

**THE MINUTES OF THE MEETING OF THE
DEVELOPMENT CONTROL AND REGULATORY PANEL
HELD ON TUESDAY, 14TH OCTOBER, 2008**

Present: Councillor M. Routledge (Chair)
Councillors Mrs. E.M. Connor, A.J. Holmes,
Mrs. J. Maitland, D. Milsom,
D.J. Taylor-Gooby and C. Walker

Objectors: Mrs. Summerbell, Mrs. Symons, Mr. Henry

Applicants: Ms Baldwin, Mr. Drummand, Mr. Grufferty

Applicants
Agents: Mr. Self, Mr. Lynn

Apologies: Councillors B. Quinn, Mrs. M. Baird and R. Davison

1. **THE MINUTES OF THE LAST MEETING** held on 23rd September 2008, a copy 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 AND
CONSERVATIONS AREAS) ACT 1990**

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

**2008/0216 MONK HESLEDEN (BLACKHALLS) - 5 No. Holiday Lodges at
Crimdon Cottage, Coast Road, Blackhall for J. Baldwin**

Consideration was given to the report of the Head of Planning and Building Control Services which recommended refusal as the proposed development would constitute inappropriate development in the countryside. It would have an obtrusive, negative visual impact on the Area of High Landscape Value and the Durham Heritage Coast, and would have adverse impacts on the adjacent SSSI and Nature Reserve designations. The proposal was inappropriate development in the Coastal Zone and would harm the open setting and character of the Grade II Listed Crimdon House Farm. As such the proposed development was considered to be contrary to Policies 1, 3, 7, 9, 15, 16, 24, 35 and 84 of the District of Easington Local Plan.

The Senior Planning Services Officer explained that Members had visited the site that day and were familiar with the location and setting.

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Mrs. Summerbell, an objector, explained that she felt that the proposals were inappropriate as the site was renowned for its SSSI status. The lodges would have an intrusive impact on the countryside and the listed farm. They would be visible from all the surrounding area being situated on a narrow, steep hill. In addition the access road was narrow and did not have any passing places. The farm was a family business and they would not be prepared to allow the construction of passing places on this private farm lane and visitors would need to find an alternative access.

She continued that water pressure may become a problem with the additional five properties and that the location was inappropriate for access by disabled people. Crimdon Caravan Park and riding school had more suitable access arrangements. Mrs Summerbell queried how long the lodges would be let during the year ie would they be rented out on a seasonal basis.

Mr. Lynn, the applicant's agent, responded to the points raised by Mrs Summerbell. He stated that in terms of access to the bungalows, the Highways Authority had not offered any objections nor had it asked for passing places to be provided. The client would arrange for a separate water supply for the lodges and with regard to the letting period, he explained that there was no intention for the properties to become permanent residential accommodation. The units would not be large enough, and a condition could be placed on the planning permission limiting their use as holiday accommodation, together with a stipulation as to how many months of the year they could be occupied, if deemed necessary.

The Senior Planning Services Officer, stated that if Members were minded to approve the application, letting times would be controlled by a condition by way of legal agreement in consultation with the applicants. Ms Baldwin, applicant, stated that it would be her intention to let the properties for ten months of the year if possible, although she would be prepared to operate for the same period as the nearby caravan park.

Mr Lynn continued that the applicant had purchased the cottage and land eighteen months ago. As Members would have observed on the site visit, the cottage was in need of refurbishment. Ms Baldwin had made an initial inquiry to the Planning Department in November last year with proposals to create this business opportunity. The applicant felt that her query had been encouraged at the time, however, after the formal application was made in March 2008, Planning Officers were minded to refuse the application.

The static caravans in the nearby caravan park were also highly visible in the surrounding countryside, and the objections to the proposals because of the SSSI and Nature Reserve designations were contradicted by the comments made by Natural England that although the scheme was close it would not have an impact on wildlife.

