

**THE MINUTES OF THE MEETING**  
**OF THE DEVELOPMENT CONTROL AND REGULATORY PANEL**  
**HELD ON TUESDAY 29 MAY, 2007**

Present: Councillor M Routledge (Chair)

Councillors Mrs M Baird, Mrs G Bleasdale,  
R Davison, Mrs A Laing, R Liddle, Mrs J Maitland,  
D Milsom and D J Taylor-Gooby

Applicants/Agents: Mr and Mrs Turner, Mr Gooda, Mr Cooper

Apology: Councillor Mrs E M Connor

1. **THE MINUTES OF THE LAST MEETING** held on 10 April, 2007, together with those of the **SPECIAL MEETING** held on 26 April, 2007, copies of which had been circulated to each Member, were confirmed.

2. **APPLICATIONS UNDER THE TOWN AND COUNTRY PLANNING ACTS TOWN AND COUNTRY PLANNING ACT 1990 PLANNING (LISTED BUILDINGS CONSERVATIONS AREAS) ACT 1990**

**2006/0748 THORNLEY (THORNLEY AND WHEATLEY HILL) - PROPOSED CHANGE OF USE FROM OPEN SPACE TO STORAGE OF FAIRGROUND EQUIPMENT AND ERECTION OF BOUNDARY WALL AT 2 FAIRVIEW, THORNLEY FOR MR K TURNER**

**2006/0811 THORNLEY (THORNLEY AND WHEATLEY HILL) - PROPOSED 2 No. HOUSES AND 2 No. BUNGALOWS AT LAND AT ARRAN GROVE, THORNLEY FOR THREE RIVERS HOUSING GROUP**

The Chair advised that Members would consider applications 2006/0748 and 2006/0811 jointly.

2006/0748 - Consideration was given to the report of the Head of Planning and Building Control Services which recommended refusal by virtue of the scale and nature of the vehicles and equipment to be stored, which would have an adverse impact on the amenities of existing and future residents adjacent, in terms of visual intrusion and overbearing impact and represented an inappropriate use of land allocated for residential development. The proposal was considered to be contrary to policies referred to in the report.

2006/0811 - Consideration was given to the report of the Head of Planning and Building Control Services which recommended approval subject to conditions relating to external materials and landscaping. The

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proposal was in accordance with the relevant planning policies referred to in the report.

The Principal Planning Services Officer explained that Members had visited the site that day and were familiar with the location and setting and gave a detailed presentation on the main issues outlined in the report.

Mrs Turner, the applicant, advised that the Turner and Cooper families were travelling showmen and had lived in Thornley for over 53 years. Mrs Turners father had owned an area of land in Thornley which had originally been open space. Mrs Turner and here family had all attended school in Thornley and she had been a Governor at the local school for over five years. The land they currently occupied had been industrial and was offered to them by the Council as they wanted to relocate the families to facilitate the regeneration of Coopers Close. Both families had assumed that the land adjacent to the site would be sold to them for storage and rent had always been paid for this area of land. A number of years ago the District Council advised that the land was classified as residential and if they wished to purchase the land it would be sold at a residential price. Following negotiation the Council agreed to sell half the land as industrial land and a price was agreed.

Mr Gooda, the agent, advised that the Turner and Cooper families had lived in Thornley for over 50 years. In 1975 they were approached by the District Council and asked to relocate both their business and residential premises. This was, supposedly, following concerns from local residents, based on encroachment of commercial and business premises and obstructed or spoilt views.

Following protracted negotiations the two families agreed to relocate to the area now known as Fairview and this move was completed in 2000. Both families now found themselves in a similar situation six years following the move undertaken at the request of the Council.

Immediately following the move in 2000 negotiations began with the Council to purchase the adjacent land. These negotiations progressed to an amicable arrangement which was satisfactory to all parties. However, the Council Officer conducting the negotiations was removed from the process and obstacles were thrown in the way of further meaningful negotiations.

