

Item no.

Report to: **Development Control and Regulatory Panel**

Date: **10 January 2006**

Report of: **Head of Planning and Building Control Services**

Subject: **Applications under the Town and Country Planning Acts
Town and Country Planning Act 1990
Planning (Listed Buildings and Conservation Areas) Act 1990**

Ward: **All**

A INTRODUCTION

Members are advised that in preparing the attached report full consultation responses are not presented. Care is taken to ensure that principal issues of all relevant responses are incorporated into the report. Notwithstanding this Members are invited to view all submitted plans and consultation responses prior to the Panel meeting by contacting the Head of Planning and Building Control Services.

The Easington Local Plan was adopted by the District of Easington on 28th December 2001. Together with the Durham County Structure Plan it is a material consideration in the determination of planning applications. All relevant policies have been taken into account in making recommendations in this report. A view as to whether the proposals generally accord with policies is identified in the relevant section.

Section 54A of the 1990 Town & Country Planning Act (as amended) requires the Local Planning Authority to have regard to the development plan policies when they are relevant to an application and hence are a material consideration. Where such policies are material to a proposal, section 54A requires the application to be determined in accordance with the Development Plan policies unless material considerations indicate otherwise.

The recommendations contained in this report have been made taking into account all material planning considerations including any representations received and Government guidance in Planning Policy Guidance Notes and Circulars. Consideration has been given to whether proposals cause harm to interests of acknowledged importance.

Members attention is drawn to information now provided in respect of time taken to determine applications. Following each recommendation a determination time is provided based on a decision at this Panel. Where a decision time exceeds the 8 week target a reason for this is given in brackets.

In considering the applications and preparing the report the District of Easington has fully taken into account the duties imposed on Local Planning Authorities by the Human Rights Act 2000. In particular, regard has been given to Articles 6, 7, and 8, the First Protocol and Section 6. Where specific issues of compliance with this legislation have been raised these are dealt with within each report.

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B SPEAKING AT THE PANEL

The District Council is one of the few Councils in the country who allows verbal representations when decisions on planning applications are being made. The Panel has to balance listening to views with the efficient conduct of the business of the Panel. The following procedures have therefore been agreed. These procedures will be adhered to in respect of the items within this report. Members of the public will also be expected to follow these both in their own interests and that of other users of the service.

1. The Planning Officer will present his report.
2. Objectors and supporters will be given the opportunity to speak. Five minutes will be given to each speaker. If there is more than one speaker upon an issue, the District Council recommends the appointment of a spokesperson and that speakers register their request prior to the Panel meeting.
3. After registered speakers have had their say the Chair of the Panel will ask if there is any other member of the public who wishes to speak. Those who do may be allowed to speak. The Chair of the Panel will exercise discretion in this regard. Where the number of speakers or the repetitive nature of the points that may be raised may impact on the other business of the Panel then the Chair will restrict the number of speakers and progress the matter.
4. The applicant or representative may then speak for a duration of up to five minutes.
5. At the discretion of the Chair, objectors or supporters or applicants may ask officers questions then may be asked questions by Members and Officers
6. The Members of the Panel will then finally debate and determine the application with the assistance of officers if required.

C RISK ASSESSMENT

A risk assessment has been carried out in respect of individual cases. Overall, it is concluded that any risks to the Council, for example relating to an appeal being lost and costs awarded against the Council, are low, provided that decisions are made in accordance with recommendations. Risks will increase when decisions are made contrary to recommendations, and the degree will vary depending on the particular case.

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D GENERAL APPLICATIONS

05/829

WINGATE (HUTTON HENRY) – Proposed 2 No. Houses (Outline) at land Rear of Station Lane, Station Town, Wingate for Mr G Spence

Planning History

Panel approved planning permission in November 2003 for a house and garage on this land. The application was a resubmission of a previous application that was refused under delegated powers in April 2003.

Planning Permission for housing was also refused in 1994, 1988, and 1987.

Consultations

The application has been advertised by site notices and in the local press and the neighbouring properties have been consulted. No letters of representation have been received.

Environmental Health comments:

- A contaminated land risk assessment should be carried out in relation to the proposal.

Durham County Council, Highways Authority, salient comments summarised as:

- The proposed 1.8metres wide footway and vehicular access crossings to the site frontage will need to be constructed to adoption standard under a section 38 Agreement Highways Act 1980.