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With regard to the comments made about the proximity of the lodges to the listed farmhouse, he advised that they would be sited 18 metres to the west and separated by agricultural land. They were also at a lower level on the private road, and therefore would not be detrimental to the character of the listed building. He pointed out that the farm itself had some derelict farm buildings to the east of the property.

To conclude, he stated that the applicant considered that the proposals would make a positive contribution to the area and the aim was not to visually damage the surrounding countryside but to improve and respect of the quality of the landscape.

Councillor Mrs. Maitland referred to the access road and asked if it belonged to the farm. Mrs. Summerbell confirmed that the farm lane did belong to Crimdon House Farm and whilst the cottage had access, this was not for business purposes. Mr. Lynn clarified that the applicant had right of access for herself, relatives and guests which would include visitors to the lodges.

In response to a question from the Chair, it was noted that right of access was a civil matter and would have to be resolved between the applicants and the landowners. This was not a matter for the Panel to determine.

Councillor Taylor-Gooby referred to the comments of Mr Lynn in relation to the initial inquiry by the applicants to the Planning Officers. The Principal Planning Services Officer explained that the applicant had asked for informal advice initially, prior to submitting a formal application. This was not unusual and any informal advice given was without prejudice and before consultations had been made with any of the statutory and non-statutory consultees. The information contained within the report was obtained during the formal application process, not from the initial inquiry.

Councillor Holmes stated that this was a working farm and he was concerned that there may be access problems caused by vehicles parked at the lodges, particularly at those times of the year when the farmers were exceptionally busy. He was also concerned that it may cause problems for emergency vehicles. Ms Baldwin explained that the plans submitted provided for parking bays and that there was adequate space for vehicles to turn around.

C. Hughes, a member of the public, asked what would happen if the holiday lodge business failed and the properties came into disrepair. G. Folley explained that if this was the case and the applicant wished to change the use of the properties, application would have to be made to the Council. Enforcement powers were available to tackle derelict or unsightly properties.

Councillor Taylor-Gooby commented that he considered that the application may benefit tourism in the area, and that he felt that the applicants had received confusing advice from Planning Officers.

RESOLVED that the application be refused.

COUNCILLOR C WALKER REJOINED THE MEETING

2008/0357

THORNLEY (THORNLEY AND WHEATLEY HILL) - Residential Extension to Create Extended Living Areas and Garage to include Change of Use of Agricultural Access to Domestic Residential Access at Unit 2 Thornley Moor Farm, Cassop for Haswell Moor Developments

Prior to consideration of the application, the Head of Planning and Building Control Services, provided a background to the planning history of the site which was also the subject of a complaint to the Local Government Ombudsman. This remained unresolved and part of the Ombudsman's investigation was to examine how access had been dealt with as part of the original planning application.

In response to a query from Councillor Mrs Maitland, he assured Members that consideration of this application would not be in conflict with the ongoing Ombudsman complaint, and that it would be appropriate for the Panel to determine the application before them.

Consideration was given to the report which recommended approval, subject to the completion of a Section 106 Agreement relating to the use of the access roads, and subject to conditions; materials to match, removal of unauthorised section of road and delegated authority to be given to the Head of Planning and Building Control Services to issue the decision on satisfactory completion of the Section 106 Agreement.

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

He explained that since the report had been prepared, a further letter had been received which raised objections to the scheme. These objections related to the residential extension to Unit 2, the access roads, the proposed S106 Agreement and the extended garage bays.

The Officer summarised the objections and provided a response as follows:-

Mrs Symons questioned the need for the proposed extension to Unit 2, stating that the original planning application was based on plans which ensured that there would be adequate living space. However, the applicant failed to adhere to the original planning permission which required Unit 2 and the attached single storey dwelling to be split by an internal dividing wall that was to be located centrally between both units. The applicant actually built this wall off-set thereby increasing the size of the first single storey dwelling and reducing the size of Unit 2.