The proposed refusal of the required planning permission was primarily based on the objection of the Highways Authority to the blocking of a public right of

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way. Objection was made until such time as the applicant was able to offer a diversion route for the public right of way. Alternative routes could be by way of stiles, positioned correctly to allow pedestrian traffic only.

The similar section on application 2006/0811 referred to the Highways Authority suggesting a new footpath link, why was consideration to this point only exercised in one application.

The District Council stated that they had taken full account of the Human Rights Act 2000. This was believed to be incorrect and should have been quoted as the Human Rights Act 1998 of which the third edition was published in October 2006. Reference was made to Section 6, which referred to the rights to a fair trial.

Article 14 of the Human Rights Act 1998 referred to freedom from discrimination which had been omitted. In a letter from a local Councillor reference was made to comments from some residents which proved that discrimination clearly existed in this case.

Circular 22/91 provided guidance to local authorities on the selection, provision and suitability of sites for travelling show people. This guidance was not applied in this case. The guidance was issued by the Government to protect the rights of travelling show people and to ensure that local planning authorities were fully aware of their responsibilities.

As part of the planning statement it was stated that some maintenance of equipment took place on the site. This was a right given to the travelling show people under Section 10 of Circular 22/91 and therefore, should not have been a point for discussion, or used in the decision process of this planning application.

Section 11 of the Circular ensured that sites provided were adequate for purpose and the authority also had a responsibility to ensure that it continued to be available for that purpose. The subsequent application for residential properties, which would result in commercial and residential properties in close proximity, should have been carefully considered and then rejected under the terms of the planning guidance.

If for any reason the District Council, in 2000, could have justified that the land would not, or may not continue to be suitable for its use then it was open to the local authority to enter into an agreement with the applicants under Section 106 of the Town and Country Planning Act. This was not done at the time, therefore the two families were entitled to believe that their

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continued use of the land at Fairview would not be removed or objected to.

Section 12 advised that the security of planning permission was vital to make the initial investment worthwhile. The suggestion that the two families should remove their accommodation to another area of land without mains services connected, was a fundamental breach of their human rights.

The revised guidance issued in 2007 was more definitive in its wording and should be consulted in full for the relevant sections applicable to this application.

Sections 26 and 29 of the Circular stated that the local planning authority had discretionary powers to provide and protect these sites including the disposal of land for less than best consideration. The criteria for planning applications under this Circular must be fair, reasonable, realistic and effective.

It had been suggested by the District Council that the present site at Fairview was constructed by the Council to the specifications provided by Mr Cooper and Mr Turner at a cost to the Council of £100,000. The scope of the works provided included a boundary wall erected around the property. Connection of electrical, water and sewerage facilities that were all in close proximity. The cost of the land could not be included in this as the families had entered into an agreement with the Council to exchange their existing property for the one supplied at Fairview. The cost of connecting services should also be ignored, as it was to replace the existing services lost at the Coopers Close site. It was stressed that neither family initially wanted to make this move. It was felt that a more realistic figure based on today's prices and making suitable adjustment for a six year period would indicate a figure of approximately £10,000.

When the two families moved to Fairview they had, quite reasonably, expected that the Council had in all respects carried out their duties under both local and national guidelines and had assumed, that the Council had applied the guidelines of Circular 22/91 and that their future security of tenure for residential and business purposes was assured.

There were a number of discrepancies that had occurred during the negotiations and there were discrepancies in the written and verbal statements. There was reference at one stage to the necessity of providing a landscaped barrier between commercial and residential boundaries.

The request by the two families to purchase this land began in 2000 and progressed until approximately May

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2005 with the application by Three Rivers Housing Association. No previous notification of these works had been received, however, it effectively ended the ability of the families to continue with their plans to purchase the land as it was now classified as residential and not commercial thereby raising the price and lowering the potential for gaining the required planning permission.

The position of the two houses proposed for this section of land would be overlooked by existing properties and would also overlook the commercial enterprise of the show people. It was suggested that this area should be used as a buffer zone between the two areas of existing houses and the show peoples operations, which would enable suitable and sufficient landscaping to provide an effective screen the cost of which could be negotiated between interested parties.

