

SPECIAL DEVELOPMENT CONTROL COMMITTEE

Minutes of a Special meeting of the Development Control Committee held in the Council Chamber, Civic Centre, Consett on Thursday, 30th October, 2003 at 12.30 p.m.

PRESENT:

Councillor E. Turner, Chair
Councillor J.H. Fothergill, Vice Chair

Councillors R. Alderson, J.I. Agnew, A. Atkinson, C. Clarke, G. Coulson, T. Davinson, T.S. Foggett, G.C. Glass, J.T.S. Graham, H.S. Guildford, T.A. Henderson, A.E. Hodgson, D. Hume, M. Jopling, J. Pickersgill, A. Watson and R. Young.

APOLOGIES FOR ABSENCE

An apologies for absence was submitted on behalf of Councillor C.D. Christer

IN ATTENDANCE

Councillors W. Armstrong, D. Broadley, J.T. Greener, J. Ingham, M. Malone, A. Taylor, C. Vasey and C. Watson

26. COM/03/HAV/008 KINGS HEAD HOTEL, HIGH STREET, STANLEY – CHANGE OF USE OF KINGS HEAD HOTEL TO MIXED USE DEVELOPMENT SEX ORIENTATED USE WITH HEALTH FACILITIES, THEMED FUNCTION ROOMS, CAFÉ LOUNGE AND HOTEL

The Chair welcomed to the meeting Ms. C.A. Hudson who was in attendance to speak against the development together with Mrs. Archer who was in attendance to speak in support.

The Director of Environmental Services submitted his report (copies circulated) following the receipt of complaints that the Council had received regarding the likely opening of the former Kings Head Hotel in Stanley as a Swingers Club known as “The Love Shack”.

Planning Permission had been granted in 2002 for the change of use of the former Kings Head Hotel into a mixed use development comprising a Hotel, Health Club, Private Function Rooms, Café and Lounge area.

The Planning Officer stressed that the purpose of the meeting was not to consider a planning application for a Swingers Club as no formal application had been lodged with the Council. He stated that the committee needed to give first and foremost consideration as to whether the Planning Permission granted in 2002 or whether the former use of the property as a Public House and Hotel, would authorise the use of the premises as a sex establishment.

The 2002 permission made no mention of the use of the premises as a sex establishment. The question therefore needs to be asked as to whether this planning permission authorises the use of the premises for such a use. He stated that it was clear from the website that the venue would be a private club where Members would be more than likely to be exposed to an establishment of sexual orientated use.

It was pointed out that in light of recent conversations between officers of the Council and the original applicant there was a degree of uncertainty as to whether the property would open as a private club intent on encouraging open and group sexual activities on the premises. Clarification on this is expected by Mrs. Archer when she addresses the committee.

It was the opinion of officers and from the legal advice sought by the Council that neither the planning permission granted in 2002 or the previous use of the Hotel would permit a sex establishment of this nature.

Referring specifically to the effects upon the locality it could be argued that the use of the premises as a sex venue would be discreet and that as a Private Members Club it would not have any external impact upon neighbouring properties. However, the public's perception of harm can be considered as a material planning consideration even where it may be shown that such objections are not well founded, or that risks are insignificant, if genuine anxieties as to the harmful effects remain.

The Planning Officer stated that Members needed to be aware that the concerns and fears of the community need to be held widely enough for them to be a weighty consideration a number of Court cases have explored this issue as explained within the report, he stated that Members were advised to consider very carefully the weight to be attached to public concerns and it was stressed that the committee should not in any way be swayed by the moral issues or personal judgements of the use of the premises as a sex orientated venue.

It was pointed out that should the committee decide that planning permission was required then it would be necessary for the committee to consider the likelihood of planning permission being granted for such a use. Enforcement action was a discretionary power open to the local planning authority and should only be used to remedy serious or harmful breaches of planning control.

The District Local Plan had no policy which relates to sex establishments and as such it is appropriate to look at the general policies within the plan to seek to ensure suitable forms of development. Policy GGP1 would be the most appropriate policy to consider in this instance and states that new developments should protect the amenities of neighbouring occupiers and land use. It was not considered that the use of the former Kings Head Public House as a sex establishment to be appropriate within a predominantly residential area.

