

## **THE DISTRICT COUNCIL OF CHESTER-LE-STREET**

Report of the meeting of Planning Committee held in the Council Chamber, Civic Centre, Newcastle Road, Chester-le-Street, Co Durham, DH3 3UT on Monday 10 December 2007 at 6.00 pm.

### PRESENT:

Councillor G K Davidson (Chairman)

### Councillors:

R Harrison	M D May
L E W Brown	P B Nathan
P Ellis	M Sekowski
D M Holding	A Turner
W Laverick	F Wilkinson

### Officers:

S Reed (Development and Building Control Manager), D Chong (Planning Enforcement Officer), L Howley (Acting Team Leader, Environmental Health), J Bradley (Assistant Solicitor), L Willis (Senior Legal Assistant) and D Allinson (Democratic Services Assistant)

Also in Attendance: There were 48 members of the public in attendance.

#### **44. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors T H Harland, A Humes, K Potts and D L Robson.

#### **45. MINUTES OF MEETING HELD 12 NOVEMBER 2007**

RESOLVED: "That the Minutes of the proceedings of the Meeting of the Committee held 12 November 2007, copies of which had previously been circulated to each Member, be confirmed as being a correct record, subject to minute no. 43 (C) in relation to the declaration of interest be changed to Councillor M D May"

The Chairman proceeded to sign the minutes.

#### **46. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS**

Councillor D Holding declared a personal interest in relation to Item No. 1 of the Planning Matters report as the applicant was a neighbour. He proposed to remain in the meeting but take no part in the discussion or decision on this application.

Councillor W Laverick declared a personal and prejudicial interest in Item No. 2 of the Planning Matters report, as he would be speaking as an objector to this application. He proposed to leave the meeting and return once a decision had been made.

Councillor M D May declared a personal and prejudicial interest in Item No. 3 of the planning matters report as her husband is a Councillor representing the Ward of the application and had raised objections to the scheme. She proposed to leave the meeting and return once a decision had been made.

#### **47. CONFIRMATION OF SPEAKERS**

The Chairman referred to the list of speakers and confirmed their attendance.

#### **48. PLANNING MATTERS**

A report from the Development and Building Control Manager was considered, copies of which had previously been circulated to each Member.

The Chairman requested that the order of business be changed in accordance with rule 12 (c). Members voted on, motion without notice.

It was agreed to a motion without notice under Rule 12 (o) under Rule 24 to suspend public speaking Rule 9 - 11 for Item No. 3 on a simple majority vote to allow all objectors and applicants to be able to speak.

**At this point Councillor M May declared an interest for the reason set out in Minute No.46 and left the meeting.**

#### **(A) District Matters Recommended Approval**

**(3) Proposal: Construction of industrial / warehouse facility with ancillary offices, yards, car and trailer parking. Ancillary vehicle maintenance building, energy centre, dekit area, gatehouse, substation, fuel area, vehicle wash area. Site enclosed by perimeter fencing and landscaping scheme.**

**Location: Phase 1, Land at Drum Road, Chester-le-Street**

**Applicant: Mr Edward Harper – Reference 07/00165/FUL**

**The Development and Building Control Manager referred to photographs in relation to this proposal, which were displayed for Members information.**

The Development and Building Control Manager updated Members on the application and advised that two copies of late representations had been circulated to Members at the Meeting, one from Fairhursts and an acoustic

report commissioned by Mrs Peart, one of the speakers. He advised that he was confident that all the issues raised in the letters had been fully assessed by Officers before the report was prepared. He did however make reference to the issue regarding how the development complied with national and local planning policy relating to Green Belts. He reminded Members that Local Plan policy required that development which was conspicuous from the Green Belt should not be allowed where it would be detrimental to the visual amenity of the Green Belt.

In this respect he advised Members that whilst the site was not located within the Green Belt, it was situated in close proximity to it, in particular to the north and west. However Officers were satisfied that the development would not adversely affect the visual amenity of the Green Belt, a fact he considered was demonstrated by the photographic view points Members had been provided with.

He also updated Members in relation to comments submitted by Councillor P H May as follows:

- That he had studied the application and whilst he appreciates that the land is part of a local employment site he considers that development should not be allowed to proceed which may be to the detriment of local residents.
- He finds it hard to comprehend some of the comments made in the report in particular the stated view of the Highways Agency in Leeds in relation to the contended minimal impact the development would have on the A1.
- He feels there is real concern as to the additional impact this development would have on the network of the local roads in and around Drum Industrial Estate.
- He requests that the conditions that had been applied to the previous grants of planning permission to Gladman Developments for development on Drum should be brought forward onto this application to require the roundabout off the A693 and the improvements to the roundabout at Northlands to be phased in such a manner that those improvements are in place prior to the completion of this application tonight.
- He points out that the existing developments are visible from residential property in Kingsmere and Wear Lodge and indeed on a wider level perimeter from North Road.
- He requests that Members defer this application tonight in order to allow some visual material to be prepared by the applicant along the same lines that was apparently undertaken a number of years ago when there was a planning application in for a mobile phone mast at the nearby Greyhound Stadium site. On that occasion the developers erected some temporary poles on the development site to give Members a true appreciation of the height.
- In summary, Councillor May advised that he was unable to support the application as it presently stood.

