of the site for more appropriate alternative uses would outweigh any need to retain the site for industrial uses.

Consultation Responses

The application has been advertised by way of direct neighbour notification, and through the advertisement of the application by site notice. Additionally, the matter has also been advertised by way of local newspaper advertisement. To date some 86 letters of representation have been received which have raised the following points of objection:-

- The proposed development will place an addition burden upon the existing highway network, with at least an extra 100 vehicle movements per day.
- The road junction from the A167 onto the "Pit Bank" (also known as Elm Crescent) is considered to be substandard, thereby making this stretch of road more dangerous;
- The traffic generated by the proposed development will create an added danger to children, the elderly and other residents within the village;
- The implications of previously approved developments within Kimblesworth and Nettlesworth have yet to be felt;
- The land is currently used for industrial and commercial purposes and provides employment for between 50 and 70 people; and
- The application site is located on the former pit yard and as such could give rise to adverse effects due to the former use, particularly the pumping of the old pit workings to prevent flooding.

The application has also been subject to a public meeting attended by officers, held in Nettlesworth Community Hall, to which all objectors were invited and for which a substantial turnout ensued.

Durham County Council (Highways) initially raised the following comments in relation to this proposal:-

- The findings of the Transport Assessment are considered to be satisfactory and that the likely vehicular traffic arising from the proposed development would not be

materially different to that expected under a full utilisation of the existing industrial buildings;

- The site is located at the extreme southern end of the village where the existing footpath network is limited to only one side of the road and where visibility for crossing pedestrians is limited. In practice it is expected that there will be more pedestrian movements associated with the proposed development than at present and any future application will be expected to address this area of concern;
- Unless otherwise agreed, a 1.8 metre wide footpath of adoptable standards should be provided along the complete site boundary with Elm Crescent; and
- The proposed point of vehicular access is considered to be satisfactory against current visibility criteria.

Following the public meeting, Durham County Council (Highways) were requested to respond to a number of issues raised during the meeting and have provided the following additional comments:-

- It is not uncommon for development to bring about a likely increase in traffic, both vehicular and pedestrian. This is not, in itself, a means with which to sustain a refusal of an application of highways grounds. Rather, the issue is whether the highway network is capable of safely accommodating such additional trips.
- Consideration must also be given to the level of traffic generation likely were no change in planning use category required (ie - continued industrial use);
- It is considered that the current level of vehicular usage at the application site is likely to increase under the current proposal. It is considered, via the Transport Assessment (TA), that generated trips arising from the change of use to up to 50 dwellings can safely be accommodated on the existing highway network.
- The TA satisfactorily demonstrates that a representative level of generation from a cross section of sites elsewhere in the Country (within the same Use Class) is likely to generate only slightly less vehicular trips than that arising from residential use. The degree of difference is not considered to be material or sufficient upon which to base a recommendation of refusal on highways grounds;
- Notwithstanding this advice, a lower housing density is advised in order to reduce site generated traffic;
- With regards to other matters raised regarding highways matters, it is not considered that reference to parking conditions during cricket matches at the nearby cricket club would be given any credence by a Planning Inspector at an appeal were this to be used as a reason for refusal;
- One access is proposed which, with improved sight lines, would represent a significant improvement over the current situation; and
- It is not uncommon for there to be a divergence between the expectations of local residents (in terms of objecting to a proposal on the grounds of highway safety and traffic generation) and the realities of the planning system (where such objections must, rightly, be capable of close scrutiny and justification). Nothing further has been raised from the public meeting to justify altering the advice originally provided.

Durham County Council (Planning Policy) have provided the following comments in respect of the current application:-

- The application site is allocated as a Local Industrial Estate by Policy IN5 of the Chester-le-Street District Local Plan. The Structure Plan recognises the importance of such sites to meet local employment needs, and that existing businesses within towns or villages, and on small sites, need the opportunity to expand or for new businesses to be set up;
- Supporting text, at paragraph 9.16, of the Structure Plan acknowledges that older industrial estates may need improvement to remain suitable for modern needs, but that making the best use of existing sites reduces the need for new allocations, in accordance with the principles of sustainability;
- The site is currently occupied by a number of small businesses and, whilst the buildings are dated, a significant proportion of the land is developed and utilised, providing an important local resource, and indicating that the site cannot be considered to be redundant;
- Recent employment land monitoring across the County indicates that the amount of such land available for development in the locality, and generally throughout the District, is limited in supply in both the short and long term;
- Policy 9 of the Structure Plan states that provision should be made for housing development consistent with the scale and character of towns and villages served by public transport, and with a range of facilities. Priority should be given to previously developed land and sites. Whilst the site is within the settlement boundary, on previously developed land, it does not appear to be well related to existing residential development, being somewhat detached at the extreme south eastern end of the settlement;
- Paragraph 42a of PPG3 advises that Local Planning Authorities should consider favourably planning applications for residential development on land allocated for industrial use, where that land is redundant or is no longer needed. The site is not considered to be redundant;
- Submission Draft Regional Spatial Strategy (RSS) for the North East recognises that employment needs are, as well as residential development on previously developed site, also important. Draft RSS Policies 18 and 31 suggest that the re-use of employment sites for housing should only be considered where there is no long term requirement for employment use; and in conclusion
- The site, whilst in a settlement identified in principle as acceptable for new housing, is neither derelict nor redundant, is currently allocated, and used, for employment purposes and the proposal does not therefore accord with Policy 22 of the County Structure Plan or the emerging RSS.

The views the Council's Planning Policy Officer and the Acting Environmental Health Manager are awaited at this time and will be verbally reported to the Planning Committee.

The Regeneration Manager has raised no objections to the proposed development.

The Leisure Services Team have confirmed, in accordance with the provisions of Policy RL5 of the Local Plan (and supporting text) that they would prefer to see any play provision being provided through a commuted payment, secured by way of an agreement under section 106 of the Town and Country Planning Act, on the existing play site on Elm Crescent.

The views of Durham City, as the neighbouring Local Planning Authority, are awaited.

Durham Bat Group have advised that there may be a possibility of bats being present within the type of buildings which are located within the site, and due to the nature of the surrounding landscape.

Relevant Planning Policies and Considerations

The current proposal should be assessed within the context of the following County Durham Structure Plan and Chester-le-Street District Local Plan Policies. Additionally, the Government Guidance set out below, in the form of Planning Policy Statement 1 (PPS1 - Delivering Sustainable Development), Planning Policy Guidance Note 3 (PPG3 - Housing) and Planning Policy Guidance Note 13 (PPG13 - Transport), is also considered to be of relevance to the consideration of this matter.

County Durham Structure Plan

Policy 22 of the County Structure Plan sets out the need for the Districts to identify industrial sites to meet local needs and to encourage the diversification of the rural economy. It advocates that such sites should be located in towns or villages where are served by public transport and be consistent with the scale and character of the village. The supporting text advises that existing businesses need the scope to expand as well as opportunities for new businesses to be set up.

Policy 9 of the County Structure Plan identifies that housing development should be located within, or be well related to, the main towns. Elsewhere provision should be made that is consistent with the scale and function of other towns and villages served by public transport with a range of facilities, and priority should be given to the redevelopment of derelict or redundant site.

Whilst both Policies above are expanded upon within the Chester-le-Street District Local Plan, it is relevant to consider the application site and the proposal within this context. Whilst the applicant contends that the employment uses on the site exist only because of historic reasons (the former colliery site and buildings) by reasons of the scale of the site, the range of buildings and businesses accommodated and its location within the village boundaries, the site clearly meets the criteria set out by Policy 22 of the Structure Plan. With regard to Policy 9, although of relevance and the fact that the development would, if approved, constitute brownfield development, the site does not fully satisfy the provisions of this Policy. Clearly, from the comments submitted during the course of the consultation process, the site is neither derelict or redundant, and in fact employs a substantial number of people, some of whom live in Kimblesworth. While the site is generally untidy with the buildings showing clear signs of neglect, those that are occupied appear to be in reasonable condition.

Chester-le-Street District Local Plan

Industrial Policies

In accordance with the content of Policy 22 of the County Structure Plan, Kimblesworth Industrial Estate is one of 6 industrial areas identified within the District by the Local Plan as being Local Industrial Estates (Policy IN5). Policy IN5 identifies Local Industrial Estates as being capable of accommodating less attractive or un-neighbourly uses, either through new-build or the conversion of existing buildings and units. Notwithstanding the applicant's contention that the application site has only evolved as an industrial area for historical reasons, all 6 Local Industrial Estates identified in the Local Plan utilise former

colliery sites and buildings as a basis for such business accommodation. In terms of satisfying the general allocation criteria set out by Policy 22 of the Structure Plan, such sites are ideally suited to being re-used for small scale and poor neighbour industrial uses. Information supplied by Durham County Council shows that, as of March 2005, there was little or limited availability of units within such Local Industrial Estates.

Housing Policies

Policy HP6 (Residential Development within Settlement Boundaries) confirms that residential development not allocated within the Local Plan Proposals Map but within the settlement boundary of Nettlesworth / Kimblesworth, will only be permitted if the site can be classed as being previously developed land, and satisfies other Policies within the Local Plan, specifically Policy HP9 (Residential Design Criteria - General), Appendix 1 and other relevant Local Plan Policies.