The Planning Officer stated that if a convincing case was put forward that the property would not open as a sex venue of any nature but would open as a bona fide Hotel in accordance with the planning permission granted then it could be unwise at this stage for the Council to issue enforcement proceedings. The following were therefore recommended to Members:-

- (1) Mrs. Archer be advised in writing that Planning Permission would be required for the change of use of the premises to a Swingers Club or other sex orientated establishment. Whilst it is her right to make a Planning Application the Council would not be minded to invite an application given its location within a predominantly residential area, the concerns expressed by local residents, and current local plan policies.
- (2) Should Mrs. Archer take the view that the proposed use of the property as a sex establishment falls within the remit of the planning permission granted in 2002 then the appropriate cause of action would be to seek a certificate a certificate of lawfulness for the use of the premises as a sex establishment.
- (3) The Council seek a declaration to be made in writing by Mrs. Archer that the property would not open as a Swingers Club, a Sex orientated venue or as a private Members Club other than that which would normally be expected for the use of the health and spa facilities only.
- (4) In the absence of such a declaration being made, or an application for Planning Permission or a Certificate of Lawfulness, the Council authorise, subject to the receipt of further legal advice, planning enforcement action by way of an injunction and/or planning enforcement notices to prevent an apparent breach of planning control.

The reasons for the above recommendations are:-

- (1) Planning Permission would be required for the change of use of the Kings Head to a Swingers Club or other sex establishment.
- (2) It would be inappropriate in the interests of residential amenity for the Council not to consider the merits or legality of such a venture without the submission, application or a Certificate of Lawfulness, in accordance with the policies within the District Local Plan.

Ms. Hudson: speaking against the application.

Ms. Hudson stated that she was speaking on behalf of the residents of Slaidburn, Lee, Mona, Beconsfield, Belle, The High Street and surrounding area.

She stated that, the residents believe that this situation would not have been allowed to happen in Consett. It is blatantly obvious and cannot be covered up anymore the way Stanley has been allowed to be run down, while money seems to have been poured into the regeneration of Consett. We feel strongly that the blame for the Love Shack lies squarely with Derwentside Council. It was stated in support for the planning application by Archer and Rostron Ltd. that the "building had been vacant for some time and if approved would help regenerate Stanley Town Centre". Through the Council's greed and reliance on other people to regenerate Stanley for them, they have allowed this application.

Ms. Hudson stated that planning permission was granted for the building to be used as a Health Club etc. Surely, with the information that has come to light it can now be revoked if not why? The applicant said on radio quote "he will now open as a Hotel and Health Club but if consenting adults choose to take a room for the night it will be alright" so nothing has changed. It was also stated on television "that this goes on all over hotels in the country". What hotel have you been in where you are expected to sign a contract stating you would not talk about what has gone on inside, or where you would not be allowed to take mobile phones or cameras.

It was felt that the Council residents and the people of Stanley were deceived by the applicants about the true reasons they intended to use the building. We believe that this will still be the case and that they cannot be trusted. Planning permission should not be granted, until their intentions for the premises have been made clear and that assurances given that they strictly adhere to said planning application at the very best. At best, the residents would prefer if the applicants were not in a position to be able to do anything to the building at all because of their behaviour during consideration of the application.

She questioned whether periodic checks have been made by the Council during change of usage from Public Bar – to Health Club, if not why? and why? have they been allowed to go so far from plans approved by this committee.

The residents believe this venture is of no value to Stanley it will not bring jobs to the area, it will not help with the regeneration of Stanley. It can only serve to turn people away from the immediate area. Already local estate agents have told us that our homes especially in Slaidburn, Lee and the High Street will be stigmatised and because of the controversy surrounding this issue we will have trouble selling our homes in the future". Who, if anyone, is going to be responsible for the expected fall in value of the homes close to this Swingers Club.

The site of the so called Love Shack is situated on a route used by mothers taking their children to a local infant and junior school. There is also a skate board park 200 metres away, which was recently opened by the Council. Most disrespectful of all is the Burns Pit Memorial situated straight opposite. It is also in the middle of a residential area that consists mostly of families, also an estate, Joicey Gardens, that consists of elderly pensioners who are extremely distressed about the whole thing.

The Love Shack does not have a car park. There is a real concern about parking in the area. The residents of Slaidburn, Lee, Mona, High Street and Joicey Gardens (which is the O.A.P.'s), are worried patrons will start using the streets as a parking area. The applicants stated they would have a car park attendant to "dissuade" people from parking in the streets, how can this possibly happen. Will the residents be confronted every time they park outside their own homes to see if they have a right to be there? Why was this allowed in the planning application which was approved and which car park is to be used. The noise of people arriving and leaving seven days a week until after 2.00 a.m. in the morning would be totally unacceptable for the residents.