The Development and Building Control Manager referred to page 17 and advised of an error in the report that had been pointed out by the developers in relation to measurements of the height of this development in comparison to the development granted planning permission at the Planning Committee in June last year. He advised that the report stated that there was a reduction in height between 1 and 1.5metres, however the drop in height was actually approximately 2.5metres in comparison to the earlier application.

**Councillor J Shiell, Mr Abercrombie, Mrs Peat, Mr Watson, Mrs Walton (objectors) and Mr Jackson (on behalf of the North Eastern Co-Op) spoke in relation to the application.**

The Development and Building Control Manager spoke in response to some of the comments raised by both the objectors and the applicants. In response to the concerns expressed by Councillor Shiell on vehicular movements he advised that Officers had instructed the applicants to prepare a transport assessment to analyse the likely additional congestion in the Local Highway network as well as the A1 as part of this application.

He assured Members that the transport assessment had been compiled in accordance with relevant statutory advice and of more importance it had been accepted by the County Council as Local Highways Authority and the Highways Agency in Leeds.

In relation to Mr Abercrombie's comments, the Development and Building Control Manager advised that he had correctly pointed out that this was a new planning application and not a minor amendment to the earlier scheme. Therefore he advised it was appropriate to look at this application afresh although only in terms of the material increases between the extant approval and what was applied for now. He advised that he did agree with Mr Jackson that the present live grant of planning permission on this site was a material planning consideration that Members had to take into account.

He also confirmed that the site was also allocated for employment generating uses in the Local Plan and that the allocation had been saved as part of the changes to the planning policy system in September this year.

He also felt it was relevant to point out that this application was for a warehouse storage development use class B8 and that there may be a view that out of the three types of uses that would be permissible on this site under the relevant Local Plan policy, that a B8 use could be held to be the best type of development, in comparison to a B1 or B2 use. A B1 use would be likely to generate additional vehicular movements, whilst a B2 use would be likely to give rise to greater amenity problems to surrounding residents.

In relation to the issues raised by Mr Abercrombie and Mrs Peat to the desirability of the developers engaging with the community at the pre-application stage, the Development and Building Control Manager advised that he could only agree, as the applicant had not carried out any pre-

application discussion. However this was not a reason to refuse the application.

In response to the comments made in relation to the acoustic report, he advised that the Council's Environmental Health Manager was available in the Meeting to answer any technical points on this. He felt it was relevant to point out that this planning application had been with Officers since April 2007 and the reason for that delay was largely so that all matters in relation to acoustics and impact on the Highway network were thoroughly assessed before a report was presented to Members.

Although he was satisfied that the conditions were precise and enforceable he proposed an additional condition in light of the comments made by Mr Jackson. He proposed that the extra condition be that the developer had to submit a monitoring record to the Local Planning Authority to demonstrate the amount of trips and hook ups and other matters which are specified by the conditions.

Councillor Holding sought clarification on the operational reasons as set out on page 15 of the report.

The applicant's agent explained that there were effectively two issues for consideration, which were the actual orientation of the building in terms of the solar pattern and the need to install the chillers in a certain location in order to minimise electricity and running costs. He advised that if the proposal were positioned in a different way then the storage internally would need higher levels of electricity to power it. He advised that there were specifics on this site so that vehicles moved around the building in a properly efficient manner during peak times when they are operational and that they had tried running it the other way, however this did not work for them.

Councillor Holding sought clarification in relation to the wording of a sentence at the bottom of page 17 under public right of way. The Development and Building Control Manager explained that it was appropriate to make sure that a replacement right of way could be provided east west through the site to retain the level of amenity which people will get from using the existing right of way.

Councillor Sekowski referred to the adverse effects the proposal could have on TV reception problems and the works considered to address this matter. The Development and Building Control Manager advised that he had spoken to the applicants on this matter who advised that on other developments they had been required to provide some mitigation to improve signal that had been lost as part of the development.

Councillor Sekowski referred to the visual aspects of the building and queried how effective the embankment would be in terms of reducing noise.

The Development and Building Control Manager advised that in relation to the visual aspect he was satisfied that the development would have little form of

visibility from the rear of the properties along Kingsmere. In terms of the acoustic part of it he referred to his colleague Mr Howley from the Environmental Health Team to provide further comment.

The Environmental Health Manager explained that the barrier did provide significant attenuation and that noise would drop off naturally the further away you were from it. He stressed to Members that the height of the building above ground level was a very important factor to get the maximum use of that barrier. He drew Members attention to Extra Condition number 9 in the report, which if the application were approved would help to ensure that the development did not give rise to amenity problems to nearby noise by way of increased noise.

Councillor Nathan expressed concerns in relation to the late notification given to the objectors about this meeting.

The Development and Building Control Manager advised that his team do endeavour to inform both the applicants, agents and objectors approximately five days before Committee, which did not occur here.