The Environment Agency comments:

- The site lies within or adjacent to Flood Zone 3. The Agency cannot clarify from the submitted drawing the site layout of the proposed development and if the site lies within the flood zone or otherwise. If this matter can be resolved and you are minded to grant consent, then the Agency recommend the following condition be imposed:

Condition: No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable to be agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

- The applicant should be made aware that landfill sites lie within 250mtrs of the proposed development site. The responsibility for the safe development and secure occupancy of the site rests with the developer and accordingly it is advised to consider the

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possibility of the presence or future presence of gas and satisfy themselves of any gas precautions that may be necessary.

Development Plan Policies

County Durham Structure Plan

- 1 General Principles of Development
- 7 Housing Requirements
- 9 Locational Criteria for New Housing-
- =

District of Easington Local Plan

- 1 General principles of development
- 35 Impact of Development
- 36 Access and Means of Travel
- 44 Development on or Near Land Fill Sites
- 67 Windfall Housing Sites

The proposal is considered to conflict with some of the above policies.

Comment

The proposal is for outline permission for the erection of two detached dwelling houses on a 0.16 hectare piece of land at the rear of Station Lane. The land is currently grassed and appears to be in semi-domestic use. It lies adjacent to a row of garages serving the Station lane properties, beyond which is open countryside. This application deals with the siting of the proposed dwellings and the access arrangements for the site. The design/appearance of the proposed dwellings and any associated landscaping works are reserved matters, requiring the submission of a further application in the future.

The site is considered to be Greenfield under the Government's Definition of previously developed land provided in planning policy Guidance Note 3 (PPG3 – Housing), which excludes land that was previously developed but where the remains of any structure or activity have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings) provided there is a clear reason that could outweigh the use of the site or the site has been put to amenity use and cannot be regarded as requiring development. As such, it does not meet the Government's definition of previously developed land. Government policy in PPG3 is to maximise the re-use of previously developed land, and requires a sequential approach to the identification of housing sites, which prioritises previously developed land in urban areas.

The site is located within the settlement boundary for Wingate/Station Town, and as the site is not specifically allocated for housing in the Local Plan it is classed as a 'windfall site'. Policy 67 of the District of Easington Local Plan supports the development of housing on windfall sites within settlement boundaries (subject to detailed planning considerations) provided such sites are previously developed. The surrounding text to this policy states that Greenfield sites will be assessed against the availability and suitability of previously developed sites. As there are previously developed sites within Wingate/Station Town, which are suitable for development, and likely to be available in the short to medium term, there is not considered to be a policy

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justification for releasing windfall Greenfield sites. For this reason the proposal has been advertised as a departure from the development plan.

Notwithstanding the above, this site has been subject to two previous planning applications for residential development, both in 2003. Previously the development of this site for residential uses has been refused three times.

The original 2003 application 03/201 for a house on this site was refused for three reasons, which can be summarised as follows:

- The site is Greenfield;
- The proposal does not relate well to surrounding buildings;
- The siting of the house would not provide a sufficient separation distance to Station lane.

Following the refusal, the applicant provided additional information regarding the previous history of the land, and amended the plans to take account of the siting and design refusal reasons. Planning application 03/924, a resubmission of the previously refused application, was determined by the Panel in November 2003. Councillors considered that in light of the information submitted with the planning application the land could be regarded as previously developed land and therefore was in keeping with the relevant development plan policies; the application was conditionally approved. Therefore there is an existing Planning permission for the development of the site incorporating a detached dwelling and garage.

In terms of specific details, the proposed siting of the dwellings and access to the site are considered acceptable. The correct privacy distances are to be maintained between the proposed dwellings and the existing properties on Station Lane. Durham County Council Highways Authority has been consulted and has no objections to the proposal.

The Environment Agency has raised an objection to the application on the grounds that the site lies within or adjacent to Flood Zone 3. It is considered that this objection can be overcome following further on-going consultation with the Agency.