Both families feel that the events of 1975, which necessitated the move from Coopers Close, were being allowed to happen again due entirely to the actions and inactions of the local planning authority.

Mr Turner, the applicant, advised that he had lived in Thornley for over 34 years. He explained that when they were based at Coopers Close the District Council had allowed houses to be built around their site. In 1998 both families agreed, in principle, to re-locate to allow the redevelopment of Coopers Close. At this time both families were promised the adjacent land for which negotiations were still ongoing in 2004/2005.

The Principal Planning Services Officer advised that the lack of an alternative route referred to in the report was a statement of fact and had not been used as a reason for refusal of the application. He stated that there was no discrimination and concerns were related to the size and amount of vehicles. Whilst no objections had been received from residents the Council had to make a judgement on the application. The District Council had no problem with the existing arrangements at Fairview, it was the expansion that was being objected to.

D Clarke, Head of Asset and Property Management confirmed that it had been agreed that the land would be made available in the future but it would be for residential development not storage. There had been on going negotiations in relation to the land and at one point all of the land was offered to the applicants as residential but both families subsequently refused this. The Council then agreed to sell half of the land as industrial subject to the relevant permission being granted.

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Councillor Mrs J Maitland asked if Mrs Turner had received a price to purchase the land and use it for storage. Mrs Turner confirmed she had.

Councillor Mrs G Bleasdale stated that when the families moved to their current location in 2000 they were given the impression they could buy the adjacent industrial land for storage then subsequently found out in 2005 that it would be sold as residential. Councillor Bleasdale asked how they were advised of this. Mrs Turner explained that they received notification in writing to remove their equipment from the land even though they were paying rent for the land.

D Clarke explained that over the years both families had held a number of licences and on occasion these licences expired and the families were technically trespassing. Mrs Turner stated that she had never missed a rental payment for the land.

Councillor D J Taylor-Gooby asked if a landscaped barrier between the two sections of land would help.

The Principal Planning Services Officer advised that the area of land was very small and both applications proposed to develop to the boundary.

Mr Turner explained that if residential properties were built on the adjacent site he would be unable to remove the mobile tourers from the compound due to their size.

Councillor R Davison asked if the road could be taken into account as a buffer zone between the two sites. D Clark advised that the road was already taken into account in the application.

The Head of Planning and Building Control Services explained that there was an implication that the Council had changed their minds about the land in 2001. There was a considerable length of time between the original move and now. The Council were trying to accommodate the business and residential needs. Issues related to the Local Plan were first discussed in 1992 but this was not published till 2001.

Mr Gooda appreciated that the time lapse between the Local Plan first being raised in 1992 and published in 2001 however, the families were not Councillors and were not to know this. They moved in 2000 and the plan was introduced one year later. He explained that they had always paid rent for the land that they used for storage and had never trespassed. They had never received any letters from the District Council advising of this. The land had always been industrial and the introduction of the application from Three Rivers resulted in the land being classed as residential. The

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needs of the Turner and Coopers business had changed but that was the nature of all businesses.

Councillor Mrs G Bleasdale expressed concern that this issue had been ongoing for over five years. There had been an expectation by the families that they would be sold this land for storage. Councillor Mrs J Maitland advised that this family had lived in Thornley for over 53 years and had co-operated with the District Council and done everything that was requested of them. However, circumstances had changed and they had not been advised of this.

It was suggested that, if at all possible, a landscape barrier be provided between the two sites if it would not result in the loss of too much land.

**RESOLVED** that application number 2006/0748 be conditionally approved and application number 2006/0811 be refused on the grounds that it was not compatible with application 2006/0748.

**2007/0193**

**MONK HESLEDEN (HUTTON HENRY) – PROPOSED CONVERSION OF EXISTING STRUCTURE TO CREATE STUD FARM INCORPORATING NEW ROOF AT FORMER POULTRY HOUSE, WEEMS FARM, MICKLE HILL ROAD, HESLEDEN FOR EBONY STUD LIMITED**

Consideration was given to the report of the Head of Planning and Building Control Services which recommended approval subject to conditions relating to time limit for development, materials to be used, means of enclosure, landscaping scheme, timing of landscaping revised site plan showing access improvements in line with Highway Authority comments to be submitted to and agreed by the local authority, provision of visibility splay. The proposal was in accordance with the relevant Development Plan policies referred to in the report.