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Mrs Symons argued that it was an abuse of the planning system when the applicant was trying to increase the size of the original permission and both units by way of an extension, especially when the proposed extension would be an entirely new built structure projecting into the open countryside.

In response, the Officer stated that whether or not an internal wall had been erected incorrectly was not the issue in determining the application. The proposed extension to Unit 2 had been submitted on its own merits as a new build extension with regard to policies 35 and 73 of the Local Plan.

Mrs Symon's second objection related to the access roads. She questioned the need for the road when the amended plans for the proposed extension no longer included a garage. Should this new access road be constructed she considered that it would have a detrimental effect upon the residential amenity of the adjacent occupants as a result of excessive light pollution by car headlights and illumination of the roadway. She also argued that the amended plans were confused, and that it was not clear what was being applied for. It was suggested that the application should not be determined whilst uncertainty remained.

The Senior Planning Services Officer responded that the need for the access roads was not a planning consideration and for the reasons outlined in the report the roads were considered acceptable. In terms of light pollution it was considered that any effect would be mitigated by landscaping works yet to be completed. Any effect on adjacent occupants would be insufficient to recommend refusal of the application. With regard to the comments that the submitted plans were confused, he advised that the Planning Officers were satisfied with the submitted information and considered that the application could be progressed.

The third objection concerned the Council's proposed use of a S106 Agreement. Mrs Symons did not consider that this would solve the problems as such an agreement could be discharged after 5 years. It was also argued that a S106 Agreement could not be used once a condition had been imposed relating to the same issue. In addition a legal agreement requiring all traffic associated with the residential scheme to use the new access road would not be sufficient to overcome the problems experienced and that any agreement would need to ensure that all access rights passing the neighbouring property were removed.

In response the Officer stated that it was correct that a S106 Agreement could be challenged or amended after 5 years but this process would require the consent of the Council. The Planning Officers were satisfied that a S106 Agreement could be used in this case.

Fourthly, Mrs Symons objected to the extended garage bays. She questioned the need for the additional bay stating that 7

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garages along with parking bays was excessive for this type of development. This large number of vehicle spaces would cause further disturbance by way of noise and light pollution. She was also concerned that the extended garage block could be readily converted to form an additional dwelling.

The Officer responded that need was not a planning consideration and the application had been assessed against relevant policies. Any possible conversions would have to be the subject of a future application to the Council.

By way of clarification, the Principal Planning Services Officer explained what a Section 106 Agreement would seek to achieve. It would not incur financial payment as in the case of recreational provision and it would be a legal agreement with the applicants relating to restrictions and controls over access arrangements. There had been a question about enforceability of the planning conditions relating to provision and use of the new main access road serving the development.

A suitably drafted legal agreement would help to clarify the situation and ensure the transfer of all traffic associated with the residential development to the new road and away from the original access road that ran past the old farmhouse. This could be a joint agreement or a unilateral undertaking offered by the applicants but it would have to be acceptable to the Council.

To clarify a number of points about the agreement, although not a completely definitive list, the Council would wish to incorporate the following points:

Agreement would relate to the whole of the development and not just Unit 2;

Agreement would prevent use of the original access road by all users of the residential development including visitors, any associated construction traffic, utilities and other service vehicles, the developers and applicants and any successors in title or future occupiers;

It should allow the use of the new road by previous users of the original road;

it should provide for proper reinstatement of all partially built roads that were not part of any planning permission.

Mrs. Symons, objector, referred to the plans incorporated within the report and was concerned that it also included the access which was the subject of a later application on the agenda.

She stated that ever since the development commenced all the traffic had passed within one metre of her property. Over the last 18 months she had put up with abusive behaviour, gates being persistently left open, grease had been coated on the gates, and locks superglued. This had caused problems for

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livestock. If this application was approved her property would be subjected to even more traffic. She also reiterated that parking was over and above the amount for a standard residential development. She wanted to enjoy life in the countryside without it affecting her residential amenity.

