

CHESTER-LE-STREET DISTRICT COUNCIL
DIRECTORATE OF DEVELOPMENT SERVICES
PLANNING COMMITTEE **13 October 2008**

REPORT OF THE DEVELOPMENT & BUILDING CONTROL MANAGER

- ITEM 1** District Matters Recommended Approval
- ITEM 2** Appeals List
- ITEM 3** Notification of outcome of appeal decision

**COPIES OF ALL PLANS, ELEVATIONS AND SUPPORTING DOCUMENTATION
CAN BE VIEWED IN THE PLANNING SERVICES DIVISION PRIOR TO THE
COMMITTEE MEETING**

**COPIES OF PLANS AND ELEVATIONS FOR APPLICATIONS WHERE THE
APPLICANT / OBJECTORS / SUPPORTERS WISH TO SPEAK OR FOR OTHER
MAJOR APPLICATIONS WILL BE DISPLAYED IN THE COUNCIL CHAMBER PRIOR
TO AND DURING THE COMMITTEE**

ITEM 1 District Matters Recommended Approval

1.

Reference: 08/00310/FUL

Proposal Change of use of land to include demolition of existing saw mill and erection of storage and distribution depot, and associated landscaping and hard standing

Location Development Site Bowes Business Park Lambton Park Chester-le-Street Durham

Applicant Mr K. Middleton, Cestria Community Housing

Application Summary

Ward: Bournmoor

Case Officer: James Taylor, Senior Planning Officer

Contact Details: 0191 387 2002

jamestaylor@chester-le-street.gov.uk

Summary of recommendation: The proposed storage/distribution and office development is considered acceptable. The site is located within the Green Belt and therefore the proposed development constitutes a departure from the Local Plan. However having regard to the previous commercial use as a timber saw mill, and the fact that the site is surrounded by dense mature tree planting it is considered that, justification exists to approve the development as a justified departure to the policy aims of the development plan.

The design is similar in scale to the existing building and sympathetic to the character of the surrounding area.

Accordingly it is recommended that the application be approved

The Proposal

Planning consent is sought for the demolition of an existing sawmill and replacement with a storage and distribution depot in connection with the operations of Cestria Housing and their estate maintenance team. Ancillary to the proposed depot function is a locker room, stores office, counter and electrical testing facility.

The application site is located adjacent to the Bowes Business Park, west of the existing Cestria offices across the main access road. It currently has a sawmill and an ancillary timber storage building erected on site.

The site is located within the North Durham Green Belt.

Planning History

There is no planning history relevant to this application site.

Consultation Responses

Durham County Council Highway Authority have not objected to the proposal provided that the development is accessed from the main access road which terminates to the east of the nearby garden centre.

Natural England have offered no objections to the scheme.

The Council's Environmental Health Contaminated Land Officer has commented that the submitted desktop contaminated land study is acceptable and a follow up site investigation report will be required under planning condition.

The Council's Environmental Health Department have commented on the need to notify them of the intent to demolish the existing building under the provisions of the Building Act 1984.

The application has been advertised by way of a site notice and through direct mailing to adjacent occupiers. No public representations have been received.

Relevant Planning Policies and Considerations

National Planning Policy

Planning Policy Statement One: PPS1 sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Guidance 2: PPG2 Green Belts - sets out that there is a general presumption against inappropriate development in the GreenBelt. New buildings in the GreenBelt are by definition inappropriate. As an exception limited infilling to major developed sites within the GreenBelt maybe allowed if designated in the Local Plan in the interests of economic development as long as they do not lead to a large increase in the developed portion of the site.

Planning Policy Statement 7: PPS7 Sustainable Development In Rural Areas - aims to raise the quality of life and the environment in rural areas, promote sustainable patterns of development and support economic development and diversification of agriculture in rural areas. The replacement of buildings in the countryside for economic use is supported especially if the development would bring about an environmental improvement in the landscape character of the surrounding area.