The land is sited within 250 metres of a landfill site that has the possibility of producing landfill gas. The developer must satisfy the Council that a problem of landfill gas does not exist, in accordance with Policy 44 of the Local Plan. This requires demonstration that there is either no risk from migrating landfill gas to the development and its occupiers/users or that satisfactory remedial measures can be undertaken. PPG23 Planning and Pollution Control, advises a precautionary approach to development in the vicinity of potential pollution sources. The advice essentially advocates an approach whereby the Local Planning Authority should be satisfied that there is no significant risk likely to accrue as a result of any development proposals before being minded to grant planning permission. The advice further advises that where potential risks are known, but it is considered likely that the development would be acceptable in principle, subject to appropriate measures, that it is reasonable to secure further testing and remedial measures through a condition of planning permission. Subject to the views of the Council's Environmental Health Unit, the use of a condition to investigate landfill gas and any other contamination is considered appropriate if the proposal were to be approved.

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Conclusions

According to the Government's definition of previously developed land, the proposal is not considered to accord with the Local Plan as the land is considered to be greenfield. Furthermore, there would normally be insufficient justification to allow the development of greenfield land where there is an adequate supply of previously developed land within the village. However, with regard to the planning history relating to the site, Members took a different view on the matter of whether the site was Greenfield or brownfield, and granted approval for residential development. On this basis, it is considered reasonable to recommend approval of this application; an existing planning consent is in place to develop this site for residential use and therefore the precedent of development has been set. The site area remains the same from the previous planning permission, and the increase from one to two dwellings is not considered to be a significant change, given that the principle is established, and the overall floor area of development will not increase substantially.

Recommend Conditional Approval (Conditions to Include: Outline Permission – Design/Landscaping; Contaminated Land; Gas Investigation; Surface Water Drainage; Access to Adoptable Standards).

Reason for Recommendation

The site is the subject of an extant planning permission and the current proposals do not represent a significant change to the approved scheme, accordingly they are considered to be in accord with the development plan, in particular Policies 1, 35 and 67 of the District of Easington Local Plan.

Decision Time Over 8 weeks – Due to publicity requirements.

05/882

MURTON EAST – Proposed Residential Development at Hillcrest Garage, Cold Hesledon for Mr T Stuart

Planning History

00/356 – Alterations to garage – Approved in 2000.
00/579 – Perimeter fencing – Approved in 2000.

Consultations

The application was advertised in the press and a site notice was displayed and local residents consulted. Two local residents have commented as follows :

- Increased sewage and surface water flows may cause concern.
- Site is outside development boundaries and contrary to local plan.
- Concerns about effect of retaining wall and excavations on adjacent properties.

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Environment Agency – Objects as insufficient information has been supplied relating to possible pollution to protected groundwater supplies.

Murton and Hawthorn Parish Councils – Object for the following reasons :

- Noise nuisance to properties from nearby road.
- Road safety concerns from speeding vehicles in this location.
- Site is contrary to local plan.

The Council's Planning Policy Officer considers the proposal to be contrary to Local Plan policy, as detailed in the 'Comments' section below.

Development Plan Policies

District of Easington Local Plan

- 1 General Principles of development
- 3 Settlement limits
- 35 Amenity
- 67,68 and 69 Development in the Countryside.

Comments

The site is located on the B1432 road from Easington to Seaham, at Cold Hesledon, adjacent to the Garden Centre.

This full application relates to the demolition of a disused car showroom and garage and the erection of four detached dwellings together with garages. Access will be via the existing driveway leading to a private shared driveway.

The applicant has submitted six letters from local residents supporting the application and has made the following comments :

"From our discussion on Thursday we have been to see Alan Glenwright at Durham County Council and have confirmed with him that the access and parking arrangements as shown on the proposed layout plan are both satisfactory.

We have also taken on board your observations regarding the boundary treatment and have replaced the proposed timber fencing with a high brick wall along the roadside edge of the site.

As we explained the purpose of our meeting with you was to agree the detail of the proposed scheme leaving the policy issue of the site's location outside any recognised settlement boundary as the only outstanding planning matter for determination. This is hopefully the case given Alan Glenwright's confirmation of the access and parking provision and the alteration to the site boundary treatment.

Turning to the issue of the site's location outside the recognised settlement boundaries and your consideration of this matter we would provide the following evidence and justification in support of our client's proposal.

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The proposed development site being a former commercial use qualifies as a 'brownfield' site under the terms set out in Planning Policy Guidance Note No. 3 and would but for its location in designated open countryside meet the 'windfall' site criteria.

In recognising the planning policy considerations our client has vigorously marketed the site in an attempt to find a similar or alternative business user since the closure of the car sales enterprise in August 2004. This active marketing exercise has been pursued over the last 15 months however no potential commercial buyer has been forthcoming despite our client's best endeavours.