Mr. Henry, or behalf of Mrs Symons, referred to the Section 106 Agreement stating that when the original application had been granted the two conditions had been that the driveway would be moved to the west of the site and that the works would not commence until the access had been sorted. These two conditions had not been adhered to and had therefore failed to protect Mrs Symon's residential amenity. In addition no attempt been made to enforce the conditions by a Planning Officer.

The applicants had purchased the site from Olivers, the original owners, who had insisted on using their private rights to drive past the neighbouring property. The current applicant did not own either access. He considered that the S106 Agreement would only be appropriate for this application if Officers could demonstrate how these problems would be overcome. In addition, he concurred with the Planning Officer that any agreement shouldn't just apply to the occupiers but to all traffic.

To conclude, he asked that any legal agreement be drawn up in 'public' with all parties to ensure that it would be enforceable.

Mr. Self, the applicant's agent, stated that Mrs. Symons wanted the Panel to agree a solution that would preserve her residential amenity. He considered that a Section 106 Agreement would achieve this, ensuring that the new access road was used, and which would constitute a planning breach if not complied with. The Agreement, as proposed and described, was in accordance with the law and was appropriate because it had not been a condition in the original planning consent. The applicants were now prepared voluntarily to agree to this proposal which would take all traffic away from Mrs Symon's property.

He continued that there had been no objections to the development in planning terms and Mrs Symon's objections in relation to 'need' was not a planning consideration.

With regard to light pollution he stated that the road was in excess of 100 metres from the farm and would be screened by vegetation, buildings and the proposed landscaping scheme.

To conclude, he stated that the proposal produced a solution to the protection of Mrs Symon's residential amenity which he considered would be materially improved as a result of the Agreement.

With regard to the S106 Agreement the Principal Planning Services Officer added that legal advice sought had confirmed that such an Agreement was a reasonable way to proceed and

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that it would be fully endorsed by the Council to ensure that it would achieve what was required.

Councillor Taylor-Gooby referred to the Section 106 Agreement and asked how this would be enforced in case of breach. A Dobie explained that if there was any breach of the agreement it would be enforced following complaints from residents or through monitoring by Planning Officers. G Reed added that part of the process included the realignment of the bridleway, and as the responsible authority, Durham County Council could take enforcement action if necessary.

Mr Self stated that in case of breach of the Agreement notice could be served on occupiers of the properties and/or the driver.

A Councillor asked how many car parking spaces were provided on site and the Officer advised that if the application was approved there would be 7 garages with approximately 3 additional parking spaces adjacent to the turning head and 3 at the two storey dwellings to the north of the site. There were also areas of hardstanding which were subject to discussion in relation to a landscaping scheme.

Councillor Mrs Maitland asked who would maintain the access road and it was noted that the owners of the three properties would be responsible for maintenance.

RESOLVED that the application be approved, subject to the completion of a S106 Agreement relating to the use of the access roads, and subject to the following conditions:-

materials to match;
removal of unauthorised section of road;
the Head of Planning and Building Control Services be granted delegated authority to issue the decision on satisfactory completion of the S106 Agreement

2008/0479

THORNLEY (THORNLEY AND WHEATLEY HILL) – Second Vehicular Access at Thornley Moor Farm, Cassop for Haswell Moor Developments

Following the approval of the preceding application numbered 2008/0357, this planning application was withdrawn by the applicants.

2008/0554

MONK HESLEDEN (BLACKHALLS) – Relocation of Dwelling at Evergreen Park, Coast Road, Crimdon for Mr R Drummond

Consideration was given to the report of the Head of Planning and Building Control Services which recommended refusal of the application as the proposal represented residential development in a prominent location within the countryside, outside the existing settlement boundaries and on a greenfield site. In the absence of any agricultural or similar justification of need, the proposal was considered to be contrary to Policies 1

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and 3 of the District of Easington Local Plan, and Planning Policy Statements 3 and 7.

