

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, 12 May 2008 at 6.00 pm

PRESENT:

Councillor G K Davidson (Chairman)

Councillors:

R Harrison	M D May
L E W Brown	P B Nathan
D M Holding	M Sekowski

Officers:

S Reed (Development and Building Control Manager), C Potter (Head of Legal and Democratic Services), D Chong (Planning Enforcement Officer), J Taylor (Senior Planner), L Morina (Planning Assistant), D Allinson (Democratic Services Assistant) and M Fell (Democratic Services Assistant)

Also in attendance: There were 17 members of the public in attendance.

73. APOLOGIES FOR ABSENCE

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

74. MINUTES OF MEETING HELD 14 APRIL 2008

RESOLVED: "That the Minutes of the proceedings of the Meeting of the Committee held 14 April 2008, be confirmed as being a correct record, subject to Councillor S A Henig (non-member of Planning Committee) being shown as in attendance at the meeting.

75. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS

Councillor M May declared a personal interest in Item No. 1 of the report as she had attended a residence association meeting regarding this item, however she stated she had remained impartial.

Councillor R Harrison declared a personal and prejudicial interest in Item No. 2 of the report. He advised that he would be leaving the Meeting and returning once a decision had been made.

76. CONFIRMATION OF SPEAKERS

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

77. PLANNING MATTERS

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

(A) District Matters Recommended Approval - Refused

- (1) **Proposal: Proposed installation of raised decking area to front, 2 no umbrellas, alterations to front elevation and erection of canopy to rear**

Location: Lambton Arms Front Street Chester-le-Street Durham DH3 3BJ

Applicant: Mr A. Mountain – Reference 07/00340/FUL

The Development and Building Services Manager advised that since the report had been produced eleven additional letters of objection had been received and that copies of the letters received from Mr. Briggs, Mr Culkin and Mr and Mrs Franklin had been circulated to members prior to the meeting. Objections had been received in relation to the following issues:

- That there will be an increase in the amount of anti-social behaviour on the Front Street and the surrounding area as a result of the proposed development.
- Concern that there would be an increased risk of trouble at night, with people passing by the rear of the premises.
- That at a meeting attended by the management of the Lambton Arms the management had agreed to withdraw the planning application on the strength of public concern, however this application was still proceeding.
- Concern that the application had been substantially amended and that this should have led to a period of extra consultation with the residents. As a result it was requested that the application be either refused or deferred for further consideration.
- Concern was raised that there had been no consultation or notices posted in the press and as the proposal was far more extensive this could lead to people using the side door of the premises, along Wesley Terrace as a toilet.
- Concerns that the front of the Lambton Arms had never been obstructed and that people had used it as a right of way.

- Concerns that the proposal would be excessively noisy especially in the early hours and would also require extensive work after drinking up time if it is to be properly cleaned.
- Concern that the applicants had failed to consider the views and wishes of the residents or the general uses of the street and had been more concerned with trying to secure profit.
- Concerns that the development would overstretch the existing police force.
- Concerns that the plans included for the rear area would lead to a 100 % increase in capacity, which in turn will lead to a 100 % increase in noise for the residents of Wesley Terrace.
- Concern that the Officer's report had failed to demonstrate how the proposal would impact on Policy R19 of the Local Plan.
- Concern was raised in relation to the supportive comments that had been received from the Design and Conservation Officer at Durham County Council.
- Concern that the jumbrellas were an easy and cheap solution rather than a good effective one, which would have been in keeping with the design of the street.
- Concern as to how the jumbrellas might affect trees.
- That the proposed bi-folding doors were out of character with the surrounding area, unsympathetic to the street and concern as to how the condition that the doors have to be closed would be adequately enforced.

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

Mr Briggs the objector and Mr Poulter the applicant's agent spoke in relation to the application.

Councillor Holding sought clarification from the applicant's agent on a number of issues regarding the application, which were in turn addressed by him.

In relation to one of the points raised by Councillor Holding, the Development and Building Control Manager confirmed that they had followed the standard consultation procedure, although they had not consulted directly with the residents at Wesley Terrace, as the proposed development was for the front of the premises. He also advised that a notice was placed in the press, which is a statutory requirement in terms of publicity for an application within a conservation area. He also spoke in relation to comments made by Councillor Holding about the two sets of bi folding doors proposed and advised that since the original application one set of doors had now been withdrawn.