For the reasons outlined above, the site would clearly fulfill the criteria for being previously developed land. Furthermore, as the application has been submitted in outline form, the reserved matters would be able to be devised in such a way as to ensure compliance with the provisions of Policy HP9 and Appendix 1 of the Local Plan.

Planning Policy Guidance Note 3 (PPG3 - Housing) sets out Government advice on the provision of housing. Published in 2000, this PPG advocated the concept of developing previously developed, or "brownfield", land for housing as a priority ahead of allocating or developing greenfield sites. Revisions to PPG3 in 2005 introduced an additional paragraph (42a) which provided the following advice:-

42(a) Local planning authorities should consider favourably planning applications for housing or mixed use developments which concern land allocated for industrial or commercial use in saved policies and development plan documents or redundant land or buildings in industrial or commercial use, but which is no longer needed for such use, unless any of the following apply:

- *the proposal fails to reflect the policies in this PPG (including paragraph 31), particularly those relating to a site's suitability for development and the presumption that previously-developed sites (or buildings for re-use or conversion) should be developed before greenfield sites;*
- *the housing development would undermine the planning for housing strategy set out in the regional spatial strategy or the development plan document where this is up-to-date, in particular if it would lead to over-provision of new housing and this would exacerbate the problems of, or lead to, low demand;*
- *it can be demonstrated, preferably through an up-to-date review of employment land¹ (refer to Annex D for practice guidance), that there is a realistic prospect of the allocation being taken up for its stated use in the plan period or that its development for housing would undermine regional and local strategies for economic development and regeneration.*

The applicant contends that, in light of revised paragraph 42a of PPG3, favourable consideration should be given to the re-allocation or development of industrial allocations or redundant sites and buildings, or which are no longer needed, for residential purposes / development. Whilst on face value this would appear to support the applicant's argument, it is important to note that the PPG refers to redundant land or buildings, and which is no

longer needed. Clearly, the immediate built environment is not in the best of physical conditions but the site is occupied by a number of businesses employing a relatively large (within the context of the small village such as Kimblesworth) number of people. For these reasons, it is considered that the site as a whole cannot be argued to be either redundant or no longer needed.

Other Material Considerations

In support of the application, the applicant makes reference to the sustainable nature of the site for residential purposes in terms of the proximity to the village centre, connections to the highway network and access to alternative modes of transport (public transport networks). It is considered however, that the same may also be said of the existing industrial site uses. Furthermore, as an employment site potentially providing employment to local residents, within walking distance of the centre of the village, not only does the current use of the site encourage sustainable patterns of travel to work, it also provides for a mixed and sustainable community.

The village has, over the past 3 years, been subject to a number of planning applications for residential development on previously developed, "windfall", sites, of which one site was previously used for commercial purposes. It is considered that the potential loss of a further employment site within the village (indeed the only specific industrial allocation shown in the Local Plan) would alter the character of the village by removing this potential source of local employment and business opportunity, and reduce the sustainability of the village and its employment / commuting balance.

Significant concern was expressed during the consultation process regarding traffic generation arising from the proposed development, highway congestion upon completion and the suitability of the existing highway network in accommodating such impacts. With the application being submitted in outline form, any identified shortcomings with the existing highway network, such as substandard footpath widths and the provision of highways features within the development, can be addressed at the reserved matters stage if Members are minded to approve the application. However, the considered advice of Durham County Council (Highways) regarding the extent and nature of the objections raised by residents on highways grounds, is that they believe the existing highway network to be capable of safely accommodating any potential increase in traffic arising from this proposal. It is also advised that they believe that any increase in traffic would not be materially large or significant enough to justify a refusal on highways grounds.

Conclusion

The consideration of this application is, notwithstanding the provisions and allocations of the Local Plan, considered to be finely balanced. Policies contained within the Local and County Structure Plans relating to housing provision advocate the re-use of previously developed land ahead of greenfield sites, and also the use of sites within existing settlement boundaries. The application site is located within the settlement boundary for Kimblesworth and, clearly, if developed it would be classed as being a "brownfield" development. Furthermore, the use of the site for housing could reduce the need for the Council to consider greenfield sites in the future and, clearly, this is a consideration in favour of the proposal.

With regard to highways matters, Durham County Council have advised that they accept the findings of the Transport Assessment and believe that the highway network is capable of sustaining any potential increase in traffic and vehicle movements associated with the proposed development. Any further matters, such as footway provision and enhancements, as well as those relating to site, design, layout and materials may be addressed through the submission of reserved matters, or by condition, if approved.

The development, if approved, would allow the further provision of a mix of housing types and tenures, through a requirement for "affordable housing", as well as potential for improvements to the immediate environment, contributions towards community and recreation provision within the village, and the highways improvements outlined above.

However, it is considered that the existing industrial area satisfies a local need, providing a range of businesses and employment. Furthermore, the most recently available figures from Durham County Council indicate limited availability within other local industrial areas across the District, and further afield within the County, implying that the loss of this industrial area / employment land cannot alone be justified on the basis of there being a lack of demand for such sites. The retention of this Local Industrial Estate, as shown by its inclusion as a specific allocation within the Local Plan and the number of businesses currently operating from the site, is considered to contribute towards the economic base of the village and to maintain a sustainable mix of landuses within the village.

With regard to the provision of a further 50 dwellings, Kimblesworth has been subject to the development over 30 "windfall" residential dwellings over the last 3 years. Additionally, extant planning permissions, allocated sites with planning permission currently being built and anticipated applications on allocated sites are such that a broad mix of housing will already be able to be provided across the District.

For these reasons it is considered that, on balance, the application be recommended for refusal on the grounds that the proposal would be contrary to Policy IN5 which identifies Local Industrial estates for the provision of less attractive or un-neighbourly industrial uses. The site is neither derelict nor redundant and so is not considered to satisfy the additional advice set out by revised PPG3 (paragraph 42a) for the re-allocation of employment / industrial uses. The site provides employment to a significant number of people (within the context of a small village such as Kimblesworth), some of whom are from the local area and specifically Kimblesworth and Nettlesworth, whilst Submission Draft RSS for the North East also recognises the importance of employment needs.

RECOMMENDATION

Refuse

FOR THE FOLLOWING REASONS:-

Extra 1.

The proposed outline application for residential development is considered, due to the loss of an allocated industrial area occupied by a number of existing businesses, to be contrary to Policy 22 of the County Durham Structure Plan which seeks to recognise the importance of local industrial estates in providing opportunity for existing businesses to expand and new businesses to start up ad to meet local employment needs.

Extra 2.

The proposed outline application for residential development is considered to be contrary to the provisions of Policy IN5 of the Chester-le-Street District Local Plan in that the

proposed development would result in the loss of a local industrial estate which adequately accommodates less attractive and un-neighbourly uses and which meets local employment needs.

Extra 3.

The proposed outline application for residential development is considered to be contrary to the provisions of Planning Policy Statement 1 (PPS1 - Delivering Sustainable Development) and Policy NE1 of the Chester-le-Street District Local Plan in that the proposed residential development of this site would provide for an unsustainable pattern of development within Kimblesworth due to the loss of a valuable local industrial estate which seeks to meet local employment needs, and in doing so provides for a diverse and sustainable community.

ITEM 2 District Matters Recommended Approval

2.

Reference: 06/00213/FUL

Proposal Erection of boundary fence.

Location Land to rear of 9 - 12 Station Road / 4 - 7 Woodside Beamish Durham

Applicant Gary Mitchieson And Others

The Proposal

This report relates to an application to erect a 1.7 metre high timber fence (with inward opening gates) on land to the rear of Station Road, Beamish.

For Members information a recent planning application for the erection of two dwellings on the land to the rear (Reference 06/00331/FUL) was refused planning permission under delegated powers on 21 August 2006. The reasons for refusal related to over development, privacy and highway safety concerns

Consultation Responses

Durham County Council as Highways Authority for the area comment that the adjacent highway is substandard (at 4 metres in width). As such it is recommended that the fence be set back some 500mm off the highway so as to ensure vehicle access along the lane is more easily achieved.

The application has been advertised by way of site notice and direct mailing to adjacent residents. In addition as the applicant is unable to identify the owners of the whole of the application site he has had to publish a Notice in the Local Press. In response to the neighbour consultation 8 letters of objection have been received. Objection is raised on the following grounds;

- The development infringes into land owned by one of the objectors
- The fence line is shown along the northern edge of the adjacent highway. Concern is expressed that this will restrict access along the highway. In particular concerns are raised that this may inhibit emergency vehicle access
- The application will restrict private access rights across the land to be fenced off

Relevant Planning Policies and Considerations

There are no direct Policies of relevance in the Local Plan relating to the erection of fences. However Policy HP11 provides relevant advice on the subject of extensions to existing dwellings (which often include fencing) and HP 16 provides advice on the enclosure of open land (which this proposal will effectively provide for).