It is considered that one of the prime contributing factors for the lack of success in finding another business user is the result of the newly constructed road network linking Dalton Park and Fox Cover Industrial area which now provides direct links to the north and south carriageways of the A19 Trunk Road. The introduction of this new road network has significantly reduced the general flow of traffic using the B1432 Road through Cold Hesledon that previously provided the principal feeder link to the A19 via Murton and Easington. In light of the prevailing circumstances and with only local traffic now using the B1432 Road it appears unlikely that another business activity will consider the site commercially viable, as has been borne out by the lack of interest in the site despite the best efforts to market the site.

In the meantime the already moderate physical condition of the buildings on the site will and do continue to deteriorate. The redevelopment of the site for new housing as proposed by our client therefore offers the most realistic opportunity to address the current and worsening decline of the buildings and the unsightly visual appearance this presents given the prominent roadside location of the application site.

Notwithstanding the above arguments there is already an established precedent for the approval of housing on application sites similar to our client's. The Council has previously granted planning consent for residential development on a number of sites used for similar commercial purposes in similar locations where the same policy considerations have applied.

We consider the above supporting evidence is sufficiently strong to merit a departure from current planning policy in the same circumstances that the Council has approved new housing on other sites outside existing settlement boundaries."

The main issue to consider regarding this application is one of planning policy.

The Policy Officer comments that the site of the proposed development is located in the countryside between Murton to the north and Hawthorn to the south. The proposed development represents residential development in the countryside. The site is not identified as a potential housing site in the Local Plan and is consequently a windfall site. Therefore policies 3, 67, 68 and 69 of the District of Easington Local Plan are relevant.

Policy 67 of the Local Plan states that housing development will be approved on previously developed sites within settlement boundaries of established towns and villages. It is acknowledged that the site of the

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proposed development is a brownfield site as defined by PPG 3 Housing, however it is not within the boundary of an established town or village.

The Council considers that housing development should normally only be approved on sites within the towns and villages of the District. There are a number of reasons for this, firstly, new development within the settlements can help to maintain the compact and convenient village form which is most appropriate for the support of shops and facilities. Secondly, it can also reduce the need for people to travel to facilities. Policies 3 and 68 severely restrict development in the countryside. Policy 3 deals with development in the countryside in general and states that it will not be approved. Policy 68 deals specifically with housing development in the countryside and states that housing development in the countryside will not be approved.

It is acknowledged that new housing developments in the countryside are sometimes required to meet the housing needs of those employed principally in agricultural and forestry enterprises whose duties make it essential for them to live very close to their place of work and is the purpose of policy 69. Policy 69 states that new housing development in the countryside will only be approved if dwellings are required for occupation by persons engaged solely or mainly in agriculture, forestry or other appropriate rural enterprises who must live close to their place of employment to perform their duties. The policy sets out the criteria under which planning permission will be granted and calls for a clear justification of need. The supporting statement which has been submitted with the application does not state that the dwellings are to be occupied by agricultural/forestry workers and gives no justification of need.

The proposed development of the site is contrary to the policies outlined above and the arguments presented in the supporting statement do not justify a departure from Local Plan policies. It is therefore recommended that the application is refused.

The site is clearly visually unattractive at present and prominent in the street scene. It is a "brownfield" site but is located beyond the boundary of an established town or village.

It is accepted that there have been two cases near Easington of residential development being allowed on former commercial sites, some years ago. Those cases were each considered on their individual merits at the time. It is considered that they do not provide justification for allowing this proposal.

A balance has to be struck between the benefits of improving the visual appearance of the locality and the costs of approving the development contrary to established planning policies. The comments above explain the reasons for the policy and confirm that no arguments have been put forward which justify a departure from Local Plan Policies in this instance. Furthermore, should permission be granted it is likely that a precedent would be set for similar proposals on adjacent land that would be difficult to resist and would exacerbate the problems detailed above.

Recommend Refusal for the following reasons:

1. The site lies outside the defined boundaries of any established settlement, and thus represents residential development in the

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countryside without an appropriate agricultural, forestry or other rural justification, contrary to Policies 1, 67, 68 and 69 of the District of Easington Local Plan.