Councillors Harrison, May, Brown, Nathan & Sekowski raised concerns in relation to the proposal on the following issues: -

- That the proposal would encourage more noise and disturbance on the front street, and increased crime and anti social behaviour problems.
- That the bi-folding doors were not in keeping with the appearance of the building.
- Concerns in relation to the cleanliness of the proposed decking area and whether it may attract vermin or be a fire hazard.
- The design of the proposal would detract from the street scene and affect the visual amenity.
- Concern that the police had not been consulted on this proposal.

The Development and Building Control Manager spoke in relation to the comments raised by Members and advised that:

- The applicants currently owned the land and did not require planning permission for its current use.
- In terms of noise and disturbance from the premises that the new decking area may bring, he felt the applicants had addressed this by producing an acoustic report and through the discussion of conditions imposed by the Environmental Health Officers.
- In terms of the removal of the windows and doors and replacing them with the bi folding doors; the Design and Conservation Officer at Durham County Council had no objections to the design and layout of this proposal.
- In terms of the health and safety issue of the decked area not being cleaned properly; the Environmental Health Officers would be required to monitor the situation if it did become an issue.
- The police were not a statutory consultee and were not required to be consulted on secure by design issues; the views of Environmental Health had been sought in terms of the impact on noise and disturbance.
- That crime and anti social behaviour concerns were an important factor, however they were not adequate reasons to reject the application.

Councillor Holding was in conflict over the decision on this application as he felt that we should be encouraging people to come to Chester-le-Street, and that this type of proposal was often seen and enjoyed in European cities and should not be discouraged from being used in our culture and area.

Further discussion ensued by Members on the application. Councillor Brown proposed to reject the Officer's recommendation of conditional approval and refuse the application on design grounds, which was seconded by Councillor Nathan.

Councillors Nathan and Sekowski also felt that the proposal should be refused on anti social behaviour grounds, however the Development and Building Control Manager advised against this refusal reason as the proposal was not indifferent from its current use.

The Head of Legal and Democratic Services spoke to reiterate the view of the Development and Building Control Manager. He advised that it would be unsound to refuse the application on anti social behaviour grounds given that the use exists and no reason was given that such disturbance would occur as a direct result of the development.

The proposal to refuse the application on design grounds was carried by Members.

RESOLVED: "That the recommendation of the Development and Building Control Manager to refuse the application be agreed for the following reasons:

1. The proposed development is considered to have an adverse impact upon the character of the existing host property, the wider streetscene and Chester-le-Street Town Centre Conservation Area thereby being detrimental to the visual amenity of the area and accordingly is considered to be contrary to the provisions of PPG 15 and Policy R19 of the Chester-le-Street District Local Plan."

(B) District Matters Recommended Approval

Prior to consideration of the following item, Councillor Harrison declared his interest and left the Meeting.

(2) Proposal: Variation of application 07/00222/FUL to remove Condition 16 (To allow footpath link through site to be provided)

Location: Persimmon Homes Site St Cuthberts Drive Sacriston Durham

Applicant: Persimmon Homes NE Ltd – Reference 08/00021/VAR

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

The Development and Building Control Manager advised that there had been an error on page 29, in the last paragraph of the consultation section of the committee report. He stated that instead of the two objections referred to in the report, the total number of objections received to vary the condition for this application had risen to sixty-four.

The grounds for objection had been received in relation to the following issues:

- That the circumstances had not changed sufficiently enough since the last application, to warrant the reinstatement of the footpath.

- There had been no evidence presented to say that the route had been walked for twenty years or more.
- That Durham Constabulary were aware of anti social behaviour issues, in the area and in the objectors view this would make it harder to control crime.
- The path was not a public right of way, but more of an informal route.
- There was an existing problem with motorcycles and quad bikes in this area, in particular with those who use the existing footpath to gain access to the public right of way to the west of the site.
- There had been incidents of vandalism and anti social behaviour towards the Persimmons Homes site since development commenced.

The Development and Building Control Manager advised that there had been seven written representations received in support of the application, which was in addition to the number stated in the report.

He advised that those in support of the proposal had put forward the following statements:

- That the residents of Rydal Close strongly support the path and its historical existence as an informal right of way.
- The supporters also stated that irrespective of the rights of way issue, a footpath should be provided for recreational use such as dog walking.
- Concern that by removing the access to the right of way at the west of the site, dog fouling would increase around Rydal Close.
- That Durham Constabulary had been requested to give the number of incidents reported to them as a result of people using the footpath, however they were unable to give an exact figure as to the incidents that had occurred.
- Some comments made by the police against the existence of the footpath were made prior to discussion with the Architectural Liaison Officer, a professional officer of the Police who is qualified to comment on design issues.
- Children regularly use the footpath when they are walking to and from school.