Having regard to the general thrust of these Polices, and an assessment of comments received through the consultation process, it is considered that the principal material planning issues for consideration relate to how the proposal will blend with the character of the existing area, and the highway safety implications.

Highway Safety

With reference to the highway safety issue Members will note the comments received from the County Council, as discussed above. They have not raised objection to the scheme, although do recommend that the fence is set back within the site to aid vehicular movement in the adjacent street.

In this respect Members will note that this set back is a recommended condition of approval and as such it is considered that the concerns of the objectors will have been met by this condition. Subject to the imposition of this condition it is felt the proposals are wholly acceptable in highway safety terms.

Visual Impact / Character of Area

The proposed height (1.7 metres) together with material (timber) is considered acceptable in the context of the surrounding area. There are a number of similar sized enclosures that exist in the locality and as such it is not felt that the proposal would be unduly out of character with the area sufficient to justify the refusal of planning permission. It is however recommended that a condition of approval be imposed to secure the appropriate staining of the timber.

Other Issues Raised

As Members will note from the Representations Section above objections have also been received to the scheme on a number of other grounds. Whilst these grounds are not considered to be of principal importance to the planning merits of the matter, they nevertheless need to be assessed as part of the consideration of the application.

With regard to the stated concern that the applicant may not own all of the application site it should be noted that he has acknowledged this by following the relevant legislative requirement to publish a Notice in the local press. As such it is not possible to resist the proposals on this ground. Rather if any third party was subsequently to come forward and claim ownership of the land then this would comprise a civil matter to be resolved between the two parties.

In much the same way the stated concern that the fence may obstruct private rights of access across the neighbouring land is a civil matter, and not a material planning consideration. However it is worth noting that the application has now been amended to include for the provision of gates, and as such presumably this will allow future access to be taken across the land.

Conclusion

In conclusion it is considered that the proposal is acceptable when assessed against the principal material planning considerations (those of highway safety and the impact on the character of the area), having regard to the imposition of the recommended conditions of approval.

Accordingly it is recommended that planning permission be granted.

RECOMMENDATION
CONDITIONS:-

Approve SUBJECT TO THE FOLLOWING

01A time limit (3 years)

Extra 1.

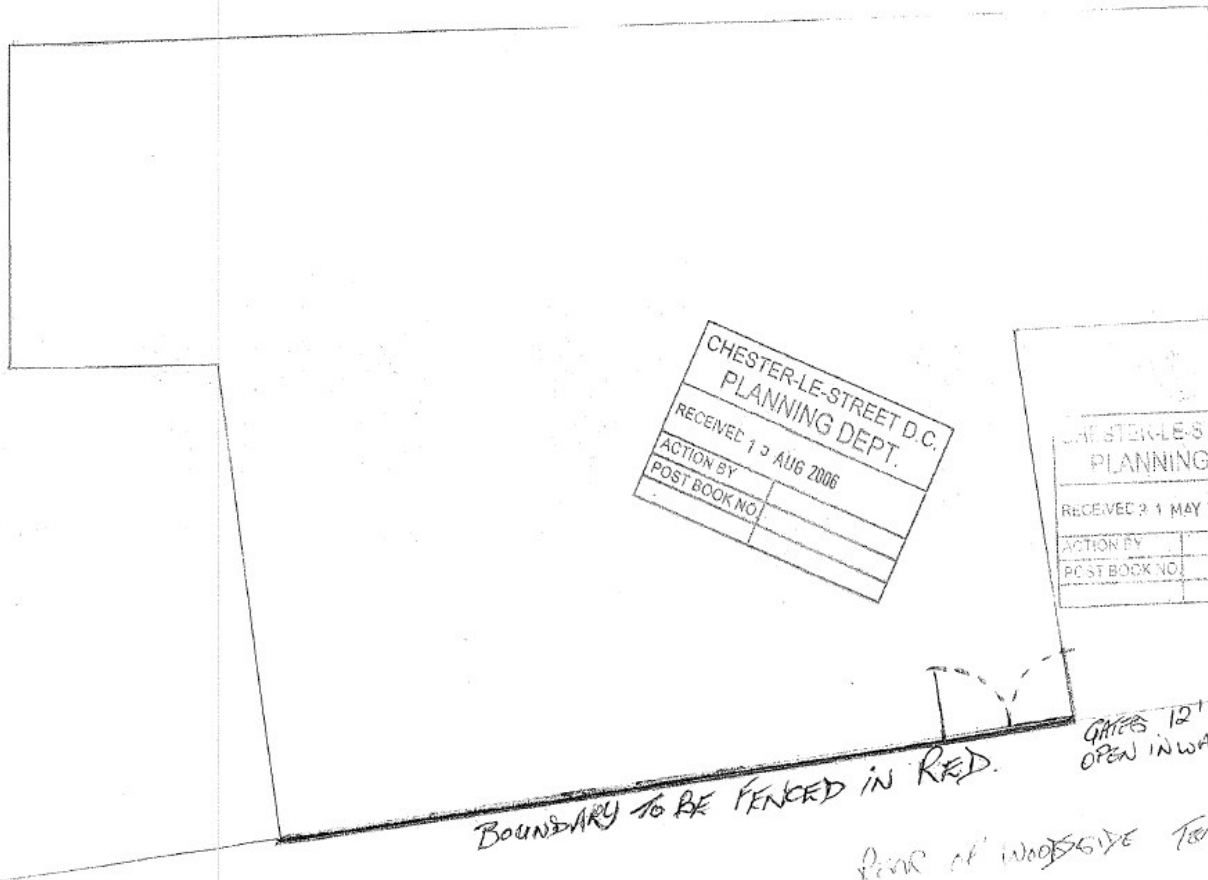
Notwithstanding any description of the materials in the application, no development shall be commenced until details of the staining to be used in the development have been submitted to, approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy HP11 and HP 16 of the Chester-le-Street District Local Plan.

Extra 2.

The development hereby approved shall be set back 500mm from the existing carriageway, in the interests of highway safety and visual amenity and to accord with the aims of Policies NE1 and T15 of the Local Plan.

AGENT: P. GEARING
2, INDIA ST, WILLINGTON
CO. DURHAM. SCALE 1/100

LAND TO RIGHT OF CHESTER LE STREET BRANCH
REF: 06/002/FUL



CHESTER-LE-STREET D.C.
PLANNING DEPT.
RECEIVED 17 AUG 2006
ACTION BY
POST BOOK NO.

CHESTER-LE-STREET D.C.
PLANNING DEPT.
RECEIVED 31 MAY 2006
ACTION BY
POST BOOK NO.

BOUNDARY TO BE FENCED IN RED.

GATES 12' WIDE
OPEN INWARDS.

LINE OF WOODSIDE TERRACE.

3.

Reference: 06/00341/ADV

Proposal Illuminated fascia signs (part retrospective), illuminated projecting sign, non-illuminated entrance signs and post mounted signage.

Location G M D Car Sales Osborne Road Chester-le-Street Durham DH3 3HE

Applicant GMD Car Sales

The Proposal

Advertisement consent is sought for the installation of fascia signage (part of which is retrospective), the installation of a single projecting sign and non illuminated entrance signs and associated signage at this established garage located at Osborne Road, Chester le Street.

The application site is located on a corner site in a prominent location within Chester le Street Town Centre. The existing garage premises, which were formerly utilised as a cinema, is utilised as a dual franchise serving both Fiat and Ssang Yong. The recent introduction of the Ssang Yong franchise has led to the need to introduce the new signage. The fascia signage for Ssang Yong is currently in place. Fiat has also introduced a new corporate image, therefore, leading to the application to modify the existing signage at the site.

The proposed fascia sign for Fiat wraps round the south-eastern corner of the garage building and measures approximately 27 metres in length and 0.94 m in height. This signage consists of a silver background with a blue horizontal stripe with the Fiat logos and GMD name. Only the blue banding, Fiat logo and dealer name are to be illuminated. As is illustrated on the submitted drawings the vast majority of the fascia signs will not be illuminated. The Ssang Yong fascia sign, measures approximately 15.6 metres in length and 0.9 metres in height.

The proposed illuminated projecting sign advertising the Ssang Yong brand measures 1.35 m x 1.35 metres.

Other associated signs are proposed at side of the entrances to the two dealerships. The Fiat signs measure 2.5 metres in height and are 0.6 metres wide whilst the Ssang Yong signs measure 1.8 metres in height and area 0.4 metres in height. These signs would not be illuminated.

Two further post mounted signs were also proposed. One was to be located in the car parking area to the west of the building to indicate customer parking. The total dimensions of this sign measured 1.54 metres in height and 1.24 metres in width, however, the lettering board itself measures approximately 0.45metres in height. A further post mounted sign measuring 2.2 metres in height and 1.44 metres in width was also proposed to be located in the car sales area immediately to the south of the garage premises. However,

this element of the scheme has been deleted following discussions between the agent and planning officers.

The application site is located within Chester le Street Town Centre in an area of mixed use including both commercial and residential properties. The site is just outwith the Chester le Street Conservation Area.