2. The proposal would result in isolated and sporadic development by creating a group of dwellings in the countryside unrelated to existing settlements, detrimental to the character and appearance of the area and contrary to Policies 1, 3 and 35 of the District of Easington Local Plan.
3. Approval of the proposal could establish a precedent for similar developments on other similar sites in the District, thereby exacerbating the problems of unjustified, isolated developments in the countryside, contrary to Policies 1, 3, 35, 67, 68 and 69 of the District of Easington Local Plan.

Decision time 9 weeks – target not achieved due to applicant requesting application is considered by Members and extended period between Panel meetings over Christmas.

05/907

HUTTON HENRY (CASTLE EDEN) – Change of Use from Approved Play Area to Landscaped Open Space at Front of Nos. 1-9 Rowland Crescent, The Brewery Site, Castle Eden for Charles Church NE

Planning History

01/500, CAD/01/501 and LB/01/502 – planning permission, Conservation Area Consent and Listed Building Consent granted in 2002 for redevelopment of brewery site to provide residential development comprising seventy houses and ten flat conversions. In accordance with Local Plan policy, the proposals incorporated a children’s play area within the site.

A request to amend the approved scheme by omitting the play area was refused at the meeting of the Development Control and Regulatory Panel on 1 November 2005.

Consultations

Castle Eden Parish Council strongly objects on the basis that the area should be made to be the play area as this site was in the original planning application. They believe that the Planning Department has been very remiss in allowing the developer to alter the rules, and should have kept a closer watch on the matter.

Castle Eden Society believes this is largely a matter for the residents. They also vigorously oppose the relocation of the play area outside the Brewery development, considering that other residents of Castle Eden would not want a play area either. They consider that the proposed monies to be provided should be used to improve the Village Hall and its surroundings.

The Landscape Officer has no objections.

The application was publicised by means of individual consultation letters sent to all properties on the estate. In response, twenty six letters have

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been received in support of the proposal, with the various supporting comments summarised as follows:

- Council should take account of residents' wishes – no desire for a play area and it is unreasonable to impose one. Previous letters and phone calls were apparently not considered;
- previous report refers to only four responses – a petition had been signed by 33 residents;
- play area would be in the centre of a roundabout – dangerous for users;
- would lead to increased noise, vandalism, litter and would attract users from elsewhere, thereby disturbing privacy;
- properties have large gardens with sufficient play areas, therefore no need for the proposed communal play facility;
- removal of the play area would not set an undesirable legal precedent as this has happened on previous occasions;
- residents relied on the developer's information that the play area would not be located on the central green;
- the developer's offer of funds would be valuable to the Parish Council to improve community/leisure facilities;
- there are no parking facilities for visitors, resulting in dangers from cars manoeuvring;
- could increase incidents of crime as strangers would have a legitimate cause to be on site;
- could attract paedophiles;
- would devalue property;
- previous officer recommendation should be followed;
- too close to properties, and adjacent gardens are open plan, leading to possible trespass;
- landscaping is preferred, as it enhances the estate and the location impacts on everyone;
- if there has to be a play area, the alternative location to the south of the estate is preferred.

A petition has also been received with 37 signatures indicating 'do not want play area in circle', and 21 of them also indicate 'do not want play area at all'.

One letter has been received from a resident who considers that the play area should be provided in the approved position, for the following reasons:

- have small children, and there are no other facilities in Castle Eden;
- the developer marketed this facility, and house was bought in full knowledge of this – developers should meet their responsibility;
- proposal is arrogant and inappropriate;
- facility would be available for current and future generations;
- a designated play area is a specialised facility and desperately needed.

Development Plan Policies

District of Easington Local Plan

1 general principles

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- 35 amenity
- 66 provision of play space

The proposed amendments are considered to be generally in accordance with the above policies.

Comment

This planning application follows the recent refusal of the Development Control and Regulatory Panel to accept omission of the play area as an amendment to the approved scheme.

The development of the former brewery site has been progressing since 2002, and is now nearing completion. In designing the layout, the developers included an equipped play area on a central green area overlooked by a number of properties. This was in response to the Council's policy contained in the Local Plan, Policy 66, which requires that adequate provision should be made for children's play space on housing developments of ten or more dwellings. It is generally expected that this will be a mix of equipped and informal play areas.

In this case, in addition to the equipped play area, the developers had identified an informal meadow area to the south western part of the estate for use as public open space, which could include informal play. They had not specified the type or scale of equipment to be provided on the equipped area. This was the subject of a condition attached to the planning permission.