However he stressed that Officers were not required in statute to send the letters out and that this was done as voluntary extra level to the service. He also advised that the Committee report had been made available five clear days before the Committee in line with the requirements of the Access to Information Act under section 100(B)(3) of the Local Government Act 1972 and published on the web-site. He therefore confirmed that Officers had complied with the Law in relation to notification procedures.

Councillor Nathan sought advice from the Legal Officer in terms of the legal obligations. The Assistant Solicitor advised that in all Committee Meetings natural justice had to apply and we also have to make sure that both parties get the chance in equal opportunities to comment and have time to prepare. She advised that at this meeting we had suspended the procedure rules in order to allow people to have a fair chance to speak and say what they needed to say. In terms of bringing in information to the Committee today and the applicant/objectors were given until 12noon today to submit any supporting documentation.

Councillor Nathan also expressed concern that documentation had been circulated at the Meeting and because of the number of factors involved including the uncertainty if there had been an equal opportunity to present their case he felt that this application should be deferred. He felt by deferring this proposal it might allow time for residents to meet with the Co-op and the other developers to express concerns and try and resolve issues.

The Chairman gave Members time to digest the information that had been circulated at the Meeting.

The Development and Building Control Manager referred to the two late letters that had been circulated at the Meeting and advised that he was

satisfied that the substantive issues raised in the letters were also considered in the Committee report. He advised that if there were any new material considerations raised then it may well have been that Officers would have requested a deferral tonight, however he was confident that this was not the case.

Councillor Nathan sought further clarification on the status of the revised noise assessment. The Development and Building Control Manager advised that this was an acoustic report, which had been commissioned by the objector Mrs Peat that had been considered by both our Environmental Health Officers and our acoustic consultants. He was satisfied that all issues raised in that objection had been adequately considered.

Members raised their concerns in relation to the noise issue and sought clarification on what powers Environmental Health had to take action if necessary. The Environmental Health Manager advised that this development would be subject to the provisions of the Environmental Protection Act 1990 Section 79 and 80 which deals with statutory nuisance. He advised that if the business was held to be causing a statutory nuisance they had enforcement and prosecution power to remediate that situation subject to the business using a defence that they had used “the best available technique” to control the noise.

Members commented on the fact that this estate had been designated for an employment area and there was already background noise in existence from the main road and the railway. Members queried whether the background noise from the East Coast Mainline had been taken into account within the report.

The applicant’s agent confirmed that the predictions in the assessment were based upon measurements that were taken at existing Co-op premises for their operational noise levels and that they had applied those to the noise impact assessment which was presented within the document. In relation to the East Coast Mainline he advised that this noise could not be compared and had not been assessed in this documentation.

Following debate of the comments raised by Members, Councillor Harrison proposed to move the Officer’s recommendation of conditional approval. This was subject to the additional extra condition to require the submission of the relevant monitoring reports to Officers. Councillor Wilkinson seconded this proposal. It was agreed that this proposal be carried.

**RESOLVED:** “That the recommendation of the Development and Building Control Manager for approval in respect of the application be agreed, subject to the following conditions.”

01A - The development must be begun not later than the expiration of three years from the date of this permission, in order to prevent the accumulation of unused planning permissions as required by Section 91 of the Town and Country Planning Act 1990 (as amended).

02C - Notwithstanding any description of the materials in the application, no development shall be commenced until samples or precise details of the materials to be used in the construction of the external walls and / or roofs of the building(s) have been submitted to, approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy IN3; of the Chester-le-Street District Local Plan.

01B - The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

Extra 1 Reversing alarms shall be broad band with minimum allowable noise level, details of which shall first be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby approved, in order to ensure the development will not give rise to amenity problems to nearby residents

Extra 2 The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site, and which scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of screen fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to shall be carried out within the first planting season following completion of development of the site (or of that phase of development in the case of phased development) and shall thereafter be retained for a period of 5 years; in the interests of visual amenity, the satisfactory appearance of the development upon completion and in accordance with the provisions of Policy IN3 of the Chester-le-Street District Local Plan.

Extra 3 Full details of all means of enclosure of the site, including any internal means of enclosure to sub-divide individual plots, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of construction in order to ensure the satisfactory appearance of the development and to accord with the aims of Policy IN3 of the Chester-le-Street Local Plan.

Extra 4 Notwithstanding the details shown on the hereby approved plans and elevations, and the provisions of Part 8 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) there shall be no amplified noise systems attached to the external elevations of the

hereby approved building, in order to ensure the development protects the amenities of nearby residents.

Extra 5 Details of any external lighting to be attached to the building hereby approved shall be submitted to and approved in writing by the local planning authority prior to the building being bought into use, in order to ensure the development protects the amenities of nearby residents.

Extra 6 Notwithstanding the provisions of Part 8 the Town and Country Planning (General Permitted Development) Order 1995 (as amended) there shall be no extensions or alterations to the hereby approved building, in order to ensure the development protects the amenities of nearby residents.

Extra 7 All surface water discharges associated with the development hereby approved shall be to surface water sewerage systems, details of which shall first be agreed in writing prior to the commencement of the development hereby approved, in order to ensure the development does not give rise to flooding concerns in the locality.

