

Item no.

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

Date: **16 October 2007**

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 1998. 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

PLAN/2007/0442

EASINGTON VILLAGE (EASINGTON VILLAGE & SOUTH HETTON) - BOUNDARY WALL AT EAST GRANGE FARM, SOUTHSIDE, EASINGTON FOR MR AND MRS MADDISON

This application is being reported to the Development Control and Licensing Panel for further consideration following the recent deferral.

During the period since the last panel, efforts have been made to negotiate a compromise between the applicant and the Southside Club in respect of the fire escape issue. This has involved discussions with the Fire Authority.

However, these negotiations have been unsuccessful and the applicant has submitted a letter stating the following:

“It is our understanding that the question of our Clients’ Application for Planning Permission as been referred to the Planning Committee for a final decision. We understand that this has taken place following representations that have been made by Southside Club and following a Petition that has been submitted. It is our Clients’ understanding that the Petition was organised by the Club in which they asked members of the public who were visiting the Club.

In particular, we are writing to advise that, in our view, the only express right of way that the Club can claim our Clients’ land would appear to relate to a right to pass over the land to remove rubbish on a weekly basis. We have to say that our Clients may even dispute that this right of way may in fact involve other land not included in our Clients’ title.

We understand that the Club are endeavouring to claim additional rights over our Clients’ land, including “fire exit” rights.

Historically there have been a number of infringements of our Clients’ rights. These include workmen on behalf of the Club parking at the front of our Clients’ garage which is obstructing access. Our clients have been subject to abuse from workmen and threatening behaviour from members of the Southside Committee. In addition, they have had to experience the unpleasant sight of users of the Club urinating upon our Clients’ land and using the exit route as a short cut.

It is against this background that our clients have submitted plans for a garden wall. Our clients would point out that they are entitled to build a metre high wall as a boundary without planning approval. The reason for the Application for Planning Permission for the wall is to ensure a safe play environment for their two year old daughter.

Our clients consider that the building of the wall will enable any safe and secure boundaries to be established, will improve the appearance of the neighbourhood and will assist in relation to matters with the Club next door.

Our clients have endeavoured to reach a settlement with the Club but without success. Throughout, they have been prepared to negotiate and see if a

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compromise can be agreed. However, because of lack of co-operation from the Southside Club, our clients will proceed with their Application.

In our respectful submission, there is not reason why this Application should be refused. The matter of any legal dispute between our clients and the Club should be left as a separate matter and not taken into account when deciding upon planning issues.

We should be grateful if this letter could be brought to the attention of the relevant Planning Committee.”

On this basis the application should be decided on the basis of the original submission and the officers recommendation for approval remains the same.

The Application Site

East Grange Farm is a large semi-detached dwelling located in a cul-de-sac and within the Easington Village conservation area. The property is bounded by residential properties to the north, east and south and is joined to the west by the Southside Social Club.

The Proposed Development

This application proposes a boundary wall and gates to the side of the property facing east onto the cul-de-sac which would enclose the side garden area and provide access gates to the existing double garage. After discussions with the Durham County Council Design Officer the applicant has agreed to reduce the overall height of the wall to 1.5 metres, the height of the gates would remain approximately 2 metres high. The materials have not been specified on the plans, however, the applicant would be required to submit samples of materials should the planning application be approved. A wall and gate is also proposed to the rear of the site on the boundary with the Southside Club. At present the Southside Club uses this opening for taking out refuse and also as a fire escape. The right of way and access over this land is not a planning consideration but is a private, civil matter. This issue will need to be resolved between the two parties as a separate issue and should not be taken into account as part of this planning application. The planning issues in this instance are the impacts of the proposed wall on neighbours visual amenity, impacts on the street scene and impacts on the appearance of the conservation area.

Site History

27/09/2002 – Private garage approved

Planning Policy

District of Easington Local Plan

ENV22 - Preservation and Enhancement of Conservation Areas

ENV35 - Environmental Design: Impact of Development

GEN01 - General Principles of Development

HOU73 - Extensions and/or alterations to dwellinghouses

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Consultations and Publicity

Parish Council – no response

Highways Authority – no objections but applicant advised to contact Highways Adoption Engineer before any works commence to discuss possible future adoption implications

DCC Design – agreed amendments

Building Control – consent not required

Fire Authority – proposal is on a private domestic dwelling and so cannot control. However, the proposal may result in alterations to fire escapes being requested of the Southside Club.

Neighbours – petition received from Southside Club, however no objection reasons stated.