Regional Spatial Strategy

The (RSS) sets out a long-term planning strategy for the spatial development of the North East Region of England. The RSS is part of the statutory Development Plan and was adopted in July 2008.

Policy 2 – Sustainable Development: Planning proposals should seek to promote sustainable development through social, economic and environmental objectives.

Policy 8 - Seeks to protect and enhance the environment. This in part should be achieved through promoting high quality design in all development which should be sympathetic to the surrounding area.

Policy 9 – Seeks to support polycentric development throughout the Tyne & Wear region in supporting regeneration, economic prosperity, sustainable communities, connectivity, environment and the protection of the GreenBelt.

Policy 33 – Promotes the protection and enhancement of protected species and the creation of habitats in the interests of biodiversity and geodiversity.

Policy 38 – Seeks to reduce energy consumption in the design of new development.

For reasons as discussed below it is considered the proposals are compliant with the aims of the relevant RSS advice.

Chester-le-Street Local Plan

Policy IN9 is applicable as it refers to industrial development in the open countryside and GreenBelt. Development is not permitted unless it is for the re-use of an existing building, in connection with mineral exploration, farm diversification or agriculture and forestry.

Policy NE4 considers development in the Green Belt. It presumes against inappropriate development in the Green Belt unless special justification is demonstrated to outweigh the inappropriateness and harm caused.

As the site is located in the Green Belt Policy NE6 is also relevant in that consideration must be given to the impact of proposals on the visual amenity of the area.

Policies T15 and T17 seek to promote safe and accessible access to the transport network for all users including promoting pedestrian links and reducing the reliance on the use of the private vehicle.

In assessing the proposals against the requirements of these relevant policies, and having regard to all material planning considerations, including representations received, it is considered that the following represent the principle material planning considerations raised;

Principle of Development

Planning Policy Guidance 2 (PPG2) Green Belts, presumes against inappropriate development in the Green Belt. New build industrial development is classed as inappropriate as it is not an essential facility for sport or recreation and neither is it for farm diversification or the re-use of an existing building. Therefore the development does not strictly accord with PPG2 or Policy NE4 of the Local Plan.

The site is currently vacant being the former Lambton Sawmill site and as such has been in an established General Industrial B2 use under the Use Classes Order 1987 (as amended). The proposal site area is smaller than that of the sawmill as is the newly proposed building. The existing sawmill is approximately 350m² with the proposed storage and distribution depot 301m². The reduction in site area alongside the reduced scale of development will have less of a landscape impact. This is also taken in context of the significant landscape improvements proposed as part of the application that will replace the hard appearance of the current fenced boundary.

In regard to policy NE6 the site is well screened by dense mature tree planting which is to remain. The site is not easily viewed from outside Bowes Business Park and as it is currently developed any impact on the openness of the Green Belt has already been established. In view of this it is considered the development will not harm the visual amenity of the Green Belt and is consistent with Policy NE6.

It is considered that as the site is currently in long established industrial use, and in light of the reduced scale and significant environmental improvement, the development constitutes a justified departure from the aims of Policies IN9 and NE4 of the Local Plan.

Design and Appearance

The scale and design have been kept similar to the existing building with a 5.6m ridge height and timber cladding. The building in terms of form is generally utilitarian such is the functional requirement of a storage and distribution depot. Externally on the north and west elevation the building will be steel clad in green powder coated sheeting to match the colour of the boundary vegetation. These elevations cannot be seen from public view and will have no impact on the appearance of the building.

The east and south elevations can be seen from public view and therefore potentially have more impact on the appearance of the area. The south elevation is least seen and will be timber clad as is the appearance of the current saw mill. The east elevation is also proposed to match with timber cladding. It is proposed to impose a condition to agree material details to ensure the material palette best integrates with the current surrounding development.

The landscaping will follow the format of the existing Bowes Business Park with large grassed areas and gravel hard standings. The east boundary fencing and gate are also fundamental to the setting of the development and the wider appearance of the business park. As such it is proposed to place a condition requiring the further agreement of these details.