Extra 8 A scheme for the installation of replacement habitat features, to include bird boxes, shall be submitted to and agreed in writing within 2 months of the occupation of the development hereby approved. Thereafter the agreed measures shall be implemented on site within 6 months of the date of approval and shall be retained in perpetuity, in order to ensure the development militates against any potential harm to protected species.

Extra 9 The proposed floor levels shall be implemented on site wholly in accordance with the details contained in the application hereby approved, in order to ensure the development does not give rise to amenity problems to nearby residents by way of increased noise pollution or visual intrusion.

Extra 10 Prior to the commencement of development hereby approved a scheme to minimise energy consumption that achieves a minimum 10% reduction in energy consumption shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the approved scheme. In order to minimise energy consumption and to comply with the aims of the emerging Regional Spatial Strategy, Planning Policy Statements 1 and 3 and Local Plan Policy NE1.

Extra 11 Prior to the commencement of the construction hereby approved a scheme to demonstrate compliance with the aims of the Building Research Establishments Environmental Assessment Method shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the approved scheme. In order to provide for a sustainable form of development and to comply with the aims of the emerging Regional Spatial Strategy, Planning Policy Statement 1 and Local Plan Policy NE1.

Extra 12 Operations in relation to the construction phase of the development hereby approved shall not be carried out outside of the following hours:-

Monday to Friday - 0730 to 1800

Saturdays - 0900 to 1300

Sundays - No working

Bank Holidays - No working

in the interests of residential amenity and the avoidance of any potential disturbance or disruption to adjoining residents which may have arisen though working outside these hours and to accord with the aims of Policy NE 1 of the Local Plan.

Extra 13 Prior to the commencement of construction of the development hereby approved, the applicant shall commission a television reception study to assess the potential for the development to affect television reception in the locality. Thereafter any recommendations arising from this report shall be implemented in full prior to the occupation of the unit, in order to ensure the development does not adversely affect television reception in the locality.

Extra 14 The development hereby permitted shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 until arrangements have been made to secure the provision of adequate public artwork provision within the locality in accordance with a detailed scheme, which has first been submitted to and approved in writing by the Local Planning Authority. In order to ensure the development makes adequate provision for recreational and open space facilities and to comply with the aims of Policy BE 2 of the Local Plan.

Extra 15 There shall be no open storage of materials within the application site, unless in areas otherwise first agreed in writing with the Local Planning Authority, in order to ensure the development does not give rise to amenity problems and to accord with the aims of Policy IN3 of the Local Plan.

Extra 16 Within 6 months of the occupation of the unit hereby approved a final travel plan shall be submitted for approval, in order to ensure the development encourages sustainable forms of travel and to accord with the aims of PPG 13 and Policy T15 of the Chester- le- Street Local Plan 2003.

Extra 17 Notwithstanding the details contained in the application hereby approved a scheme for the installation of cycle stands shall be submitted to and approved in writing prior to the occupation of the unit. Thereafter the approved cycle stands shall be implemented on site and retained in perpetuity for the lifetime of the development, in order to ensure the development promotes interests of sustainable transport and to comply with the aims of PPG 13 and Policy T15 of the Chester- le- Street Local Plan 2003.

Extra 18 Sound power levels from installed plant, vehicle maintenance unit compressors, energy centre plant, roof mounted condensers, vehicle wash and similar shall not exceed those on which the assessment by the applicants acoustic consultant (Wardell Armstrong) was based, in order to

ensure the development does not adversely affect the amenities of nearby occupiers.

Extra 19 Vehicular operations on site shall not exceed those detailed in the submitted noise assessment that is; 10 per hour 23:00 to 04:00, 20 per hour 04:00 to 05:00, 28 per hour 05:00 to 06:00, 43 per hour 06:00 to 07:00 with 12 per hour average from 07:00 to 23:00, in order to ensure the development will not give rise to amenity problems to nearby residents.

Extra 20 No more than 20 units may load or unload simultaneously, in order to ensure the development will not give rise to amenity problems to nearby residents.

Extra 21 No more than 60 refrigeration units should utilise electrical hook up facilities at any time and no more than eight refrigeration units should utilise diesel power for maintenance of refrigeration systems at any one time in order to ensure the development will not give rise to amenity problems to nearby residents.

Extra 22 Stationary trailers awaiting drivers must be on electrical hook up to maintain their refrigeration systems with the exception of eight vehicles at any one time, and as specified under condition 21 of this permission, use of diesel engines for refrigeration systems should be restricted to trailers in the process of coupling or uncoupling or transiting the site, in order to ensure the development will not give rise to amenity problems to nearby residents.

Extra 23 A scheme to enforce a site speed limit of 15 km/h shall be submitted to and approved in writing by the Local Planning Authority, prior to the occupation of the development hereby approved, in order to ensure the development will not give rise to amenity problems to nearby residents.

Extra 24 The vehicle maintenance unit shall operate with its doors shut apart from when required to allow for the access and egress of vehicles, in order to ensure the development will not give rise to amenity problems to nearby residents.

Extra 25 No testing of vehicle horns or other alarms shall be carried out on site, in order to ensure the development will not give rise to amenity problems to nearby residents.