The Development and Building Control Manager referred to photographs in relation to the proposal, which were displayed for Members information and provided Members with an update of the actions that had taken place since the application was deferred in February.

Mrs Blakey and Mrs Edwards the objectors, and Mr Richie, Mrs Wandless and Mr Tindale the supporters, spoke in relation to the application.

Clarification was sought by Councillor Holding as to the location of the footpath link that was being considered which was indicated by the Chairman as running East to West through the site.

Councillor Nathan sought clarification from the Development and Building Control Manager on whether a right of way would be granted, if the variation of the application were to be approved at the meeting.

The Development and Building Control Manager advised Members that the variations were recommended for approval, regardless of whether the footpath was granted right of way status in the future. He also stated that in planning terms, there would be advantages in having the footpath in place, such as it would provide access to amenities for the estates and advised that planning officers had carried out impartial checks on plans of the area, and the results do support the view that there has been a path in the past.

The Chairman commented that Members should disregard the rights of way issue and make a decision on whether the estate and environment would benefit from the footpath or not.

The Development and Building Control Manager advised that following the deferral of the original application in February; a meeting had taken place with Persimmons to discuss the option of re-routing the footpath to another part of the site. He advised however that this had been disregarded, as there were no other potential options within the approved layout of the development and that there was no reasonable control of land outside the site.

Councillor Sekowski was of the opinion that the application should be approved; as it would allow the current access to amenities to remain and that the proposed barriers/ gates would help control access.

Councillor Sekowski therefore proposed to move the Officer's recommendation of conditional approval, which was seconded by Councillor Holding. This proposal was carried.

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

Extra 1. The approval of this application to vary the terms of planning permission 07/00222/FUL and remove condition 16 thereof, strikes down only condition 16 of that permission, and the development of the site will otherwise be expected to be fully in accordance with the approved plans, elevations and conditions of that planning permission and those now imposed.

Extra 2. Prior to work commencing on the east – west pedestrian link a scheme for controlling access to the proposed pedestrian link and a design and location for two barriers/gates along footpath 5 shall be submitted to, and approved in writing by, the Local Planning Authority in order to ensure the development mitigates against potential anti-social behaviour, in the interests of reducing crime, disorder and preserving residential amenity, the approved scheme shall be implemented on site immediately after completion of the proposed east-west footpath in the interests of providing adequate

recreational pedestrian links in accordance with policies T15 and HP9 of the Chester-le-Street Local Plan.

Extra 3. Prior to completion of the east-west pedestrian link within the application site a path shall have been provided from the start of the footpath on the east side of the application site to adjoin the existing paths around Rydal Close. Prior to implementation a scheme shall have been submitted to and agreed in writing with the Local Planning Authority as to the details of the proposed path in the interests of providing adequate recreational pedestrian links in accordance with policies T15 and HP9 of the Chester-le-Street Local Plan.”

Councillor Harrison returned to the Meeting.

Councillor Holding left the Meeting at 7.40pm.

(C) Planning Appeals Update

The Chairman referred to the list of Planning Appeals, which were included in the report for information.

RESOLVED: “That the list of Planning Appeals and the current status be noted.”

(D) Development Control Year End Performance Update For 2007/08

Consideration was given to a detailed update on the Development Control Team’s performance during the last financial year 2007/08 for the following indicators:

- BVPI 109 – Speed of Decision Making
The Chairman felt the statistics did not accurately reflect the Authority’s actual speed of decision-making, as it did not take into account the total number of applications actually received by the Authority.
- BVPI 204 – Percentage of Appeals Allowed
The Chairman advised Members that once an appeal is lodged, the Planning Inspectorate will make the decision, and therefore the authority is being judged on their performance.

RESOLVED: “That the contents of the report be noted.”

78. 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.”

79. 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. Discussion ensued in relation to the report.

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

80. Planning Enforcement Prosecution

The Development and Building Control Manager gave an update on the planning enforcement prosecution. The Planning Enforcement Officer advised that this was an on-going investigation and they were looking into take the defendant back to court.

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

The Chairman took the opportunity on behalf of the Planning Committee to thank Dawn Allinson, Democratic Services Assistant who was moving on to a different role within the Authority for all her hard work over the years and conveyed best wishes for the future.

The meeting terminated at 7.50 pm