Planning Considerations and Assessment

- Impacts on neighbours amenity
- Impacts on street scene/conservation area

Neighbours amenity

It is considered that the location, scale and design of the wall is such that it would have no adverse impacts on the surrounding occupiers. There are issues to be resolved regarding rights of way between the applicant and the Southside Club – however as mentioned previously, this is a separate, civil matter. A petition was submitted from patrons of the Southside Club objecting to the proposal, however no reasons for objection were stated.

Impact on street scene/conservation area

The applicant has been in discussions with the design officer from Durham County Council and has agreed amendments. In light of these improvements, it is not considered that the proposed wall and gates would have any adverse impacts on the street scene or appearance of the conservation area. It is considered that the proposal is appropriate in scale; materials can be controlled through a condition on a planning approval.

Conclusion

Taking all relevant planning considerations into account, it is considered that the wall would have no adverse impacts on neighbours or the street scene and would not harm the appearance of the conservation area. As such, it is recommended that the application be approved.

Recommendation

Approval subject to the following conditions: in accordance with amended plans; materials.

Reason for Approval

The proposal is considered to be in accordance with the Statutory Development Plan and the policies referred to above.

Decision time 16 weeks (target not met due to being deferred by committee)

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PLAN/2007/0508

WHEATLEY HILL (THORNLEY & WHEATLEY) - 26 NO. HOUSES AND ASSOCIATED WORKS AT FORMER SCRAP YARD, BLACK LANE, WHEATLEY HILL FOR MR CHRIS BURNIP, RMK PROPERTIES LTD

The Application Site

The site was originally a disused quarry before becoming a scrap yard, however that use has now ceased and the land is essentially unused grassland used for grazing.

It is located on the northern edge of Wheatley Hill close to the Greyhound Track off Black Lane. Its area is some 0.8 hectares.

It was allocated for residential development in the District of Easington Local Plan before it expired in September 2007.

The Proposed Development

Detailed permission is sought for 26 brick and tile dwellings – mainly semi detached served off a cul de sac. This road will be served off Black Lane or the access from Front Street.

A number of public rights of way pass through and around the site and these will need to be diverted or realigned before any development can take place.

An off site drainage balancing pond will also be likely to be constructed.

Site History

Most recently full planning permission was granted for 15 dwellings on this site in November 2003. (03/786).

Planning Policy

District of Easington Local Plan

GEN01 - General Principles of Development
HOU66 - Provision of outdoor play space in new housing development
TAC74 - Footpaths and other public rights of way
Policy 35 – Design and amenity

Consultations and Publicity

The application was posted in local newspapers, a site notice posted and local residents consulted.

Objections have been received from nine residences raising the following issues :

- Loss of wildlife currently using the grassland,
- Loss of habitat will not help regenerate Wheatley Hill,
- Numerous other sites within village capable of development,
- Numerous other dwellings in the locality for sale,

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- Existing roads in the area are below standard,
- Loss of trees on the site not desirable

Letters of support have been received from two local residents.

Parish Council – Comments awaited.

Ramblers Association – Objects to the diversion of Footpath 12 in that it is proposed to run along residential estate footways.

Environment Agency – No objections providing surface water discharge is attenuated to Greenfield rates.

Environmental Health Officer – Requests contaminated land survey and hours of building operation condition.

Highway Authority – Awaiting amended plans in relation to diversion of public footpaths and upgrading of local roads to adoptable standards.

Northumbrian Water – No objection.

Planning Considerations and Assessment

The main planning issues relevant to this application relate to :

- Policy issues and
- Impact of the development on the environment and local road network.

Planning Policy - The site lies within the village boundary, was allocated for residential development within the Local Plan and on the back of that designation, full planning permission was granted for 15 dwellings in 2003. Since that time there has been no change in circumstances which could justify resisting development in policy terms. It is therefore considered that the site remains acceptable for residential development in planning policy terms.

Impact of proposals on locality.

The site is located on the northern edge of the village, and is open to a number of public viewpoints from Black Lane and nearby public footpaths, however it will be seen in the context of the Greyhound racing track immediately to the west.

Whilst it is intended to provide some screening along site boundaries, any planning permission granted should include landscaping conditions which will enhance the current scheme.

The design of the proposed dwellings is similar to those recently developed nearby and the overall scheme is considered to be in context with existing development in the locality.

Overall it is considered that the development will not harm the character of the locality, which is currently dominated by the nearby racing track.

A balancing pond may be required on adjacent land to enable surface water from the site to be attenuated.