Ms. Hudson questioned whether the applicants were contravening any Health and Safety issues? Are they adhering to fire regulations, especially regarding the boarding up of the downstairs windows. Are they under the same scrutiny as a Workingmen's Club? The residents would like to know if they have been paying Council Tax as they have been staying in the building for months. What can be done about parking vans and cars all day and overnight on the public pavements straight outside the pub, restricting the view for residents as they try to exit the road in their cars, this has proved to be quite dangerous at times.

For the applicants to be making money from this venture by money changing hands inside. What are the patrons paying for if it is to be a sex club, is it for sexual favours, drinks etc, Also on the website it stated that CD's of the night's events can be purchased is this in the planning application?

Ms Hudson once again strongly stressed that the residents and the people of Stanley do not want this kind of establishment to open and strongly

suggest that you the Council are not deceived once again by the applicant. They have showed they cannot be trusted and will certainly bend the rules again to suit their own gain, with no concern to any of the residents or the image of Stanley.

Mrs. Archer: speaking in support of the application.

Mrs. Archer stated that it had been decided yesterday that due to the adverse publicity that became extremely personal for Mr. Rostron, the company of Archer and Rostron Ltd. has been dissolved. The company name will be changed to Archer Enterprises Ltd. and that she would be the sole owner of the whole company.

She stated that the Kings Head, now called the Local Spa has improved visually internally and externally during the last 18 months. It was known as a biker's bar, and caused many problems both for the Police and local residents. It was virtually derelict and seriously rat infested due to the filth left by the previous occupants.

Mrs. Archer went on to explain how she wished to operate the new venture to those who are not fully aware of the current situation. The choice-operating plan is to open as a Hotel and Health Spa for which she believed valid planning permission exists. There will be Function Rooms, a reception area, several themed bedrooms, Spa facilities, which will include Sauna, Steam Room and Jacuzzi and Solarium for use by anyone paying the appropriate fees. There will be no alcohol sold on the premises and anyone seen or using or dealing drugs will be ejected forthwith. As an aside she said that it is not unusual for hotels to have themed bedrooms, in fact some of the largest here in the North East do so.

Mrs. Archer then commented on Stanley. She had observed very little vandalism, the area was attractive and well maintained throughout the summer and there were already signs that the winter has its attractions too. People know that every area has its problems with drugs, drug dealers and litter, vandalism and problems as demonstrated at Causey Arch this summer. As a resident of the area she stated that she would be the first person to support anything that the District Council and the Police do to minimise these problems. She recognised that the local police are working hard to try to rectify some problems.

Referring to the Petition, she said that this was pushed in front of an elderly lady who was asked to sign, having done so she was heard to ask "What is the petition for love"? How many more have signed not knowing why? This also represents a minute percentage of the population of Stanley. Surely a better test of public opinion was the radio Newcastle phone in, a transcript of the programme would be made available to the Council if requested. Many people were in favour of the original idea of a club.

She acknowledged that marketing the premises as the Love Shack was far too emotive and controversial for which she apologised most sincerely. She apologised to anyone that had been offended and indeed she had now removed that website from the Internet.

The club called The Love Shack no longer exists, she went on to categorically give her assurance that the Members of the original club have been contacted and informed that their fees will be returned as soon as possible. This will mostly need to be done with E-mails, this was the preferred method of contact.

She offered to give details of the e-mail sent out.

In conclusion, she thanked Derwentside District Council for arranging this meeting and giving the opportunity to state the case in support.

Claire Vasey: Ward Councillor for Stanley Hall speaking against the application.

Councillor Vasey stated that she wished to address the committee as the elected Member for Stanley Hall Ward, representing the residents of this area and the wider community of Stanley.

She urged the community when reconsidering the merits of this Planning Application to remember at all times that the granting of this application will allow "Rostron and Archer" to open this establishment as a Swingers Club.

Whilst the website may have been removed does this mean that the 200 Members who Rostron and Archer have referred to, who have already signed up to a Swingers Club will have their membership revoked. She suspected that this is not the case.

Those who have already applied to attend a Swingers Club will attend the Spa for that purpose.