The Principal Planning Services Officer explained that Members had visited the site that day and were familiar with the location and setting.

Mr Drummond, the applicant stated that Evergreen Park was not a caravan park but could be better described as a retirement park for the over 50s. His reasons for relocating 15 metres outside the boundary of the site was in view of his son's mental health and the severe impact this had on himself, his close family and residents. His son's condition had deteriorated and health professionals had advised that he would benefit from living in more tranquil surroundings. He was unsettled by the daily comings and goings, and would usually retreat to the application site, when he would become visibly less stressed. In addition his unusual behaviour could also alarm and disturb residents of the Park. Mr Drummond briefly explained certain aspects of his son's behaviour to Members.

To conclude, he asked Members to consider the application taking into account his son's health and the quality of life of other people within the retirement park.

Councillor Mrs Maitland asked Mr Drummond if the structures on the site were stables. Mr Drummond confirmed that they owned three horses and the buildings on site were stables. These were not fixed structures. It was also noted that there were two containers on site which stored equipment from a former business and would not be there long term. The Planning Officer confirmed that there were no records of structures on the site with planning permissions.

In response to a further question, Mr Drummond advised that there was no access to the site other than through the retirement park.

In response to a question in relation to the height of the building proposed, the Principal Planning Services Officer explained that the recommendation for refusal was based upon the visible presence of a building in a prominent location in the countryside, outside the existing settlement boundary, not the type of dwelling proposed.

Councillor Walker referred to the existing planning permission granted for a dormer bungalow within the site, and how this would be affected if Members were minded to approve the application.

The Officer explained that in planning terms there were no problems with the planning permission already in place for the family home on the site, and that this particular application needed to be considered as a stand alone development.

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In response to further questions he explained that the Council was only required to refer applications to the Secretary of State if they were a major departure from the Development Plan. As a minor departure this application could be considered by the Panel without referral to the Secretary of State.

It would also be feasible to impose a condition that any building on this site was tied in with the management and use of the park.

Mr Drummond added that if the application was approved he would be willing to relinquish the original planning permission granted for a dormer bungalow within the grounds of the park. At the request of Members, the Officer advised that he would explore the possibility of a legal agreement to revoke the original application.

RESOLVED that in view of the exceptional circumstances, in order to protect the quality of life of the applicant, his family and the residents of the retirement park, and for the continuation of the business, the application be approved, subject to a condition that the property be tied into the management and use of Evergreen Park.

2008/0567

SEAHAM (SEAHAM NORTH) – Variation of Condition No 2 attached to Planning Permission PLAN/2007/0831 to alter the hours of opening at 56 Ambleside Avenue, Seaham for Mr M Grufferty

Consideration was given to the report of the Head of Planning and Building Control Services which recommended refusal of the application as the proposed variation of condition to extend opening hours would result in an increased loss of amenity to surrounding occupiers in terms of noise, disturbance and odour. In view of this the proposal was considered to be contrary to Policies 1, 35 and 111 of the District of Easington Local Plan.

The Principal Planning Services Officer explained that Members had visited the site that day, and were familiar with the location and setting.

The Officer explained that since the report had been prepared written objections had been received from Seaham Town Council. These were as follows:-

The Town Council referred to the current planning condition attached to the opening hours of these premises, stating that the fact that this condition existed currently allowed occasional opportunities for local residents to avoid the kind of problems and disruption which were occurring on a regular basis by the operation of the hot food takeaway at these premises. If the opening hours were extended it was the Town Council's contention that these problems would increase considerably to a point where they would cause immense nuisance and inconvenience to local residents.

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Residents living in this locality were entitled to some occasions when these premises would not operate. During opening hours there was frequently a lot of noise with the opening and closing of car doors, customers congregating around the premises and discarding of litter. These circumstances disturbed the peace and tranquility and normal domestic circumstances of local people who lived in the properties nearby. If the opening hours were extended then there would be even more disruption for local residents and it was neither appropriate nor reasonable to allow this to happen.