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Regarding comments made by local residents relating to the potential loss of wildlife, the site is not formally designated as important in terms of wildlife or visual attractiveness therefore it would be difficult for this Authority to refuse planning permission on loss of habitat grounds.

The existence of other sites for development and houses for sale in the village is not a valid planning reason to resist development of the application site if it is otherwise considered acceptable in planning terms. Each site has to be considered on its merits.

The Highway Authority is aware of the deficiencies of the local road network adjacent the site and is requiring the roads to be brought up to adoptable standards by the applicant.

Conclusion

The site was allocated for residential development in the District of Easington Local Plan and has recently received planning permission for residential development. There are no land use designations on the site which would preclude development and access to the site will be to the satisfaction of the Highway Authority.

It is considered that the overall design and layout of the scheme is acceptable and with appropriate landscaping the development of the site as proposed will not have a detrimental impact on the character of the locality.

In view of the above therefore it is considered that full planning permission should be granted.

Recommendation

Subject to the submission of satisfactory plans relating to highway improvements and public footpath diversions the Head of Planning and Building Control be authorised to approve subject to the following conditions: Materials, landscaping, contaminated land survey, highway improvements.

Reason for Approval

The proposed development is in accordance with the planning policies referred to above and will not harm the character of the locality.

Decision time 11 weeks – Target achieved.

PLAN/2007/0609

SEAHAM (SEAHAM NORTH) - HOUSE (RESUBMISSION) AT SEAHAM GRANGE FARM STOCKTON ROAD, SEAHAM FOR MR I DAVIDSON

The Application Site

The proposed site lies within an arable field some 25 metres to the south of an existing Agricultural grain drying shed. It is close to a group of buildings consisting of dwellings and outbuildings that were formally part of Seaham Grange Farm but which have now been sold off except for one dwelling occupied by the applicant's mother.

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The Proposed Development

This outline application relates to the erection of an agricultural dwelling within an open countryside location in order to act as security for the adjacent agricultural building. The building is to be occupied by the applicant to facilitate more convenient and effective monitoring of the building and general operation of the farm business. Access will be via the existing shared driveway to the other buildings nearby.

Site History

07/260 – Agricultural dwelling – Withdrawn June 2007

Planning Policy

District of Easington Local Plan

CSP05 - North Durham Green Belt
CSP06 - Development within the Green Belt
ENV03 - Protection of the Countryside
ENV04 - Greenbelt Extension in County Durham
ENV05 - Control Over Development in the Green Belt
GEN01 - General Principles of Development
Policy 35 – Design and amenity
PPS 7 – Sustainable development in Rural Areas.

Consultations and Publicity

The application has been advertised in local newspapers, a site notice posted and local residents have been consulted.

Comments have been received from three local residents raising the following issues :

- Applicant should live on the site to protect buildings from criminal activity.
- The house would not be visually intrusive.
- There will be no increase in traffic.
- Grain dryer needs someone on hand 24 hours a day.

Parish Council – Comments awaited.

Environmental Health Officer – Contaminated land survey should be undertaken.

Planning Policy Officer - Considers that the effect of the dwelling on the openness of the Green Belt is reduced due to its proximity to the existing buildings.. However the dwelling is not a replacement but a new one which will have an impact on the openness of the Green Belt. Considers that information in support of the application is sufficient to warrant approval, however further information supplied raises concerns that the dwelling would be used solely as a means of managing and monitoring the existing grain/fertiliser store nearby – this justification for a new dwelling would be contrary to guidance contained within PPS 7.

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Highway Authority – Concerned with additional traffic using the existing access onto the B1285 Stockton Road. Revised access proposals not submitted at the time of drafting.

Planning Considerations and Assessment

The main planning issues relating to this proposal are considered to be

- Planning Policy and
- Impact of the development on the Green Belt.

Planning Policy

The main policy document the Local Planning Authority uses when assessing the need for a new dwelling in open countryside is Planning Policy Statement 7 – Sustainable development in Rural Areas. This provides guidance for dealing with proposals for agricultural, forestry and other rural occupational dwellings.

Paragraph 10 of PPS7 makes clear that isolated new houses in the countryside require special justification for planning permission to be granted. One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. It will often be as convenient and more sustainable for such workers to live in nearby towns or villages, or suitable existing dwellings, so avoiding new and potentially intrusive development in the countryside. However, there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is *essential* in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.

New permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- there is a clearly established existing functional need
- the need relates to a full-time worker, or one who is primarily
- employed in agriculture and does not relate to a part-time requirement
- the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound and have a clear prospect of remaining so.
- the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned
- other planning requirements e.g. in relation to access, or impact on the countryside are satisfied

A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night :

- in case animals or agricultural processes require essential care at short notice;

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- to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems.

In cases where the local planning authority is particularly concerned about possible abuse, it should investigate the history of the holding to establish the recent pattern of use of land and buildings and whether, for example, any dwellings, or buildings suitable for conversion to dwellings, have recently been sold separately from the farmland concerned. Such a sale could constitute evidence of lack of agricultural need.

The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one. If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant.

The applicant has submitted a supporting statement which is available on the planning file for inspection by Members should they wish to do so.

In considering the current application officers are aware that the grain dryer was erected in 2004 and that prior to that a number of farm buildings on the site were sold off for residential conversion. Of more relevance however, in particular in relation to the advice within PPS 7 above, Seaham Grange Farmhouse was renovated and sold off in 2006.

The main issue to consider in this instance is whether it is essential for someone to live permanently close to the existing building, or whether it would be merely convenient for the efficient operation of the business.

Any essential need for someone to be readily available at most times on this site will derive solely from the needs of the security and monitoring of the existing grain store. Such needs have been examined on numerous occasions by Appeal Inspectors, and whilst each proposal must be considered on its merits, in the main, Inspectors have determined that the needs of arable crop monitoring and security of farm equipment seldom on their own justify the erection of a new dwelling in open countryside contrary to established planning policies.

More sensitive crops such as Cactus or other temperature sensitive plants usually provide justification, as do livestock husbandry needs. However grain drying facilities tend to be less sensitive to machinery malfunction and security issues are normally expected to be addressed by remote cameras, alarms etc.

In addition to the above concerns Officers are aware that a certain amount of passive security is already present on site as the applicants Mother lives nearby and there are a number of existing dwellings within the old farm yard area.

There is also the issue of why the original farmhouse was renovated and sold off by the applicant only one year before applying for the current proposal, although an explanation is contained within the applicant's supporting document.

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Impact on the Green Belt

Whilst it is accepted that the development is proposed to be located close to the existing grain store and other buildings, it nevertheless remains some 25 metres away and will be seen as new development located within an agricultural field, within the Green Belt for which strict residential planning policies apply.

It is considered that without a justifiable overriding essential need, a new dwelling in this location will have an unacceptable detrimental effect on the open character of the Green Belt.

In addition to the above, the applicant has now proposed a new access to the proposed dwelling in response to the Highway Authority's objections to the existing farm track access.

The revised route runs more than 400 metres through the fields to the south of the site to emerge at Glebe Drive. It is considered that the creation of a domestic access through arable fields in an open location within the Green Belt would have a detrimental effect on its rural and open character by the creation of a large expanse of surfaced driveway.

Conclusion

This proposal relates to the erection of a new dwelling within a countryside location within the Green Belt.

Such development should only be permitted if there are overriding reasons why well established residential planning policies should be set aside. In this instance agricultural need is put forward as the reason why planning permission should be granted. However it is considered that this need is not essential to the running of the existing farm business having regard to the circumstances surrounding the application.

This opinion is reinforced by the open nature of the application site and its designation as Green Belt land within which enhanced restrictions apply to new residential development.

It is considered therefore that insufficient justification has been given to enable planning permission to be granted in this instance and that it is recommended that permission be refused.

Recommendation (Subject to change if revised access plans are submitted)

Refuse for the following reasons :

1. National planning guidance in the form of Planning Policy Statement 7 – Sustainable development in Rural Areas requires that new residential development in the open countryside should have a special justification to enable planning permission to be granted contrary to established residential planning policies relating to the open countryside.

In the opinion of the Local Planning Authority the reasons put forward by the applicant are of insufficient weight to warrant the overriding of

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existing planning policies for this area designed to preserve the character of the open countryside and in particular the open character of the Green Belt.

It is considered therefore that the proposed development will form an intrusive domestic feature which will have an unacceptably detrimental effect on the character of this rural location, which is designated as Green Belt land, contrary to policy 5 of the Durham Structure Plan, saved policies 1, 3, 4, and 35 of the District of Easington Local Plan and Planning Policy Statement 7 – Sustainable development in Rural Areas.

2. The proposed development is served by an unsatisfactory access onto the B1285 Stockton Road. The additional traffic created by a new dwelling will be likely to exacerbate existing road safety problems to an unacceptable degree.

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