She also took the opportunity to remind Members of the committee that "Rostron and Archer" have already been highly deceptive in their initial application in October, 2002. It was only by chance that the Council and the community of Stanley were made aware of the actual intentions of "the applicants" and had it not been for this then they would have opened as planned on 31st October, 2003. This would have had a highly detrimental effect on residents, businesses, house prices and children's liberties to name but a few.

The applicants neither command nor deserve our respect. She highlighted the fact that they cannot be trusted and therefore believe that if

they are allowed to open then the services which were available on the website will still be fully available.

If, "as they say" the community of Stanley have nothing to fear from such an establishment then why was it necessary to keep their real intentions such a close guarded secret, also why was it necessary to call the establishment one thing on the website and another on the signs that have been erected on the outside of the building and they openly acknowledge that it is in a residential area when they ask people to leave quietly.

She referred to an interview which the applicant took part in on Radio Newcastle on 24th October, 2003 where after confirming that the plug had been pulled on the website and he now intended to use the building as a Health Spa he openly admitted and condoned that people may still wish to attend the establishment with the sole intention of swinging.

A 1400 named petition has been submitted on behalf of the community of Stanley.

The applicant also stated in an earlier interview that "people will sign anything if asked".

This statement belittles the community of Stanley. Everyone who signed this Petition signed it willingly and with conviction.

The applicants have demonstrated their contempt for the community of Stanley and equally the community realise the effect and impact that such an establishment will have on our lives.

The children of Stanley have been without play facilities for some considerable time. We finally open a Skate Park on the 15th October, 2003 on a site chosen by the children only to be informed of the true intentions of the applicants the following day.

Parents and Grandparents fears are real.

Parents and Grandparents have genuine concerns that this establishment will attract the attention of extreme individuals.

Because of these concerns we find that children will no longer be allowed to play freely and their liberties will be removed.

Families have already expressed their genuine concerns at being fearful of expressing an opinion of this establishment as their homes and property may be targeted.

Old People's bungalows are located directly opposite and they now feel vulnerable and more isolated than ever before.

The residents who live close to the former Kings Head have been told by Estate Agents that their homes are now less valuable and more difficult to sell due to the impact the intentions of the applicants are having on our community.

Stanley as a whole is now against the opening of a private Members' Health Spa Hotel.

I repeat that the applicants have already been deceptive towards this committee and the community of Stanley and for this reason the committee should act to protect our community, residents, children and businesses.

Councillor Taylor: speaking against the application.

Councillor Taylor stated, historically Stanley was a very close knit mining community, everyone knew someone who also knew someone who knew you.

This closeness still remains in existence today among the community of Stanley. Today the feeling of the community of Stanley are petitioning the proposed change of use of the Kings Head Hotel.

It is perceived we are a very liberal society the desire of private members searching for fulfilment by way of sex orientated desire, does not meet the aspirations of the community of Stanley and would have an adverse effect on the Stanley Town Centre Regeneration Strategy.

The purpose of a Stanley Town Centre Regeneration Strategy was to invest in new housing development in the town as well as further opportunities for employment development on adjacent industrial estates and the potential of benefiting from the presence of Beamish Museum. Any strategy therefore should be to emphasise the positive aspects of Stanley.

The strategy is to look at the needs and aspirations of the town and overall community needs.

In fact the Kings Head Hotel's future change of use proposal for sex orientated use will benefit those only consenting adults to challenge their desire of a feel good factor.

The Kings Head Hotel building is a gateway feature leading and directing visitors into the Stanley Town Centre as it is a very visible building adjacent to the A693 main corridor into and through Stanley Town and its community.

The boarded up window does not promote a welcoming feature in the town of Stanley what it does create is a perception of deterioration and not the vibrant and very successful market town centre with a very well used anchor store in Asda and benefiting from the presence of significant leisure and recreational facilities at the Louisa Centre, Lamplight Theatre and Bowls Centre as well as being the host for a very successful Blues Festival providing a stimulus for pubs and clubs and benefits from a recreational point of view from the presence of major parks and open space.

To conclude, the proposed future use of The Kings Head Hotel will have an adverse effect on present valuations of present housing stock close to and nearby this business venture and will have a sure effect on future sales on the new development on the Murray Park Site.