Consultation Responses

The Design and Conservation Officer of Durham County Council points out that most of the proposed signs are new versions of existing signs. It is also pointed out that the illumination appears minimal. Accordingly, the signage would have little additional impact upon the visual amenity of the area.

Durham County Council, as Highway Authority, have stated that the applicant would need to apply for a licence under Section 177 of the Highways Act 1980 because the projecting sign would overhang the public footpath. No objection has been raised regarding this proposal on planning grounds.

The Economic Development Manager (Technical Section) has raised no comment regarding this proposal.

The application has been advertised via the posting of a site notice and by direct neighbour notification. As a result four letters have been received objecting to this scheme.

The occupiers of Nos. 1 and 2 Wesley Terrace have objected to this scheme. They are of the opinion that the proposed signs are out of proportion with the building itself and these would detrimentally affect the visual amenity of this area. Concerns were also raised that the signs in question would unacceptably increase light pollution in the area, particularly at night after the showroom was closed. Fears were also expressed that the signage would distract drivers and pedestrians on this busy road adjacent to the pedestrian crossing and close to the junction of Osbourne Road with both Station Road and Wesley Terrace. Reference was also made to an earlier planning application (App. No. 04/00714) which was refused on highway safety and visual amenity grounds.

The resident of No. 4 Wesley Terrace expressed concern regarding the increased lighting and queried whether this could be limited in some way.

Relevant Planning Policies and Considerations

The Town and Country Planning (Control of Advertisements) Regulations 1992 require that applications for Express Advertisement Consent are considered principally having regard to two issues; those of highway safety and visual amenity. However any relevant policies contained in the development plan are capable of forming material considerations.

Chester-le-Street Local Plan

Policy R12 of the Local Plan provides specific advice on the subject of advertisements on shops or businesses. This Policy states advertisement consent will only be permitted if:

- there is no adverse affect on amenity and highway safety,
- the signs are of a compatible size and height to the unit; and
- the signs are of a design, which is sympathetic to both the existing unit and the surrounding area.

Policy BE4 of the Local Plan relates to development in conservation areas. This Policy states that new development and alterations within or adjoining Conservation Areas will be permitted provided that the proposed design, layout and massing, materials and scale respects the character of the Area. This states that proposals which adversely affect the setting of a Conservation Area or the views into or out of the Area will not be permitted.

Assessment of Local Plan Policies / neighbour comments

Notwithstanding the concerns of local residents regarding the visual appearance of the signage it should be noted that the bulk of the proposed signage represents a like for like replacement of the earlier fascia signage which have now been updated to take into account of the new franchise and amended corporate logo of Fiat. Although the fascia signs themselves are large (because of the location and design of the existing building, which has a dual frontage) the actual illuminated element of the scheme is actually very small being restricted to the manufacturer's logo and name and the dealer name. The projecting sign would also be illuminated, however, because this sign projects at right angles to Wesley Terrace any illumination from this is likely to have a limited impact upon the residential amenity of the householders at Wesley Terrace. It is accepted that the illuminated fascia signs will, by their very nature, generate additional lighting in this area. In order to minimise any potential nuisance / irritation caused by late night illumination it is suggested that a condition be attached restricting hours of illumination of the signage.

Officers are of the opinion that the signage proposed for the garage premises are not unduly large. However, they were concerned that the post mounted sign proposed at the car sales area, between the garage and Station Road, would appear unduly large (measuring some 2.2 metres high and 1.4 metres in width) and would represent an over proliferation of signage in this area. Following a request from officers this element of the original scheme has now been deleted by the applicant.

Notwithstanding the concerns of residents regarding highway safety, no objection has been raised from Durham County Council, as Highway Authority. It is correct to state that this council did refuse an earlier application for advertising to be erected at these premises. However, this additional signage was proposed around the perimeter of the car sales area between Station Road and the access road immediately to the south of the garage premises.

It should be noted that the Design and Conservation Officer is of the opinion that this proposal would not detrimentally affect the visual amenity of the area.

Conclusion

In conclusion, the submitted scheme in it's revised format with the deletion of the post mounted sign at the car sales area between the garage premises and Station Road is considered satisfactory when considered against the requirements of Policy R12 and BE4 of the Chester le Street Local Plan and other material considerations.

RECOMMENDATION
CONDITIONS:-

Approve

SUBJECT TO THE FOLLOWING

67 Illuminated Fascia Signs

Extra 4.

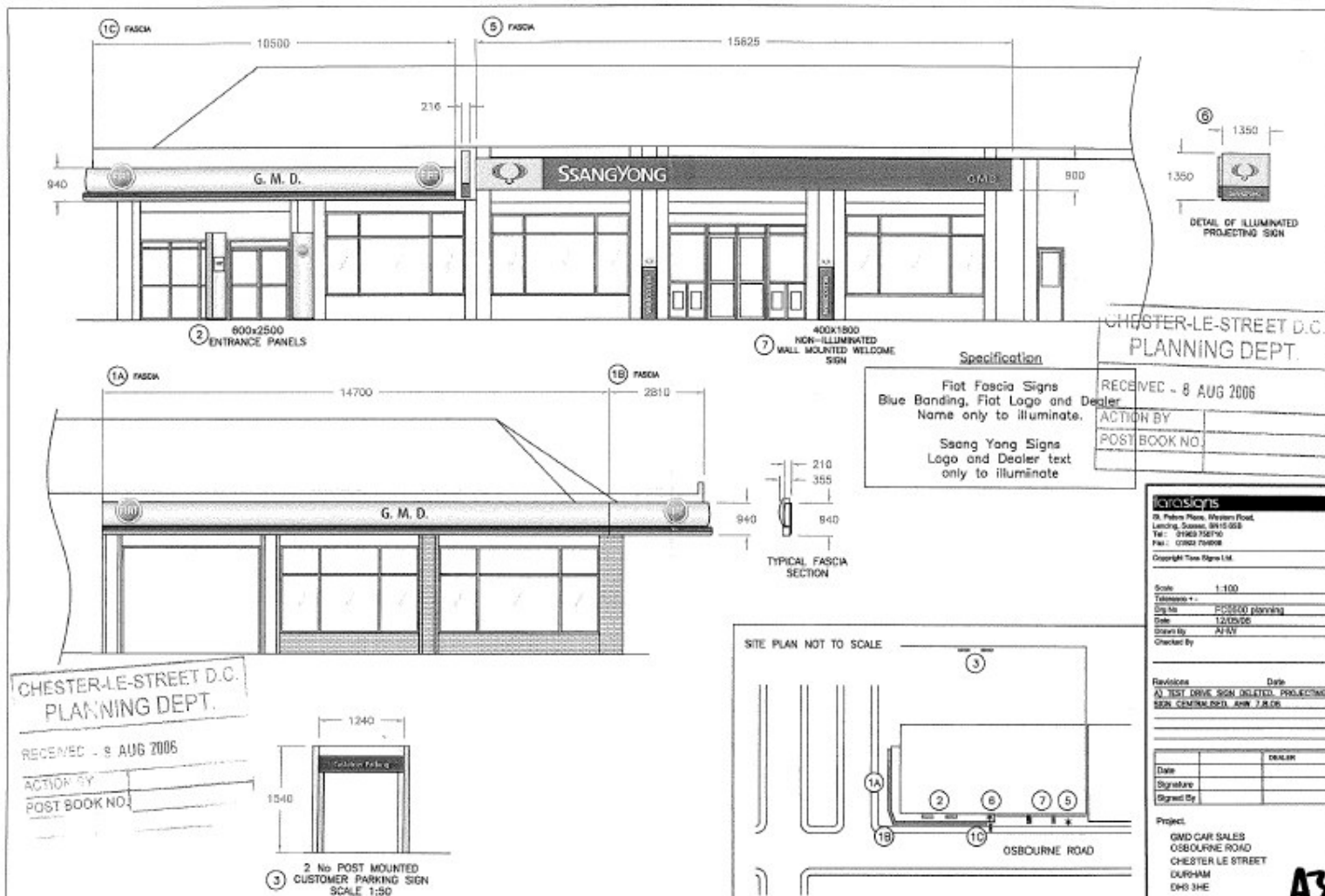
This permission is given for a limited period of 5 years from the date hereof, expiring on 11th September 2011 when the signs hereby permitted shall be removed to the reasonable satisfaction of this Local Planning Authority, in the interests of visual amenity.

Reason

In accordance with Schedule 1 of the Town and Country Planning (Control of Advertisements) Regulations 1992.

Extra 5.

The hours of illumination for the signage hereby approved shall be restricted to 0700-2100 only, in order to minimise any nuisance caused by late night illumination, in the interests of residential amenity.



3.

Reference: 06/00369/FUL

Proposal Relocation of plots 5-15 by approximately 0.5 metres further back into the site to facilitate sewer easement.

Location Land at Holly Crescent Sacriston Durham

Applicant Barratt Newcastle

The Proposal

Detailed planning permission is sought for the relocation of plots 5 to 15 (inclusive) of the Holly Crescent re-development scheme by approximately 0.5 metres, to allow sufficient easement distances to be achieved in relation to the sewer line which runs along the north site boundary.