Following the bringing into use of the development hereby approved the applicant (and/or site operator) shall thereafter submit detailed reports to the Local Planning Authority, on a quarterly basis, and in addition within 7 working days of receipt of any written request from the Local Planning Authority, to provide details of the number of instances of activities as controlled by conditions 21,22 and 23 of this planning permission, in order to ensure the site activities are controlled in such a manner to as ensure the development will not give rise to amenity problems to nearby residents.”

**At this point Councillor M May returned to the Meeting.**

**(B) District Matters recommended Conditional Approval - Refused**

- (7) Proposal: Proposed erection of 1 no dormer bungalow and detached garage**
- Location: Land to The West of The Poplars Arcadia Avenue Chester-le-Street Durham**
- Applicant: Mr & Mrs Fletcher – Reference 07/00497/FUL**

Prior to consideration of this item, Councillor Holding proposed that this item be deferred as there had been a letter submitted from a Solicitor stating that the literature received from the objectors was legitimately placed as Officers had circulated the report to Members before the closing date for those objections. He therefore felt that Members should consider deferring this item. Councillor P Ellis seconded this proposal.

Councillor Turner requested that prior to a decision being taken on this proposal the Committee should be given an update on whether anything had developed as a result of these objections.

The Chairman ensured that all Members were in receipt of all relevant correspondence to the proposal.

The Development and Building Control Manager advised that both he and the case officer had appraised the objections, which had arrived since the report had been submitted and confirmed that the recommendation remained the same for conditional approval.

Councillor Harrison put forward a counter proposal that the Committee proceed and consider the application.

The Chairman requested a show of hands on the proposal put forward to defer the application. It was agreed that the application be considered at the meeting.

The Chairman allowed time for Members to digest the information that had been circulated at the Meeting.

**At this point Councillor Holding left the Meeting at 7.40pm.**

The Development and Building Control Manager advised that following a Meeting he had held with two of the objectors and Councillor T Smith on Thursday last week, he had requested that Officers reassess the issue of the detached garage. He advised that the report had made reference to the fact that the garage would be screened by the mature hedging, however the Building Control Officers had advised that digging the foundations for the garage that close to hedging would be likely to require some of the hedging to be removed.

As a result of that the Case Officer had contacted the applicant this morning and made it clear of the intention to change the recommendation to one of approval subject to an extra condition to delete the attached garage. Following that the applicant had contacted Officers to withdraw the element of the application that related to the garage. He confirmed that the application Members had to consider at the Meeting was the dormer bungalow only without the detached garage. Any approval would be subject to an extra condition to refuse the detached garage element of the proposal.

**The Development and Control Manager referred to photographs in relation to the proposal, which were displayed for Members information.**

The Development and Control Manager referred Members to discrepancies within the report on paragraph 2 page 52 in relation to the height of the proposed dwelling, which should have read 6.6metres. He also referred to the sentence on the height of the surrounding properties, which should have read 4.5metres. He advised that because Members had been given the opportunity to view the objections, including the letter received from Kevan Jones MP, he felt it was not necessary for him to read out a summary of them.

**Mr Middlemass and Councillor T Smith, the objectors and Mr Fletcher, the applicant spoke in relation to the application.**

The Development and Building Control Manager advised that it was Members duty to make a decision on the planning merits of the application. He advised that it was not the role of the Committee to pass judgement on some of the allegations made by the speakers in respect to alleged discussion, which may have taken place between the interested parties. He was satisfied that Members had been given the opportunity to take into account relevant planning considerations, including taking into account all letters of objection before they made their decision on this application.

He referred to the comments raised by the speakers in relation to the outline approval that had previously been granted and advised that this did not debar the applicant from putting forward a new planning application for consideration, without seeking to comply with the terms of the previously approved outline.

He spoke in relation to reference made by the speakers on Policy HP9 which requires in particular that new residential development must fit within the visual amenity of the existing area and it must not adversely affect the amenities of nearby residents and that he was satisfied that this was the case with this particular scheme.

Members raised comments and sought clarification on a number of issues in relation to the proposal including the height, the overbearing effect on No.28 and the separation distances.

In response to the comments raised, the Development and Building Control Officer advised that the overbearing effect this proposal would have was a material planning consideration for Members to form their own view on and highlighted the fact that the 12.5 separation distances were not a rule and only a guideline in the Local Plan. He felt that it was not appropriate to apply the 12.5 guideline in this particular case. The reason for this was due to the alignment of the nearest property, relative to the proposed layout.

Councillor Harrison proposed to move the Officer's recommendation of conditional approval without the detached garage. This was seconded by Councillor Laverick. However following a show of hands, the majority of Members were against this proposal and therefore this proposal was overturned. It was therefore agreed that the application be refused on the grounds of the separation distances and the impact of the amenity of the neighbouring property at number 28.

RESOLVED: "That notwithstanding the Officer's recommendation of conditional approval the application be refused for the following reasons.

Extra 1 The proposed dwelling would have an adverse impact upon the residential amenity of the neighbouring property, No 28 Arcadia Avenue and is accordingly considered to be contrary to the provisions of Policy HP9 of the Chester-le-Street Local Plan.