In light of the above it is considered that the development maintains and enhances the character of the area and accords with Policy 8 of the Regional Spatial Strategy.

Residential Amenity

The nearest residential dwelling is eight metres south of the entrance gates. This property is gable end on to the development and is approximately 30m from the footprint of the proposed new building. As such it is considered that there will be no detriment to residential amenity resulting from the development. In regard to other surrounding dwellings these are further away from the site to the south and as such are unlikely to be impacted upon.

Traffic Issues

In regard to traffic impact the site access is from the main estate through road and as such it is not considered the impact will be any greater than was for the previous sawmill. The access road at the point of the development is wider than a double carriageway and the whole development is served from a new purpose built road off the A183. The County Highway Authority have not raised objection to the development subject to the main access road being used to serve the site.

Ecology Issues

Natural England have commented that the proposals are unlikely to have an adverse effect in respect of species protected by law, subject to the attachment of a condition requiring that the mitigation measures in the submitted bat survey are adhered to.

Conclusion

It is considered that the development is a justified departure from policies IN9, NE4 and NE6 of the Local Plan on the grounds that there is an existing industrial use on site being replaced by development of a smaller scale and better integrated into the character and appearance of the area.

There will be no harm on the visual amenity or openness of the Green Belt as the site is enclosed by mature boundary screening and the impact of development has already been established by the existing built development.

In regard to design and landscaping the proposal is consistent with Policy 8 of the Regional Spatial Strategy in that it maintains and enhances the quality of the local environment through its scale, massing and external appearance.

Accordingly it is recommended that the application be approved.

RECOMMENDATION CONDITIONS:-

Approve SUBJECT TO THE FOLLOWING

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.

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, roofs and hard standings/access roads of the development 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 NE6 of the Chester-le-Street District Local Plan & Policy 8 of the Regional Spatial Strategy.

Extra 2.

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 and entrance gates) 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 NE6 of the Chester-le-Street District Local Plan & Policy 8 of the Regional Spatial Strategy.

Extra 3.

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 maintained for a period of 5 yrs following planting; in the interests of visual amenity, the satisfactory appearance of the development upon completion and in accordance with Policy NE6 of the Chester-le-Street District Local Plan & Policy 8 of the Regional Spatial Strategy.

Extra 4.

No development approved by this permission shall be commenced until:

a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and has been submitted to and approved by the LPA;

b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;

c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;