In the past requests, such as this proposal to reposition 11 plots by approximately 0.5 metres, were able to be dealt with as "minor amendments" to the approved plans and elevations. However, recent High Court planning cases have determined that Local Planning Authorities should not be able to consider amendments to proposals after they have been formally considered and approved and that new applications are required.

Consultation Responses

The application has been advertised by way of direct neighbour notification and the posting of both press and site notices. No objections or representations have been received in this instance.

Relevant Planning Policies and Considerations

Policy HP9 of the Chester-le-Street District Local Plan sets out the criteria for assessing applications for new residential developments. Appendix 1 of the Local Plan also sets out the relevant advice regarding separation distances between dwellings.

In this instance, the proposal would result in the proposed dwellings, and particularly plots 9 and 15, being moved 0.5 metres further away from the existing residential properties on Plawsworth Road. The 0.5 metres "lost" at the front of the site is regained internally to the site, by reducing gaps and separation distances between the affected plots, and those that back onto them. There are, however, considered to be no additional implications for existing residents or residential properties which face or back onto the application site (plots 5 - 15). The proposed revisions to the siting of these 11 plots are therefore considered to satisfy the requirements of Appendix 1 of the Local Plan in achieving the minimum separation distances between properties.

Conclusion

In conclusion, the application for the proposed relocation of plots 5 - 15 is required on a "planning technicality" following recent High Court judgements in respect of the ability of applicants to make amendments to plans after they have been approved by the Local Planning Authority. Notwithstanding the background to the submission of the application, the proposal to relocate these 11 properties further back into the site is not considered to raise any significant planning issues and, in fact, would result in the two closest properties to the existing dwellings on Plawsworth Road being moved further away. The proposal is considered to comply with the provisions of Policy HP9 of the Chester-le-Street District Local Plan.

With regard to the proposed conditions, it should be noted that the applicant has confirmed that the design and appearance of these plots would remain as otherwise approved under the original planning permission, reference 05/00152/FUL. As the permission relates only to plots 5 - 15 it is not considered necessary to replicate all the conditions from the original approval (05/00152/FUL), other than those attached below.

RECOMMENDATION
CONDITIONS:-

Approve

SUBJECT TO THE FOLLOWING

- 01A time limit (3 years)
- 63 Removal of PD Rights(1)
- 64 Removal of PD Rights (2)

ITEM 3 District Council Development

4.

Reference: 06/00326/NID

Proposal Temporary change of use of land for purpose of holding a market.

Location Car Park Foundry Lane Chester-le-Street Durham DH3 3EL

Applicant Regeneration Services

The Proposal

This report relates to a full application for the change of use of the Foundry Lane Car Park, Chester-le-Street, to enable it to be used for the holding of the Town Centre Market for a period of approximately 6 months.

The application has been submitted by the Council's Regeneration Services Team and is designed to enable the Town Market to continue to function whilst environmental improvement works are undertaken on the existing site (the planning application for these improvement works are reported elsewhere on this agenda).

The application envisages that approximately 60 – 70 Market Stalls will be housed on the land. These will be permanently fixed and as such they will not be removed on non-market days to enable the site to be used for car parking.

The site is located within the defined Town Centre and adjacent to the Town Centre Conservation Area, as detailed in the Local Plan.

Consultation Responses

Durham County Council as Highways Authority for the area raise no objection to the proposal. However they do request that a condition of approval be imposed to prevent any market stalls being sited within 2 metres of the Foundry Lane highway. This is to avoid market traders / customers standing on the highway.

The Council's Acting Environmental Health Manager raises no objections

The application has been advertised by way of site notice, and direct mailing to adjacent occupiers. In response 7 letters of objection, containing 18 names, have been received at the time of report compilation. Objections are raised on the following grounds;

- The proposal will cause additional traffic congestion in the locality, in particular along private roads
- There is inadequate space to allow for the parking of market traders vehicles
- The proposal will adversely affect the amenities of adjacent residents, including by way of increased noise, smells and litter

- The proposal will lead to a loss of car parking provision in the town centre
- The size of the site is inadequate to accommodate the stated number of stalls
- There are more appropriate sites available to which the market could be re-located

Relevant Planning Policies and Considerations

County Durham Structure Plan

Policy 48 of the Structure Plan provides support for proposals that enhance the vitality and viability of town centers within the County. In this respect it is important to note that the application has been submitted in an attempt to find a temporary alternative location for the Town Center market, whilst environmental improvements are undertaken on the permanent site at South Burns. As such it can be argued that the proposals are part of an important element of wider regeneration plans for the town center and as such accord with the aims of Policy 48.

Chester-le-Street Local Plan

Policy R5 of the local Plan provides specific support for proposals that would enhance the vitality and viability of the Town's market. The Policy recognises that the market is central to the character and vitality of the town centre as a whole and provides policy support for environmental improvement proposals which will help reinforce the market's position within the town. Chapter 5 of the local Plan is devoted purely to the Town Centre and the significance that the health of the market plays to the overall town centre is referred to in paragraph 5.24. This paragraph of the Plan makes specific reference to the fact that the District Council will bring forward improvement to the layout and design of the Market Place area with a view to improving its appeal to help secure the best possible variety and standard of stall holders.

Again as the proposals have been submitted in an attempt to keep the market operational whilst the permanent site is refurbished it can be argued that the proposals comply with the general thrust of these policies.

Although the Local Plan does not contain any specific policies on the subject of new market place development it is considered that the general requirements of Policy R10 – Retail and Town Centre Development: General - is of some relevance. This Policy requires new retail / town centre development to meet a number of tests. Of particular importance to this application is the need for new development to; Provide for adequate servicing / parking; ensure a safe pedestrian environment is created and, ensure the development does not harm the amenities of nearby residents. It is important to consider these elements of the proposal as part of the overall assessment of the application.

Amenity of Nearby Residents

As Members will note from the representations section there have been a number of objection lodged to the proposal by neighbouring residents, principally those who reside at Wesley Terrace, immediately adjacent to the site. Accordingly this issue requires particularly careful consideration.

In considering the likely impact on amenity it is acknowledged that the use of the land for the holding of a market is likely to raise existing levels of noise and general disturbance in the area. However it also has to be acknowledged that the site lies within an existing defined town centre, close to a number of late night venues. Clearly these existing land

uses will generate a certain amount of general disturbance over and above what would normally be expected within a typical residential area. It is also relevant to note that as a matter of principal market uses are normally wholly acceptable within town centre locations, and whilst this statement does not undermine the importance of objectors concerns, it is considered that residents choosing to reside in such areas must reasonably expect to experience a certain degree of noise and disturbance.

It should also be borne in mind that the existing authorised use of the site as a car park, will invariably generate noise and disturbance, including late into the evening through the slamming of car door and revving of engines and the like. Clearly a positive benefit of this application will be to remove this nuisance for the duration of the proposed market use.

Members should also be aware that the Councils Environmental Health Officer has raised no objections to the proposal. Notwithstanding this lack of objection from the Environmental Health Officer It should also be borne in mind that appropriate conditions of approval can be imposed with a view to controlling the hours of operation and also ensuring the site is tidied after each market day. Such conditions will help limit the amount of noise and general disturbance that residents would otherwise experience.

In concluding the amenity issue, the view is taken that subject to the imposition of appropriate conditions, the proposal will not have a demonstrably greater impact upon the amenity of adjacent occupiers sufficient to justify refusal on these grounds alone.

Highway Safety / Servicing / Car Parking Concerns

A number of objections have also been raised against the scheme on these grounds.

Clearly the proposals will lead to a temporary reduction in the amount of town centre car parking spaces available to users of the town centre. However whilst this will no doubt inconvenience regular users of the Foundry Lane car park there is no evidence to suggest that the existing town centre car parks are operating at full capacity. As such the view is taken that other opportunities will remain for present users of the Foundry Lane car park to access the town centre.

The concern about the potential lack of servicing / parking area for market traders in noted. Indeed it is acknowledged that there is not the same amount of on street parking available at this site that there is at the current, permanent location. However it will be for the market traders to ensure that they service their stalls without causing highway obstruction / committing a traffic offence. Clearly if this does occur it will for other bodies to enforce, using their appropriate powers.

In terms of assessing this impact of the proposal it should also be noted that The County Council, as Highways Authority of the area have not objected to the scheme. Accordingly, and notwithstanding the objections received, it would be difficult to justify a refusal on this ground alone.

Other Issues Raised

Several objections have also been received on the grounds that are not considered to represent significant material planning considerations in this case. However these concerns do need to be addressed as part of the wider consideration of the proposals.

The objectors concern about potential obstruction to their rear lane (a private road) is noted. However, and as discussed above, as the County Council have not objected to the scheme it would be difficult to resist the proposals on these grounds. It should also be noted that as the road in question is privately owned then any use of it for parking by traders / visitors to the market would constitute trespass, against which the owners could take civil action.

The stated concern regarding increased litter in the area is also noted. However the applicants have advised that arrangements are in place with the Council's Environmental Services Team to ensure that the equivalent cleaning regime which is in place for the existing market site is also in place for this temporary site. Members will note that the securing of this has also been made a recommended condition of approval.