**(C) District Matters Refused**

**Prior to consideration of the following application, the Development and Building Control Manager referred to photographs in relation to the application, which were displayed for Members information.**

**(1) Proposal: Retrospective application to allow glass panels between bay windows instead of previously approved timber panels in application 06/00016/FUL**

**Location: 1 - 4 Chalmers View, Newcastle Road, Chester-le-Street**

**Applicant: McCarrick Construction – Reference 07/00438/FUL**

**Mr McCarrick the applicant spoke in relation to the application.**

Councillor Nathan sought clarification on the comments made by Mr McCarrick on the sequence of events leading to the submission of the application. The Development and Building Control Manager advised that it was the applicant's responsibility to ensure that what they build complies with both the building regulations approval and the planning drawings. He advised that a clear note was stamped up on grants of planning permission and indeed the grants of building control approval certificates to this effect.

In response to the comments raised he advised that the decision on the merits of this application was clearly for Members to decide. He advised Members that there had been no letters of objection received and indeed that letters of support had been forwarded to keep the development as it was, however he stressed the fact that Members needed to make a decision on the basis of the plans that had been submitted.

He referred to the development in the context of the street scene on the Western side of North Road where virtually all properties had hanging tile on the bay windows. He therefore felt this development jars in context of that particular street scene.

Members raised queries in relation to the proposal on the detailed nature of the timber panels and who would be responsible for payment of the remedial work. The Development and Building Control Manager confirmed that the plans submitted showed fluted timber panels the detail of which was set out in the report. In relation to the responsibility for any unauthorised works he advised that any enforcement order that we served on this development would have to be served on the people who have an interest in the land at the time the notice was served and if the property had been sold on that notice would have to be served on the people who owned the land.

Councillor Sekowski advised of concerns that if this proposal was allowed this may set a precedent for other Developers to go against what had been approved on plans.

Councillor Turner advised that because the development had been built differently to what was on the approved plans he proposed to go with the Officer's recommendation of refusal. Councillor Brown seconded this proposal. It was agreed that this proposal be carried.

RESOLVED: "That the recommendation of the Development and Building Control Manager to refuse the application be agreed, and authorisation be granted to take enforcement action to bring about the removal of the glass panels and the insertion of timber panels as a replacement for the following reason.

Extra 1 The glass panels are considered to be of a poor design quality resulting in a development, which is considered to have a negative impact upon the visual amenity of the existing street scene thereby being contrary to the provisions of Policy HP9 of the Chester-le-Street Local Plan."

**(2) Proposal: Display of externally illuminated freestanding 48 sheets advertisement hoarding, size 3.048 metres x 6.096 metres, along east elevation of front of site (retrospective application).**

**Location: AP Developments, 28 - 29 Front Street, Pelton, Chester-le-Street**

**Applicant: JC Decaux – Reference 07/00502/ADV**

**The Development and Building Control Manager referred to photographs in relation to the proposal, which were displayed for Members information.**

**Councillor Laverick spoke in relation to the application. Following this he declared his interest in this item as an objector to the application and left the Meeting.**

Councillor Sekowski advised that he supported the comments made by Councillor Laverick, however he felt Members should trust the judgement of the professional Highways Officers at Durham County Council. He agreed with the comments made that this proposal would severely detract from the street scene particularly in the context of the Regeneration Works that were being carried out in the area.

He requested that Members give consideration to these points and proposed to move the Officer's recommendation of refusal. Councillor Turner seconded this proposal. It was agreed that this proposal was carried.

RESOLVED: "That the recommendation of the Development and Building Control Manager to refuse the application, be agreed for the following reasons and authorisation be granted for prosecution proceedings.

Extra 1 The advertisement hoarding by virtue of its size and position is considered to be detrimental to the visual amenity of the street scene."

**At this point Councillor Laverick returned to the Meeting.**

**(D) District Matters Recommended Approval**

**(4) Proposal: Proposed mixed-use development to include 2 no. (A1)shops, 2 no. (A2) offices and 1 no. (A3) restaurant at ground floor with 14 no. apartments above.**

**Location: Land at 5 to 9 South Burns, Chester-le-Street**

**Applicant: Quotient Solutions Limited – Reference 7/00434/FUL**

**The Development and Building Control Manager referred to photographs in relation to the proposal, which were displayed for Members information.**

He advised that since the report had been produced he had received confirmation from the Design Section at Durham County Council Highways that they had no objection to the application. Particular issues they had pointed out were that the overall height had been reduced and the top parapet had been lowered to meet the eaves of the adjacent building. The Design

Officer felt that this reduction would greatly assist in reducing the impression of height from the street. In summary the Design Officer felt that the development would have a positive contribution to the appearance of the conservation area and the market place.

The Development and Building Control Manager recommended some extra conditions, which were designed to secure the amenity of the property to the rear of the proposal. The extra conditions were to require the staircase windows on the rear elevation to be obscurely glazed and an extra condition to clarify the exact position within the rear roof plane of the velux windows to the rear elevation.