During the course of developing the site, the developers identified a difficulty in selling the houses which overlooked the equipped play area. On an informal basis, they asked the Council to consider relocating the equipped play facility to the meadow area. As an alternative, they also offered a financial contribution towards provision of play facilities on land elsewhere in Castle Eden, if an appropriate location could be identified. These options were both considered by Council officers. In the case of the relocation to the meadow area, this was considered unsuitable for various reasons, principally lack of overlooking/supervision, greater likelihood of misuse, lack of adequate lighting and proximity to the A19, thereby increasing dangers for children. Relocation to another part of Castle Eden was not considered to be acceptable as there was no land available in the ownership of either the Parish or District Council to facilitate this. On this basis, the developers were requested to implement the plans as approved, namely to submit appropriate details and provide the equipped play area on the central green.

At this point, the developers wrote to all residents on the estate, asking for comments on the Council's requirement regarding the play area. They received a largely negative reaction. It came to light, however, that they had sold plots on the basis of a plan showing the equipped play area located on the meadow land to the south west of the estate. This relocation had not been agreed by the Council, and indeed, was considered unacceptable. Notwithstanding this, they considered that the reaction from residents was indicative that the play area was not wanted on the estate, and again requested that the Council reconsider the position, with the offer of a financial contribution to the Parish Council towards community, leisure or other facilities.

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Following discussions between the developers and the District and Parish Councils, a formal amendment was submitted to seek agreement to omit the play area. Part of the submission included an offer to donate £30,000 to the Parish Council for provision or improvement of community/leisure facilities. The matter was reported to the Development Control and Regulatory Panel on 1 November 2005. The officer recommendation was to accept omission of the play area as an amendment, subject to the financial contribution being made. Following consideration and discussion, however, members raised concerns that there would be no facility for young children to play and it would be sensible to have a play area on the estate. Members also noted the policy to ensure that adequate play facilities were provided and felt the developers should continue with the original plans. As a result, it was resolved that omission of the play area be refused as an amendment.

Refusal to accept the amendment did not provide any right of appeal. On this basis, the developers have submitted a formal planning application for change of use of the land to landscaped open space and are seeking reconsideration of the proposal. They advise that they received fourteen letters of objection to the play area, including one from every property facing the play area, twenty phone calls objecting, and a survey via e-mail showing that thirty people objected to the play area. None were in favour and six were on holiday. Since the last submission, they have been made aware of the Council's normal requirement of £500 per dwelling in the case of financial contributions in lieu of play facilities. They are happy to increase the donation to £45,000, consisting of £39,000 for the dwelling units and £6000 as a gesture of goodwill. They have been in contact with Castle Eden Parish Council, who indicate that further funding via grants should enable a substantial facility to be provided for the village.

The Council would normally expect a planning permission to be fully implemented in accordance with the approved plans. In this case, however, it is considered that circumstances have changed since the planning permission was granted. In particular, it appears from the consultation responses that a significant number of residents on the estate do not want the play area. As this facility is intended to serve those residents, it is considered unreasonable to require the implementation of the play area, notwithstanding the Panel's previous decision on the amendment. Furthermore, the developers have offered a substantially improved financial contribution to the Parish Council towards community or leisure facilities, in excess of the amount normally required. Whilst this may not result in the provision of play facilities, it is understood that the Parish Council would seek to use the investment for the benefit of Castle Eden as a whole, including the residents of the new estate.

In response to the comments received, the Parish Council have changed their views on the proposal, having previously offered no objection to the amendment. However, it is considered that the improved financial contribution would be of benefit to the Parish in providing facilities for residents generally. The concerns of the Castle Eden Society are noted. It may not be feasible to provide play facilities, given that there is no land available at present. However, it is likely that any play area proposed in the future would require planning permission and the Society would have an opportunity to comment at that time.

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The supporting comments from residents are not accepted in their entirety. Issues such as road safety, parking and general amenity were taken into account when the original proposal was considered, and were not seen to be reasons for not agreeing to the play area on the approved scheme. Devaluation of property is not a material planning consideration. Some of the comments of the objector are considered relevant, particularly in respect of the value of such a facility, as evidenced by the Local Plan policy. Nevertheless, it is considered that the proposal should now be assessed in a different context.