Concern has also been raised that the site may not be of sufficient size to accommodate the stated number of stalls. However the applicant's have advised that the number quoted in the application (approx 60 – 70) is an estimate only, and that the detailed layout actually installed will meet with current Health and Safety guidelines.

Conclusion

In conclusion it is considered the proposals comply with the aims of relevant development plan policies which seek to direct retail development to town centre locations. Furthermore, and bearing in mind the linkages between this proposal and the regeneration scheme reported elsewhere on this agendas for the existing market place site, it is considered the proposals will help meet stated development plan policies which seek to enhance the town centre function of Chester-le-Street and in particular the health of the Market Place.

Whilst the objections to the scheme are noted, and indeed it is accepted that the proposals are likely to generate some increased levels of congestion / noise and general disturbance in the surrounding area, the view is taken that appropriate conditions of approval can be used to mitigate such concerns to an acceptable level.

Accordingly it is recommended that planning permission be granted.

RECOMMENDATION

Approve subject to the following conditions;

01A time limit (3 years)

Extra 1.

This approval is for a temporary period of 8 months from the date hereof, and which shall expire on 11 May 2007 when the use(s) carried out, under this permission shall be removed (unless an application to renew or vary the temporary permission is received prior to the expiry of the above temporary permission), and the land is reinstated to the satisfaction of the Local Planning Authority, in the interests of residential amenity and to accord with the aims of Policy R10 of the Local Plan and having regard to the fact that it is considered that the temporary use is unacceptable on a permanent basis.

Extra 2.

That no development associated with the use hereby approved use (including for the avoidance of doubt the setting up of market stalls) shall occur outside the hours of 0700 to 1800 on any day in order to ensure that adjoining residential properties are not adversely affected by the development and to accord with the aims of Policy R10 of the Local Plan

Extra 3.

No market stalls erected on the site shall be installed within 2 metres of the edge of the trafficked Foundry Lane public highway, in order to ensure the development does not comprise a highway or pedestrian safety concern and to accord with the aims of Policies R10 and T15 of the Local Plan

Extra 4.

No development shall be commenced until details of a scheme for dealing with refuse generated from the development hereby approved has been submitted to, approved in writing by, the Local Planning Authority in order to ensure the development does not generate undue litter problems in the surrounding area, in the interests of visual and residential amenity and in accordance with the provisions of Policy R10 of the Chester-le-Street District Local Plan.

5.

Reference: 06/00372/NID

- Proposal** Repaving of Market Place area, erection of new site office, new vehicular access point and installation of public realm artwork.
- Location** Market Place South Burns Chester-le-Street Durham
- Applicant** Regeneration Services

The Proposal

This report relates to a full application for the re-development of the Market Place area at South Burns, Chester-le-Street. The proposal is a District Council application, as the proposals have been submitted by the Council's Regeneration Services Team.

The proposals are designed to provide for the comprehensive environmental improvement of the Market Place area and comprise new paving, the erection of a new market office, the erection of public artwork features (in the form of new 'coal seam' seating and a contemporary 'railway arch' structure), the installation of 102 new fixed market stalls, a new vehicular access point and soft landscaping features in the form of new trees along the North Burns frontage.

The site is located within the defined retailing area of the Town Centre and is also located within the Town Centre Conservation Area, as detailed in the Local Plan.

Consultation Responses

Durham County Council as Highways Authority for the area raise no objection to the proposal.

The Council's Acting Environmental Health Manager raises no objections.

The Environment Agency raise no objections.

The Conservation Officer at Durham County Council notes that the proposals are designed to provide a new civic space for Chester-le-Street and that they have been the subject of pre-application consultations with their office. It is considered that the scheme proposed will have plenty of interest as a civic space and will have a positive impact on the town both during the day and night. As such no objections are raised.

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

Relevant Planning Policies and Considerations

County Durham Structure Plan

Policy 48 of the Structure Plan provides support for proposals that enhance the vitality and viability of town centers within the County. Policy 65 of the Structure Plan provides support for proposals that enhance the built environment within the County. The Policy goes on to advise that new development proposals within Conservation Areas must enhance their character. Finally Policies 70 and 71 provide support for proposals that aim to bring about environmental improvements to areas.

Chester-le-Street Local Plan

Policy BE4 of the Local Plan provides relevant advice on the subject of development within Conservation Areas. The Policy advises that development proposals within Conservation Areas will only be permitted provided that the details are acceptable in terms of their impact upon the character of the area. Policy BE7 also provides support for the planting of appropriate landscape features within Conservation Areas.

Policy R5 of the local Plan provides specific support for proposals which would enhance the vitality and viability of the Town's market. The Policy recognises that the market is central to the character and vitality of the wider town centre as a whole and provides policy support for environmental improvement proposals that will help reinforce the market's position within the town. Chapter 5 of the local Plan is devoted purely to the Town Centre. The significance that the health of the Market plays to the overall town centre is referred to in paragraph 5.24. This paragraph of the Plan makes specific reference to the fact that the District Council will bring forward improvements to the layout and design of the Market Place area with a view to improving its appeal, to help secure the best possible variety and standard of stall holders.

In assessing the proposals against these relevant development plan policies it is considered the most important material considerations raised are to assess the impact of the proposals on the character of the Town Centre Conservation area, and furthermore to consider their impact on the stated Local Plan aims of securing long term improvement to the Market Place area.

Looking at the issue of the impact on the Conservation Area, it should be noted that the proposals have been the subject of detailed discussion with Officers, including the Conservation Officer at Durham County Council. This has led to the proposals being refined from those shown on the original draft, with a view to ensuring the detailed design does not harm the character of the area. The developers have sought to demonstrate the quality of their submission, and to explain how it has been arrived at in the context of the existing area, by the submission of an Urban Design Statement to accompany the application. Whilst the detailed design proposals for the artwork are contemporary in their nature (they do not seek to follow the traditional vernacular for the area) they are nevertheless considered to form a vibrant and imaginary design solution for the area, which will fit well with the character of the existing area. Members will note that the proposals have the support of the Conservation Officer, and accordingly it is considered they are wholly acceptable in terms of their impact on the character of the Town Centre conservation Area.

As discussed above a key theme of the Local Plan (and indeed other strategies of the District Council) is to encourage development proposals which will reinforce the key retail function of the town centre, in particular the Market Place area. In this respect it is considered that the comprehensive re-development scheme proposed will help

demonstrate the Council's commitment to the Town Centre and specifically will help provide the opportunity for the Market Place to grow. The contemporary design solution will add considerable interest to the area (both during the day and night) and this will have the effect of drawing additional customers into the area. As such it is considered the proposals are fully in accord with relevant development plan policies which seek to enhance the vitality of the Market Place area and wider town centre as a whole.

Conclusion

In conclusion it is considered that the proposals fully comply with the aims of relevant development plan policies which seek to ensuring development preserves or enhances the character of the Town Centre Conservation Area. Furthermore it is considered the proposals will help meet stated development plan policy aims that seek to enhance the town centre function of Chester-le-Street and in particular the health of the Market Place.

Accordingly it is recommended that planning permission be granted.