**RESOLVED** that the application be conditionally approved.

**2007/0206**

**SEAHAM (DAWDON) – PROPOSED DISTRIBUTION WAREHOUSE AND OFFICES AT PLOT 9, FOXCOVER INDUSTRIAL ESTATE, SEAHAM FOR GRANTSIDE FOXCOVER (9) LLP**

Consideration was given to the report of the Head of Planning and Building Control Services which recommended approval subject to conditions relating to landscaping and car parking scheme. The proposal was in accordance with the Development Plan and relevant policies referred to in the report.

**RESOLVED** that the application be conditionally approved.

**PRIOR TO CONSIDERATION OF THE FOLLOWING ITEM OF BUSINESS COUNCILLOR R DAVISON DECLARED A PERSONAL AND PREJUDICIAL INTEREST AND LEFT THE MEETING**

**2007/0218**

**SOUTH HETTON (EASINGTON VILLAGE AND SOUTH HETTON) – PROPOSED PRIVATE FOUR VEHICLE GARAGE AT REAR OF 87 CHARTERS CRESCENT, SOUTH HETTON FOR MR SINCLAIR**

Consideration was given to the report of the Head of Planning and Building Control Services which recommended approval subject to conditions relating to materials and temporary permission for three years. The proposal was considered to be in accordance with the Development Plan and relevant policies referred to in the report.

The Principal Planning Services Officer explained that Members had visited the site that day and were familiar with the location and setting and gave a detailed presentation on the main issues outlined in the report.

Councillor D J Taylor-Gooby asked if Mr Sinclair intended to carry out any commercial activities at the proposed garage. Mr Sinclair advised that no commercial operations would be undertaken.

Councillor Mrs G Bleasdale queried how many vehicles were kept at the property. Mr Sinclair advised that he had always been in the motor business and members of his family used the six vehicles kept at the property. He also stated that he had never received any complaints from neighbours. Four of the vehicles would be stored in the garage if approved.

Councillor Mrs J Maitland asked if it was possible to grant permission for a temporary structure for three years and could it be dismantled if there was a breach of the conditions. The Principal Planning Services Officer advised that the recommendation was for a temporary structure which could remain for three years if approved. Any evidence of a commercial business operating from the property could be dealt with separately.

Mr Sinclair advised that he now proposed to erect a smaller garage at the site.

It was explained that if the size of the garage was to change then a new application would need to be submitted.



**RESOLVED** that the application be deferred to allow the applicant to submit further details.

**COUNCILLOR R DAVISON RE-JOINED THE MEETING**

**3. PLANNING INVESTIGATIONS REPORT**

Consideration was given to the report of the Head of Planning and Building Control Services in connection with the following planning investigations reports: -

**(i) 73 Middle Street and 1A Seventh Street, Blackhall Colliery**

**RESOLVED** that: -

- (i) enforcement action be taken and notice served under Section 215 of the Town and Country Planning Act 1990;
- (ii) the notice specify measures to be drafted by the Head of Planning and Building Control Services;
- (iii) the notice specify a six weeks compliance period;
- (iv) the Head of Planning and Building Control Services be authorised to take any other action deemed appropriate.

**(ii) St. Michaels Rise, Hawthorn and Rydale Court, Deaf Hill**

**RESOLVED** that: -

- (i) enforcement action be taken and Breach of Condition Notices be served under Section 187 of the Town and Country Planning Act 1990;
- (ii) the notices specify measures to be drafted by the Head of Planning and Building Control Services;
- (iii) the notices specify compliance periods to be drafted by the Head of Planning and Building Control Services;
- (iv) the Head of Planning and Building Control Services be authorised to take any other action deemed appropriate.