Mr Grufferty, the applicant referred to Policy 111 stating that this referred to applications for change of use not opening hours. With regard to concerns expressed in relation to noise and disturbance he advised that if this had been a problem there would have been Police reports, and he was not aware that there had been any.

He also stated that the Highways Authority had not made any objections to the application. In relation to odours, the Council's Environmental Health Officer had examined the premises and he had not been advised of any problems.

He continued that approximately 75% of the business was takeaway and he provided a delivery service. His main sales were of pizzas which tended to be eaten by customers at home rather than outside in the street. He was a local employer and had two full time staff. The fish shop next door currently opened on Tuesday evenings and six afternoons per week, and he had only asked for one extra hour at night. The lunchtime openings proposed were the same as the fish shop.

Since the original application was approved which limited opening times to six nights, he had found that he would need the extra hours for his business to survive. In addition the fish shop had started selling pizzas which caused further problems for his struggling business.

The Principal Planning Services Officer advised that whilst he had sympathy with the applicant, when the Panel approved the application for change of use to hot food takeaway, Planning Officers had been against the proposal because of noise and disturbance, and the impact on the amenity of residents. He explained that these views remain unchanged. The extra hours would attract more people to the site and there had been three objections made concerning problems of anti-social behaviour, traffic and litter.

Whilst the Highways Authority and the Environmental Health Officer had not objected to the application, Planning Officers were concerned about noise and disturbance.

By way of clarification, he explained that Policy 111 was a general policy which related to hot food takeaways, specifically for this application the principle of hot food takeaways situated adjacent to residential properties.

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Councillor Mrs Maitland stated that the application for change of use had been refused previously and that when the Panel considered the application in January 2008 it had been approved with a condition limiting the hours of opening to those currently operated.

Councillor Taylor-Gooby added that he was concerned about the opening of fast food shops at lunchtimes near to schools.

RESOLVED that the application be refused.

3 TREE PRESERVATION ORDER – DAIRY FARM, LITTLETHORPE

Consideration was given to the report of the Head of Planning and Building Control Services which sought approval to the formalising of a temporary Tree Preservation Order (TPO) made on 15 July 2008 (The District Council of Easington (Dairy Farm, Littlethorpe) Tree Preservation Order 2008), prior to its submission to the full Council for confirmation.

The Principal Planning Services Officer explained that over the last three years planning permissions had been granted for the development of land at the former dairy farm for 6 no detached houses with access road and landscaping.

Before the temporary order was made representations had been made to the Council by concerned local residents at the time the planning applications were granted, and it was then thought appropriate that a TPO should be considered.

A draft order was issued on 15 July 2008, and no responses had been received from the residents who were notified, within the timescale allowed. The views of the Council's Countryside Officer were sought and he responded that there had been several requests from adjacent properties with regard to the amenity value that the trees offered to the local community of Littlethorpe and that there were a number of semi-mature/mature species especially along the main access road which should be protected.

There was also a bat roost within the village and that the bats would utilise the tree canopies for foraging especially with the sycamore trees and their associated important insect population.

There were also several public footpaths from this area of Littlethorpe that were used by the local population heading north to Easington and the trees contributed significantly to the amenity value of the local landscape. The wide range of mixed species provided the local area and wildlife with a habitat that enhanced the locality.

To conclude, the Principal Planning Services Officer stated that a Tree Preservation Order did not stipulate that no works to trees could ever be carried out but it did require anybody who wished to carry out any works to submit a formal application. This gave the Council greater control over trees that were considered to provide significant visual amenity.

RESOLVED that the Panel be minded to agree to a permanent TPO, and The District of Easington (Dairy Farm, Littlethorpe) Tree Preservation Order 2008 be referred to District Council for confirmation.

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