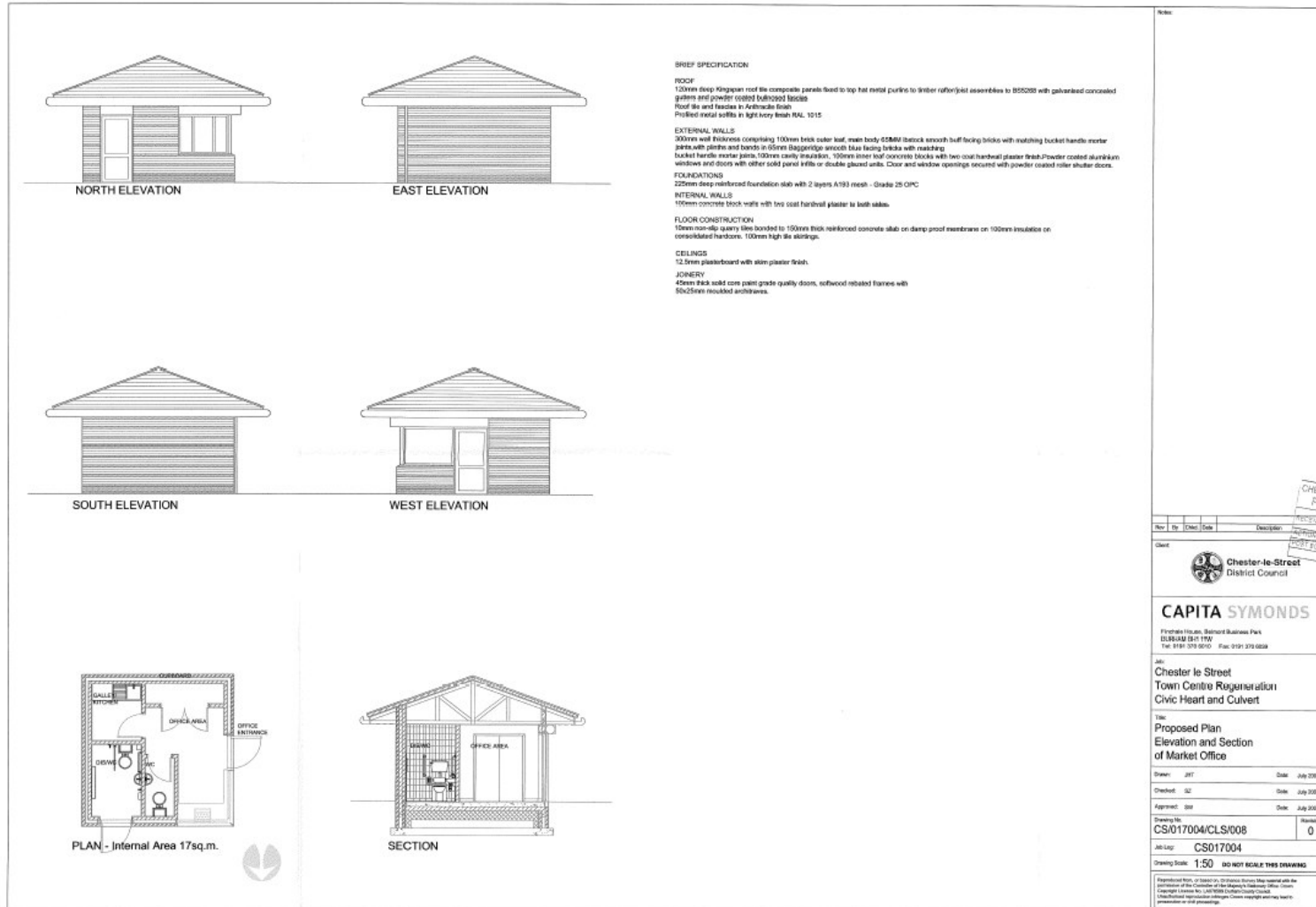
RECOMMENDATION APPROVE SUBJECT TO NO NEW SUBSTANTIVE OBJECTIONS BEING RECEIVED DURING THE REMAINDER OF THE ON-GOING CONSULTATION PERIOD, AND THEREAFTER AUTHORISE THE ACTING PLANNING SERVICES MANAGER TO APPROVE THE APPLICATION SUBJECT TO THE FOLLOWING CONDITIONS:-

01A time limit (3 years)

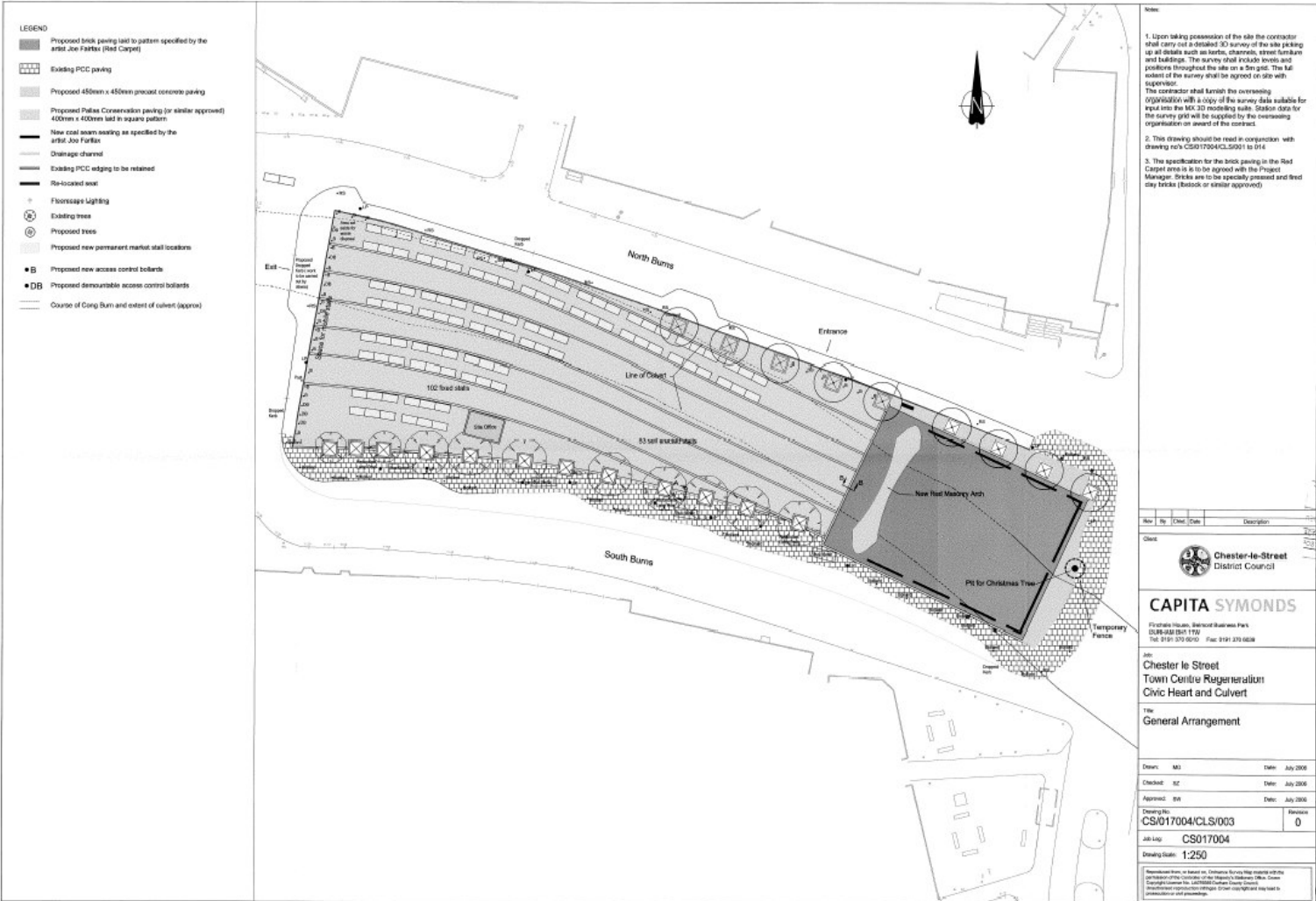
Extra 1.

Notwithstanding any description of the materials in the application, no development shall be commenced until samples or precise details of the materials to be used in the construction of the development have been submitted to, and approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy BE4 of the Chester-le-Street District Local Plan.

PLANNING COMMITTEE 11 SEPTEMBER 2006



PLANNING COMMITTEE 11 SEPTEMBER 2006



CHESTER-LE-STREET
PLANNING DEP
REVISED - 7 AUG 2006
REVISED - 10 OCT 2006

CAPITA SYMONDS
Firsfield House, Bedford Row, Park
Square, Bristol, BS1 1TA
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AL

ITEM 4 Planning General

4.1 PROPOSED AMENDMENTS TO PREVIOUS MEMBER RESOLUTION TO BE MIND TO GRANT PLANNING PERMISSION

Erection of 3 no. B8 warehouse units (with ancillary offices), parking, block levellers, yards, landscaping and new access arrangements from the A693 For Gladman Developments. Reference 05/00162/FUL

Purpose of Report

This report seeks Members approval to vary the resolution they made at their meeting in June this year on the above planning application. Members will recall that at this meeting they resolved to grant conditional planning permission, subject to the entering into of a Section 106 Agreement.

Background

The proposed Section 106 Agreement has not yet been signed and as a result the planning permission for the development has not yet been issued.

Indeed since the date of the June meeting a number of issues / proposed amendments have arisen in respect to the scheme. As such it is considered that a further Member resolution is now needed to allow the scheme to proceed.

The nature of the proposed amendments are;

- 1 Proposed Change to the Heads of Terms of the Section 106 Agreement
- 2 Minor amendments to the design of Units A and B
- 3 Changes to the landownership details submitted with the application

Consideration and Assessment

Proposed Section 106 Revision

With reference to the proposed Section 106 Agreement Members will recall that their resolution at the June meeting included agreement to the principal clauses that were to be inserted into the Agreement. This Agreement is intended to secure commuted sum payment to the Council of £ 1,000,000 for Highway Improvements and £ 25,000 for Public artwork provision.

At the June committee it was not proposed to insert a clause into the Agreement to require that the monies be repaid to the developers in the event of it not being spent within a certain timescale. However the developers have now approached the Council and requested that such a refund clause is inserted with respect to the Highway Improvement element of the funding. This proposed clause would require the refund of monies not spent within 5 years of the date of the signing of the Agreement. The developers have pointed out that the incorporation of such refund clauses is specifically recognised as good practice in relevant Central Government advice on the subject of Section 106 Agreements.

In terms of assessing the proposed refund clause issue, Officers are of the opinion that it would be unreasonable to resist the proposed clause. As discussed above refund clauses are specifically recognised as appropriate in relevant Government advice. In addition the 5 year period proposed should allow more than adequate time for the County Council, as Highways Authority for the area, to implement the requisite Highway Improvement works. Indeed the County Council have confirmed that this period is considered adequate.