From the results of the consultation exercise, it would appear that the play area has little support amongst residents on the estate. On the contrary, there is evidence of substantial opposition. Whilst the Council as Local Planning Authority has a duty to pursue the proper implementation of policy, the particular circumstances of a situation need to be taken into account. In this case, the play area is principally intended to serve the residents of the estate. As a significant number do not want the play area and there is no evidence of any significant support for it, it is considered unreasonable to require provision of the facility against residents' wishes. In addition, the developers have now offered a financial contribution towards off-site facilities which exceeds the amount normally required in lieu of on-site provision. Whilst this may not lead to the provision of a play area, it could be used to the wider benefit of Castle Eden residents as well as occupiers of this estate.

Taking all relevant matters into account, it is considered that there is a reasonable case for agreeing to the change of use of this area of land from formal play facility to landscaped open space. The proposed facility was intended to serve the estate's residents, and there is apparently limited support for it. Furthermore, the financial contribution now offered by the developers is considered to be adequate in the context of similar agreements on other housing developments. In order to secure the payment, it is considered appropriate to enter into a Section 106 legal agreement with the developers, requiring payment within a certain period of time. Overall, therefore, the proposal is considered to be acceptable.

Recommend Unconditional approval, subject to a Section 106 legal agreement to secure payment of the financial contribution.

Reason for Recommendation

The proposal is considered to be acceptable, taking into account the views of residents and the financial contribution offered by the developers towards recreational/community/leisure facilities in the vicinity, thus according with Policies 1, 35 and 66 of the District of Easington Local Plan.

Decision Time 8 weeks – target achieved.

05/908

HASWELL AND SHOTTON (SHOTTON COLLIERY) – Retrospective Temporary Change of Use from Industrial Use to Sunday Indoor Market/Table Top Fair (November 2005 – March 2006) at Cook Way Peterlee for John Noble

Planning History

99/202 – CCTV Cameras approved June 1999

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Consultations

The application was advertised in the press and a site notice was displayed – no comments have been received as a result of this publicity.

County Highway Authority – Raises the following issues :

- Police have received some complaints but not enough to raise objections.
- Some damage happening to (private) verges.
- Site is considered ideal for the use.

Health and Safety Executive – No objections

Parish Council – Comments awaited.

Development Plan Policies

District of Easington Local Plan

- 1 General Principles of development
- 35 Amenity
- 36 Access/parking
- 105 Retail development on industrial estates.

Comments

This retrospective but temporary application for retail development on an industrial estate needs to be considered in the context of the relevant local plan policy referred to above. The site is located on the North West Industrial Estate in Peterlee and comprises vacant industrial premises with associated car parking. It is proposed to have stalls erected within the buildings from 11.30am and be open to the public from 1.00pm to 5.00pm, on Sundays from 6 November 2005 to 26 March 2006. On this basis, the application is part retrospective.

Retailing on industrial estates is normally resisted due to the potential to affect existing retail centres, loss of industrial land and its lack of public transport access.

However this proposal relates to the sale of second hand goods, on Sundays only and for a temporary period only. In view of this it is considered that the use will not affect the nearby town centre and will remain available for employment in the long term.

In land use terms the impact of 200 plus cars visiting the site is considered to be acceptable from a highway perspective in view of the large area of car parking provision and the limited period of use. The nature of the local road network and evidence from site visit of 4th December 2005 shows there is on street parking along all adjacent estate roads – resulting in congestion/manoeuvring difficulties. However, neither the Highway Authority nor the Police consider this to be a sufficiently serious problem to warrant an objection.

Overall, taking account of the temporary nature of the use and the limited scale of disruption, it is considered that the proposal does not adversely

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affect retailing in the district or the operations of the industrial estate. Accordingly, the proposal is considered to be acceptable.

Recommend Conditional approval (conditions relating to duration of operation and type of retail operation permitted from the site)

Reason for recommendation

The development accords with current planning policy guidance including Local Plan Policies 1, 35, 36 and 105 and does not harm the vitality of the town centre or businesses or nearby industrial estate.

Decision time 7 Weeks – target achieved.

E Background Papers

The following background papers have been used in the compilation of this report.

Durham County Structure Plan
District of Easington Local Plan
Planning Policy Guidance Notes
Planning Policy Statements
Regional Spatial Strategy
DETR Circulars
Individual application forms, certificates, plans and consultation responses
Previous Appeal Decisions



Graeme Reed
Head of Planning and Building Control