**Mr Smiles the objector and Mr Blake the applicant's agent spoke in relation to the proposal.**

The Development and Building Control Manager spoke in relation to the comments raised and advised that both the objector and the supporter had focused on what he felt were the two keys issues. Firstly the design and how it fits in to the conservation area including issues of the scale and the massing of the development. He advised that the decision to recommend approval for the scale and the height of the building was quite a marginal call and that he had been in discussions with the applicant for quite some time to come to this position.

The Design Officers had agreed with Mr Blake that it was a central position within the middle of South Burns therefore it had the gravity to act as a focal point.

In relation to the impact of Carvin House he advised that this scheme had been amended to take dormer windows from the rear elevation of the property that would face onto Carvin House to be replaced with velux windows and make it compliant with the 21 metre guidelines in the Local Plan and therefore alleviate any overlooking problems. He felt that the existing timber fence and vegetation helped to further reduce the potential for over looking problems.

Members were in agreement that this was a good development for the Town.

Councillor Harrison proposed to move the Officer's recommendation of conditional approval. This was seconded by Councillor Brown. It was agreed that this proposal be carried.

RESOLVED: "That the recommendation of the Development and Building Control Manager for approval in respect of the application be agreed, subject to the following conditions.

01A - The development must be begun not later than the expiration of three years from the date of this permission, in order to prevent the accumulation of unused planning permissions as required by Section 91 of the Town and Country Planning Act 1990 (as amended).

01C - The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice and as amended on 23 November 2007; unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

RENEN – Prior to the commencement of the development hereby approved a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for at least 10% embedded renewable energy. Thereafter the development shall be carried out in complete accordance with the approved scheme. In order to minimise energy consumption and to comply with the aims of the emerging Regional Spatial Strategy, Planning Policy Statements 1 and 3 and Local Plan Policy NE1.

Extra 1 Notwithstanding any description of the materials in the application, no development shall be commenced until samples or precise details of the materials to be used in the construction of the external walls and / or roofs of the building(s) have been submitted to, approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy R11 and HP9 of the Chester-le-Street District Local Plan.

Extra 2 The development hereby permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 until arrangements have been made to secure the provision of adequate open space and recreational facilities within the locality in accordance with a detailed scheme, which has first been submitted to and approved in writing by the Local Planning Authority. In order to ensure the development makes adequate provision for recreational and open space facilities and to comply with the aims of Policies HP9 and RL5 of the Local Plan.

Extra 3 The development hereby permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 until arrangements have been made to secure the provision of adequate open space and recreational facilities within the locality in accordance with a detailed scheme, which has first been submitted to and approved in writing by the Local Planning Authority. In order to ensure the development makes adequate provision for public artwork and to comply with the aims of Policies BE2 of the Local Plan.

Extra 4 In accordance with the details shown on the submitted ground floor plans, the car parking shall be marked out on site in accordance with the plans, prior to the occupation of the first residential unit in the interests of highway safety and the satisfactory provision and layout of parking spaces

within the rear yard area in accordance with Policy HP9 of the Chester-le-Street Local Plan.

Extra 5 There shall be no open storage on the site of any material, including cartons, packing cases, waste materials, or materials awaiting fabrication, except in areas to be shown on site plans, and first submitted to, and approved in writing by, the Local Planning Authority, in the interests of visual amenity and the satisfactory appearance of the development.

Extra 6 Notwithstanding the details shown on the plans hereby approved, the final location of velux rooflights on the rear elevation of the development shall be agreed in writing with the Local Planning Authority and shall thereafter be installed in accordance with the agreed details. In the interests of securing an acceptable level of privacy between the development and adjacent residential properties, in accordance with the requirements of Policy HP9 of the Chester-le-Street Local Plan.

Extra 7 Notwithstanding the details shown on the plans hereby approved, the stairwell windows on the rear elevation of the development shall be fitted with obscure glazing, details of which are to be agreed in writing with the Local Planning Authority and shall thereafter be installed in accordance with the agreed details. In the interests of securing an acceptable level privacy between the development and adjacent residential properties, in accordance with the requirements of Policy HP9 of the Chester-le-Street Local Plan.”

**(5) Proposal: Erection of garden shed at side of property and erection of 1.65 metre high boundary fence at side. (Retrospective application)**

**Location: 41 Turnberry, Ouston, Chester-le-Street**

**Applicant: Mr A. Cooper / Miss V. Wood – Reference 07/00476/FUL**

**The Development and Building Control Manager referred to photographs in relation to the proposal, which were displayed for Members information.**

Councillor Harrison proposed to move the Officer’s recommendation of conditional approval. This proposal was seconded and carried.

RESOLVED: “That the recommendation of the Development and Building Control Manager for approval in respect of the application be agreed.”

**(6) Proposal: Residential development comprising 4 no bungalows and 2 no semi-detached houses**

**Location: Land at Fleece Terrace, Edmondsley, Durham**

**Applicant: Mr P. Anderson – Reference 07/00498/FUL**

The Development and Building Control Manager advised that paragraph 3 on page 45 of the report made reference to their being no habitable windows in the gable end of number 6 Fleece Cottage, however Officers had checked this and there were habitable windows facing onto the site. The view was taken however that bearing in mind these are secondary windows Officers felt it was still acceptable to recommend approval with a separation distance of 12.5 metres.