The developers have also requested that an additional clause is inserted into the Agreement to require the County Council to provide regular updates to them with respect to progress being made on the highway improvement scheme. Again it is considered that this request is wholly reasonable.

Proposed Amendments to Original Submission

Since the date of the June committee the developers have worked up their proposals, and have now submitted amended plans for units A & B. These amendments are considered wholly acceptable. They do not alter the size or layout of the units, and merely relate to minor elevational changes.

Details have also been submitted to address some of the proposed conditions of approval, which were reported to the June committee. These include details of a landscaping scheme and a sustainable urban drainage scheme. Officers are currently consulting on these submissions with Officers from the Council's Environmental Service Team, and the Environment Agency. On the assumption these consultees confirm the submissions are acceptable it is requested that Members agree to the removal of the relevant conditions of approval.

Changes to Landownership Declaration

The original land ownership certificate submitted with the application failed to acknowledge that Persimmon Homes were the owners of part of the application site. However the applicants have now acknowledged this error and discharged their duties by serving Notice on Persimmon Homes and providing them with 21 days to submit comments to the Council.

At the time of report compilation no objections had been received from Persimmons in relation to this notification.

Conclusion

In conclusion it is considered that the proposed changes to the earlier Member resolution are acceptable and accordingly it is recommended that Members agree to the requested revisions.

RECOMMENDATION

That Members resolve to agree to the proposed changes to the detail of the application reference 05/00162/FUL as considered at their meeting in June 2006, to include approval of the new clauses to be inserted into the Section 106 Agreement (as described in the report above); Changes made to the details of Units A & B and to reflect the revision to the landownership details.

4.2 NOTIFICATION OF PLANNING APPEAL DECISIONS

4.2.1 APPEAL AGAINST REFUSAL OF PLANNING PERMISSION. LAND AT QUEENS PARK, CHESTER-LE-STREET

Notification has recently been received from the Planning Inspectorate of the decision reached in an appeal lodged by Mr C Noble against the Council's decision to refuse planning permission for the erection of two bungalows on the above land. Members may recall that they resolved to refuse planning permission, in accordance with officer advice, at their meeting in January 2006.

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 three main issues raised by the proposal were; The impact of the proposed development on highway safety; The use of Greenfield land for housing and, the loss of open amenity space.

In respect to the issue of highway safety the Inspector noted that the highway network in the existing estate is already below the standards with the County Council, as Highways Authority for the area, would now expect. He considered that the proposals would add to existing problems in the surrounding area and as such considered the proposals to be contrary to relevant Local Plan policies which seek to ensure new development provides for adequate highway safety provision.

With regard to the Greenfield issue the Inspector noted that relevant national and local plan policies seek to prevent the use of Greenfield land for housing in order to promote more sustainable forms of development. In this respect he did not accept the appellants argument that the land was allegedly formerly part of the garden of an adjacent property, and rather accepted the Council's position that the land had never been developed.

Finally the Inspector noted that the land provides for a high amenity value to the surrounding area, and that a number of local residents had made representations to him to this effect. Accordingly he considered the proposals contrary to relevant local Plan Policies that seek to protect open amenity land

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

4.2.2 APPEAL AGAINST REFUSAL OF PLANNING PERMISSION. LAND AT TWIZELL HALL FARM, WEST PELTON

Notification has also recently been received from the Planning Inspectorate of the decision reached in an appeal lodged by Mrs N Marsden against the Council's decision to refuse planning permission for the erection of a 4 bedroom dwelling on the above land. Members may recall that they resolved to refuse planning permission, in accordance with officer advice, at their meeting in July 2005.

The Council's decision to refuse planning permission was over-turned with the appeal being allowed. In considering the merits of the appeal the Inspector considered that the key issue raised by the proposal was whether or not there was a clear functional need for

the dwelling to support existing agricultural activities on the farm, which should render the proposals acceptable as a justified departure to relevant national and local policies.

In this respect the Inspector accepted the evidence the appellant put forward with regard to the labour requirements on the holding, and the personal circumstances they had raised in support of the additional dwelling. He then went onto to accept that as the proposed dwelling was located within the existing farm steading, it would not have a demonstrable impact on the character of the surrounding area. He also attached little weight to the Council's argument that there is an adequate supply of housing available in adjacent settlements, to meet the appellant's needs.

On the basis of this assessment he decided that the appellant had justified the proposals as a departure to relevant national and local plan policy which seeks to prevent housing development in the open countryside and accordingly allowed the appeal.

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

4.2.3 APPEAL AGAINST CONDITION OF PLANNING PERMISSION. LAND AT CHALMERS ORCHARD, NEWCASTLE ROAD, CHESTER-LE-STREET

Notification has also recently been received from the Planning Inspectorate of the decision reached in an appeal lodged by McCarthy & Stone Ltd against the Council's decision to impose the condition requiring the entering into of a Section 106 Agreement as part of a decision to grant them planning permission for the erection of a 46 sheltered apartment scheme at the above address. Members may recall that they resolved to grant planning permission, in accordance with officer advice, at their meeting in September 2005. The condition the subject of the appeal said;

'The development permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 in relation to the development until a planning obligation pursuant to Section 106 of the said Act relating to the land has been made and lodged with the Local Planning Authority, and the Local Planning Authority has notified the person(s) submitting the same that it is to be Local Planning Authority's approval. The said planning obligation will provide the sum of £23,000 and will be paid to the Local Planning Authority for the purpose of providing public art / environmental improvements works in the locality'.

The Council's decision to impose the condition was overturned with the appeal being allowed. In considering the merits of the appeal the Inspector considered that the condition was unreasonable as the relevant Local Plan Policy (Policy BE2) was 'very general' and specifically only *encourages*, as opposed to *requires* new development to devote a portion of development costs to art work. The Inspector also queried how the sum of £23,000 had been arrived at, and finally, raised concerns about whether or the use of planning conditions to require the entering into of Section 106 Agreements was reasonable, having regard to Central Government advice.

Whilst the outcome in this appeal is clearly regrettable, it is noted that the Inspector did acknowledge the merits of the aims of Policy BE2, by the fact she imposed a replacement

condition which required the agreement of a scheme of art work to be provided on site at the applicant's expense. Such a scheme has subsequently been agreed by Officers, to provide for a scheme of decorative railings along the Newcastle Road frontage to the site.

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

4.3 Naming of Numbering of Development

Proposed Residential Development adjacent Holly Crescent, Sacriston For Barratt Homes Ltd

The scheme is for the erection of a residential development consisting of a mix of detached, semi-detached and link dwellings.

The developer has requested that consideration is given to the naming and numbering of the scheme and, in addition to the continuation of Holly Crescent, the following names have been suggested:

Beechwood Close, Ashwood Close.

Royal Mail has been contacted and has raised no objection to the suggested naming and numbering of the development.

As the names appear acceptable, I would recommend your agreement to this.

**S REED
ACTING PLANNING SERVICES MANAGER
31 AUGUST 2006**

CHESTER-LE-STREET DISTRICT COUNCIL

DIRECTORATE OF DEVELOPMENT SERVICES

PLANNING COMMITTEE 11 September 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

30 August 2006

List of Planning Appeals and Current Status (Appeals received during 2005)

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

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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
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PLANNING COMMITTEE 11 September 2006

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
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

PLANNING COMMITTEE 11 September 2006

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
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
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 Withdrawn / 28.07.2006

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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
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 /
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 /

PLANNING COMMITTEE 11 September 2006

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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 / 11.08.2005	E:421877 N:551932	Appeal Allowed / 09.08.2006
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

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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
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

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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 Allowed / 16.05.2006

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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
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 Dismissed / 31.07.0006
05/00521/COU / APP/G1305/A/06 /2020544/	Harbour House Farms	Land at Harbour House Farm/ Former Cricket Pavillion Wheatleywell Lane Plawsworth Chester-le-Street Durham	Change of use of former cricket pavillion to farm shop. Extension and alteration of existing building including improved vehicular access.	W / /	E:428274 N:548262	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 Dismissed / 12.05.2006
05/00555/OUT / APP/G1305/A/06 /2011645/W	Colin Noble	Land Between 1 to 24 Queens Park Chester-le-Street Durham	Outline application for the erection of 2 no bungalows.	W / 28.04.2006	E:427988 N:550915	Appeal Dismissed / 31.07.2006

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06/00070/COU / APP/G1305/A/06 /2016815/N	Nigel Carris	Twizell Dyke Farm Grange Villa Chester-le-Street Durham DH2 3JZ	Change of use of land for the storage & operation of a concreting business (Retrospective).	W / 24.07.2006	E:422771 N:552005	Appeal in Progress /
06/00148/ADV / APP/G1305/H/06 /1199456	Primesight Advertising Ltd	Park Road Service Station Park Road North Chester-le-Street Durham DH3 3SU	Installation of 1 no internally illuminated, double sided, pole-mounted 6 sheet advertisement panel. (Retrospective application)	W / 24.07.2006	E:427762 N:551939	Appeal In Progress /

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PLANNING COMMITTEE 11 September 2006