d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and

e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

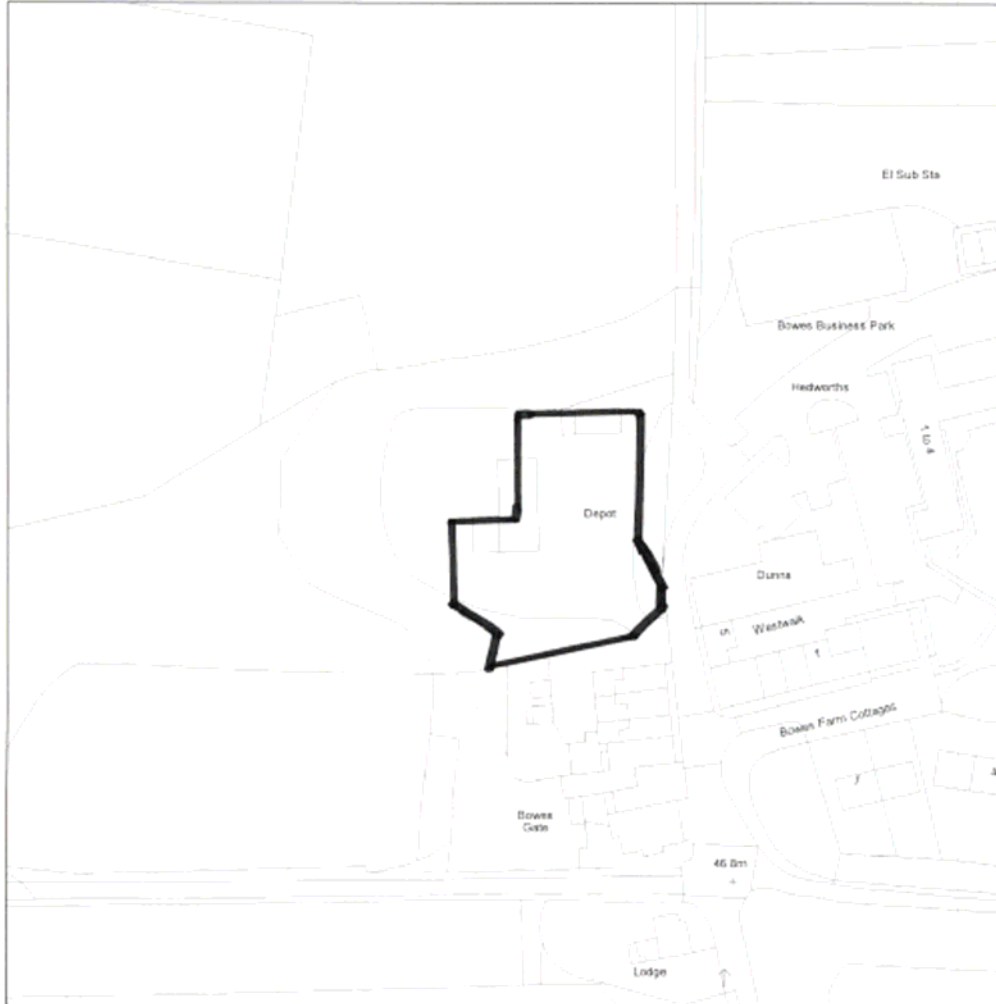
In accordance with Planning Policy Statement 23: 2004.

Extra 5.

The development hereby approved shall be carried out in accordance with the mitigation detailed within the protective species report "Cestria Lambton Estate, County Durham – Bat Survey Interim Report, dated 15th September 2008 unless otherwise agreed in writing with the Local Planning Authority in the interest of preserving protected species in accordance with Planning Policy Statement 9 and policy 33 of the Regional Spatial Strategy.