The outcry from the Community of Stanley Town justifies that this is not a suitable business venture that will address the aspirations of the much desired regeneration of Stanley Town Centre. The close proximity of vulnerable groups and the impressionable young people who utilise the Skate Park, Library and a future proposal for a Comprehensive School can only ask for this committee to challenge and revoke any future proposal for The Love Shack as a sex establishment in the town of Stanley.

PLANNING OFFICER'S RESPONSE

The Planning Officer referred to the comments expressed above namely, that the Council had made a mistake by granting approval for the change of use of the former Kings Head Hotel into a mixed use development. He stated that this was not a valid comment as there was nothing in the original application which could have lead the Planning Officers to believe that this would be a sexual orientated hotel, he went on to remind Members that they were not considering a planning application but examining the impact of the likely opening of a sexual orientated premise.

In reply to a question, the committee were advised that effectively the Council could not revoke the planning permission that was in existence, but no planning permission had been received for a sex establishment. The Planning Officer then went on to refer to the comments made by Mrs. Archer and reminded Members that the company of Archer and Rostron had been dissolved and the premises would now be run by Archer Enterprises Ltd. In addition, he stressed that The Love Shack website had now been removed from the internet. He stated that the recommendation would be to seek a written declaration from Mrs. Archer which in the event of default could help the Council in any future legal proceedings.

COMMITTEE DELIBERATIONS

EXCLUSION OF PRESS AND PUBLIC

RESOLVED ON THE MOTION OF COUNCILLOR J.T.S. GRAHAM, SECONDED BY COUNCILLOR J.H. FOTHERGILL THAT THE PRESS AND PUBLIC AND NON COMMITTEE MEMBERS BE EXCLUDED FROM THE MEETING WHILST THE COMMITTEE CONSIDER LEGAL ADVICE TO BE PROVIDED IN CONNECTION WITH THE ABOVE MATTER AND REACHES A DECISION THEREON ON THE GROUNDS THAT IT INVOLVES THE LIKELY DISCLOSURE OF EXEMPT INFORMATION AS DEFINED IN PARAGRAPH 12 OF PART 1 OF SCHEDULE 12(A) OF THE LOCAL GOVERNMENT ACT 1972 (AS AMENDED).

The committee then went on to consider in detail the evidence and legal advice presented.

DECISION

Moved by Alex Watson, seconded by J.T.S. Graham on the basis of the proprietors verbal assurances to the committee today that notwithstanding the previously advertised documentation relating to the establishment of a Swingers Club, the committee will be writing to the proprietor requiring a written undertaking that:-

- (a) it is not now her intention to provide facilities with the intent of facilitating, stimulating or encouraging sexual activities on the premises;
- (b) the premises will operate in accordance with the terms and conditions of the existing planning permission, particularly with regard to the opening hours and access;
- (c) all previous arrangements relating to membership and type of facilities and articles advertised have been cancelled;
- (d) the proprietor will cooperate fully with the planning officers inspections of the premises prior to opening, and subsequently.

If no such undertaking is received, the proprietor is advised that planning permission is required for the change of use of the premises to a sex venue. It is her right to make a planning application to authorise such a proposed use but we would not be minded to invite an application given the location of the premises within a predominantly residential area the expressed concerns of local residents and current Local Plan Policies.

Should the proprietor take the view that the proposed use as a sex establishment falls within the remit of the planning permission granted in 2002 then the appropriate course of action would be to seek a certificate

of lawfulness for the use of the premises as a sex establishment/swingers club.

In the absence of the required undertaking, an application for planning permission, or a certificate of lawfulness, and an intention to open the venue as a sexual establishment the Council will authorise, subject to further legal advice, planning enforcement action by way of either injunctive proceedings and/or Planning Enforcement Notices to prevent a breach of planning control.

The reasons for this decision are that:

- (1) Planning Permission would be required for a change of use of the Kings Head to a Swingers Club or other sex establishment.
- (2) It would be inappropriate by virtue of residential amenity for the Council not to consider the merits of such venture without the submission of a planning application or a certificate of lawfulness, in accordance with the policies contained within the District Local Plan
- (3) This in no way inhibits the opening of the premises as a bona fide hotel open to members of the public without restriction.

It was unanimously

RESOLVED: that:-

- (1) the motion detailed above be agreed;
- (2) it was also noted that there may be details requiring clarification before the Planning Officer writes formally to the Proprietor.

CONCLUSION OF MEETING

The meeting closed at 2.30 p.m.

Chair.