**The Development and Building Control Manager referred to photographs in relation to the proposal, which were displayed for Members information.**

Councillor Harrison referred to the track that lead to the allotments and queried whether this was land that had been sold. The Development and Building Control Manager advised that the allotment land was not part of the application site although there was an access track, which does appear to be within the application site.

He advised that he did note that the proposed layout did keep a vehicle access point at roughly the same position as where the existing track was and it may well be that as part of any sale of the land the vendors would have to covenant to keep any right of access through across the land that may exist.

Councillor Turner advised of his concerns in relation to the Highway Safety parking provision aspect referred to in the report and how this would be enforced.

The Development and Building Control Manager advised that there were currently no traffic restrictions to the front of the proposal and he felt that by getting some parking as part of this development may discourage people from parking on the road.

Councillor Turner proposed to move the Officer's recommendation of conditional approval. This proposal was seconded and carried.

RESOLVED: "That the recommendation of the Development and Building Control Manager for approval in respect of the application be agreed, subject to the following conditions."

01A - The development must be begun not later than the expiration of three years from the date of this permission, in order to prevent the accumulation of unused planning permissions as required by Section 91 of the Town and Country Planning Act 1990 (as amended).

01B - The development hereby approved shall be carried out wholly in accordance with the details contained in the application as submitted to the Council on the date specified in Part 1 of this decision notice unless otherwise firstly approved in writing with the Local Planning Authority; in order to ensure the development is carried out in complete accordance with the approved plans.

02A - Notwithstanding any description of the materials in the application, no development shall be commenced until samples or precise details of the materials to be used in the construction of the external walls and / or roofs of the building(s) have been submitted to, and approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy HP9 of the Chester-le-Street District Local Plan.

10B - The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site, and which scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of screen fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to shall be carried out within the first planting season following completion of development of the site (or of that phase of development in the case of phased development) in the interests of visual amenity, the satisfactory appearance of the development upon completion and in accordance with the provisions of Policy ^IN; of the Chester-le-Street District Local Plan.

20A - Notwithstanding the details shown on the hereby approved plans and elevations, full details of all means of enclosure of the site (including any internal means of enclosure to sub-divide individual plots) shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual and residential amenity and in accordance with the provisions of Policy HP9 of the Chester-le-Street District Local Plan.

Extra 1. No structure shall be erected or installed greater than 0.9 metres in height within the 2.4 metres by 90 metre visibility splay to the east, along the C11 highway. In order to ensure adequate sight visibility splay is achieved and in accordance with the requirements of Policy HP9 of the Chester-le-Street Local Plan.

Extra 2. Notwithstanding the details contained within the application hereby approved, all windows shall be recessed by a minimum of 100mm into the opening in the interests of the satisfactory appearance of the development upon completion, in accordance with the requirements of Policy HP9 of the Chester-le-Street Local Plan.

(E) **Development Control Performance Update first and second quarter 2007/08**

The Development and Building Control Manager briefed Members on the Development Control Team's performance during the first two quarters of 2007/08.

Councillor Nathan expressed concerns on the performance figures that had declined. The Development and Building Control Manager advised of staff shortages in the team that had caused a deterioration in performance. He advised that a new Admin Manager would be taking up position in the New Year and one of the improvements would be for her to present this information in graphs and chart form. He also advised that a new Senior Planning Officer would be starting shortly after the Christmas break and that this would bring the team up to full staffing establishment. This would ensure performance improved.

Councillor Sekowski felt that the Development and Building Control Manager should elaborate for Members on the problems he had with staffing and show the impact this had on performance figures.

The Development and Building Control Manager advised that he would report back to Committee on this in form of line chart showing correlation between a drop in performance and drop in Officer workload.

Members felt that this information should be publicised to ensure that people were made aware of the problems that had occurred which had effected the figures.

RESOLVED: "That the contents of this report be noted."

**49. EXCLUSION OF PUBLIC AND PRESS. TO RESOLVE:-**

RESOLVED: "That under Section 100(A) of the Local Government Act 1972, the Public and Press be excluded from the meeting for the following item of business on the grounds it involves the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A of the Act."

**50. PLANNING ENFORCEMENT PERFORMANCE UPDATE**

The Development and Building Control Manager gave an update on the planning enforcement discipline within the Authority. The Chairman advised that if Members did have queries in relation to the individual cases outlined in the report that they speak to the Enforcement Officer.

Councillor Turner referred to the drop in performance, which was due to the staff shortages within the team. He queried whether there were any comparison figures on the number of staff employed within the Planning Team in other Authorities and how we compared.

The Development and Building Control Manager referred to information from a neighbouring Authority who had carried out a benchmarking exercise and reported that this Authority would handle on average 183 planning applications per year per head which was in excess of the amount of applications that which would be handled per head in most other Authorities which were on average 150 a year.

He suggested that he bring back a report to a future Committee on this.

RESOLVED: "That the information contained in the report be noted."

The meeting terminated at 9.15 pm

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