Development Site, Bowes Business Park

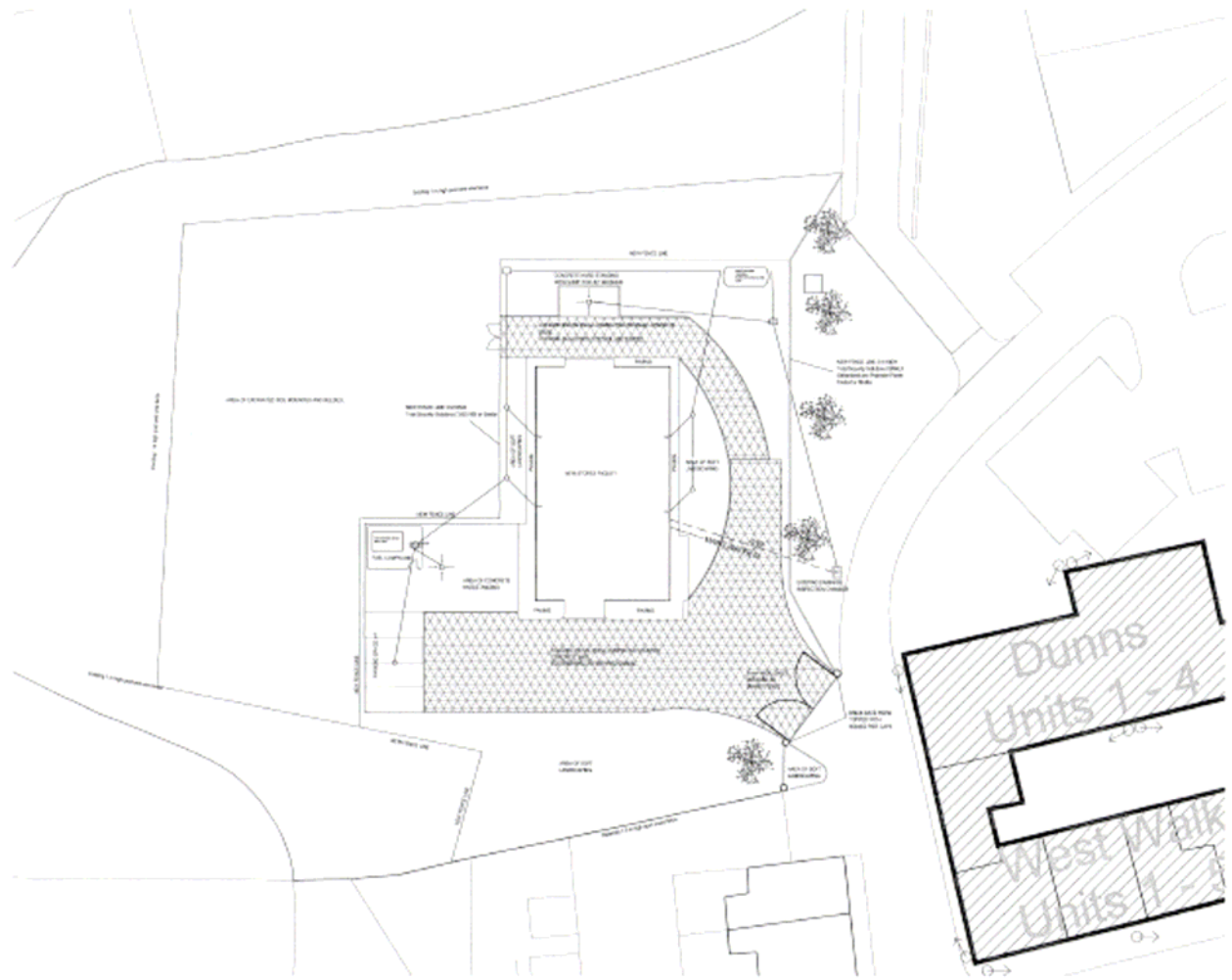
Lambton Park



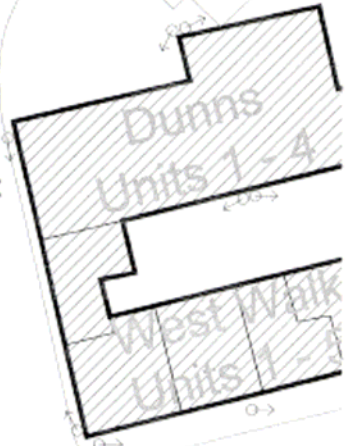
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CHESTER-LE-STREET DISTRICT COUNCIL
DIRECTORATE OF DEVELOPMENT SERVICES
PLANNING COMMITTEE 13 October 2008

10/08/08
 A. Board for Planning
 28 July 2008

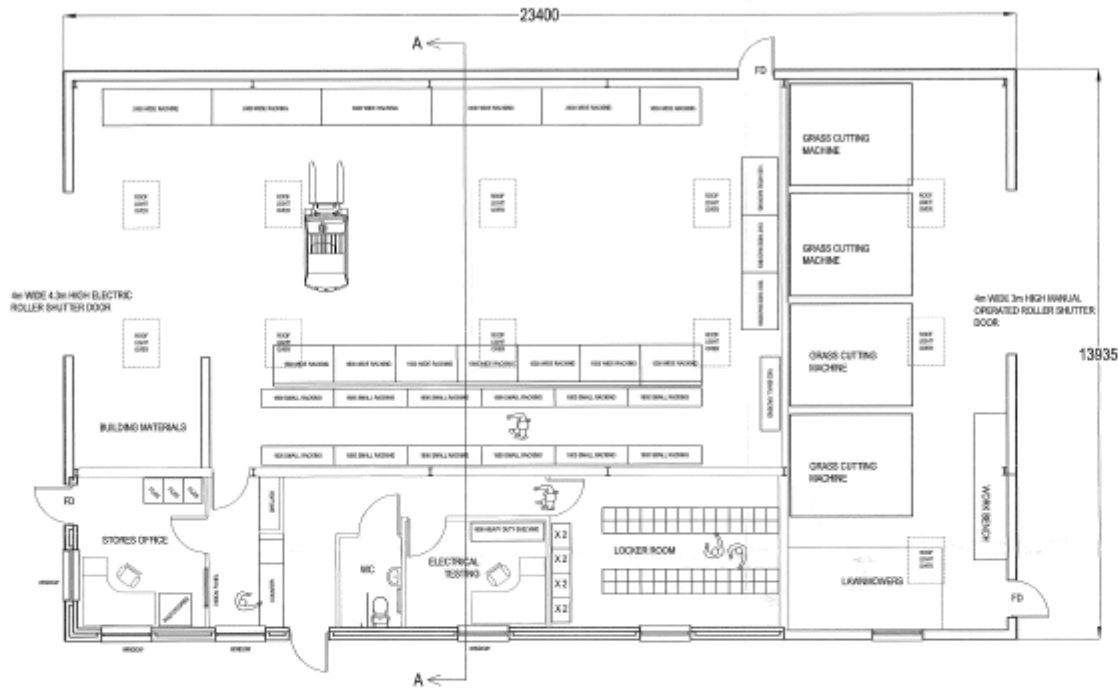


CHESTER-LE-STREET D.C.	
PLANNING DEPT	
PROJECT NO:	08/01/08
CLIENT:	
DATE:	
BY:	
CHECKED:	



Client: CESTRA
 Project: BOWES HOUSE FARM STONED
 Drawing: PARKFIELD SFS, LAYOUT & LANDSCAPING
 Date: 10/08/08
 Scale: 1:500
 Drawing No: 10/08/08
 Date: 13/10/08

AI
 E



NOTES FOR PLANNERS
ALL DIMENSIONS ARE APPROXIMATE AND WILL BE CONFIRMED AFTER DETAILED DESIGN.

MATERIALS

Dwarf Walls

Primary Elevations
Facing bricks Istock Beamish Blend

Secondary Elevations
Blocks Hanson Evalast Facing Masonry

Cladding

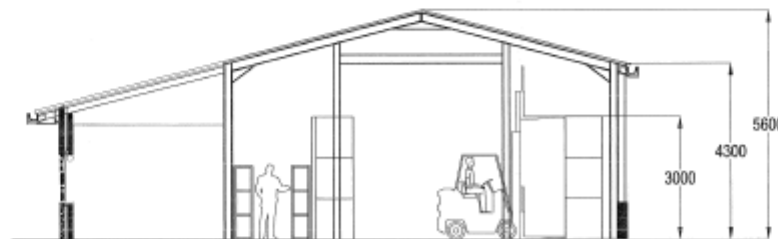
Primary Elevations
Larch Timber fixed vertically in a board-and-batten configuration.
Base board 150 x 25 Lap board 65 x 25mm

Secondary Elevations
Corrugated British Standard 3" polyester painted sheeting. Juniper green

Roofing

Corrugated British Standard 3" polyester painted sheeting. Juniper green with inset polycarbonate roof lights.

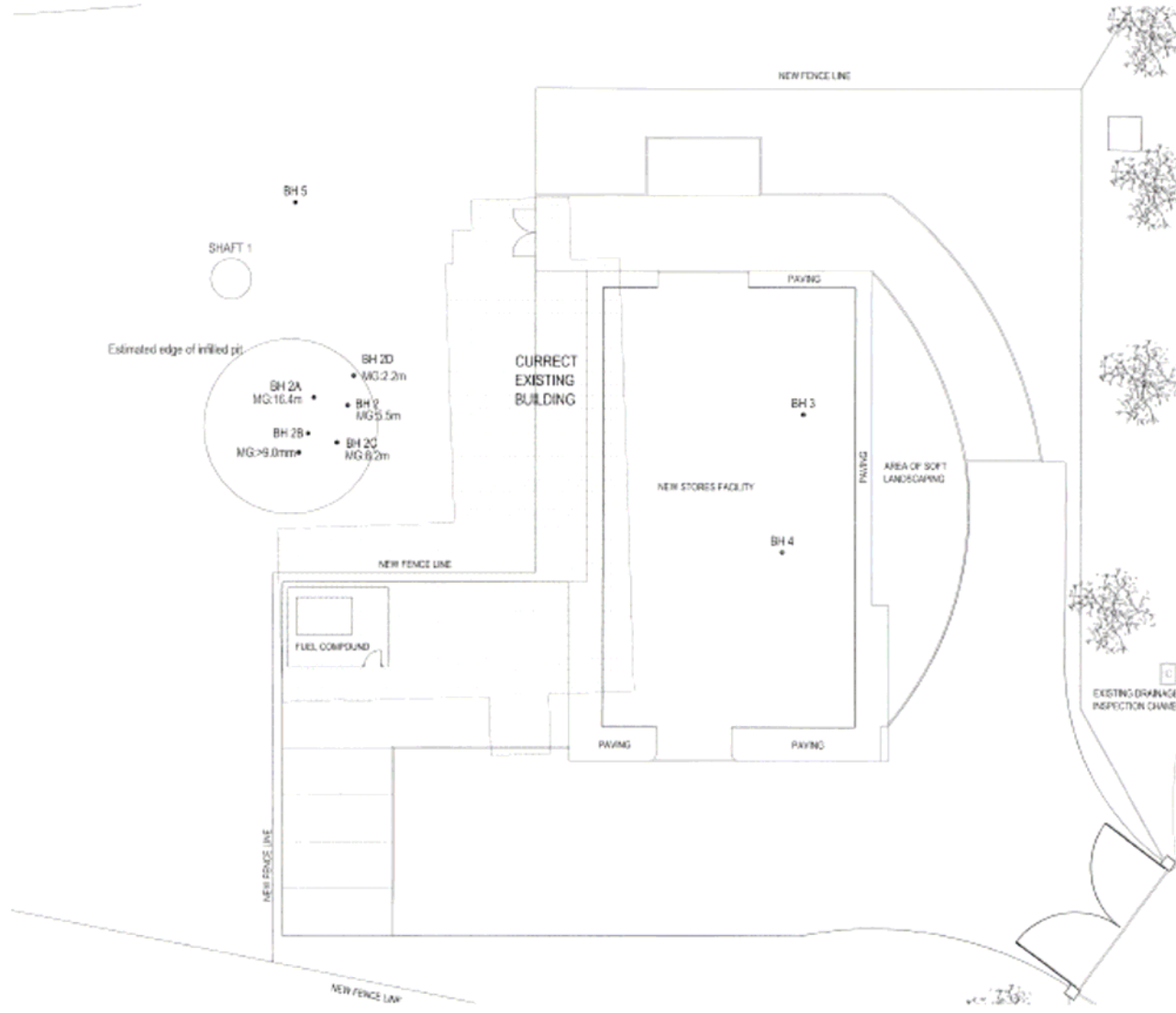
CHESTER LE STREET D.D. PLANNING DEPT.	
RECEIVED	20 JUL 2008
ACTION BY	
POST BOOKING	



SECTION AA

AI

Client: OOSTRA	Client: ELBETT
Project: DOWN HOUSE FARM STORES	Project: DOWN HOUSE FARM STORES
Drawing: PROPOSED LAYOUT & SECTION	Drawing: PROPOSED LAYOUT & SECTION
Job Ref: 0800000	Drawing No: 01
Scale: 1:50 (PLAN)	Scale: 1:50 (SECTION)
Drawn: J. P. [Signature]	Checked: J. P. [Signature]



Board for Planning 28 July 2008

For information on Shaft 1, Infill pit and bore holes (BH) see WSP Ground Investigation Report

CHESTER-LE-STREET D.C. PLANNING DEPT.	
RECEIVED 22 JUL 2008	
ACTION:	
POST ROOM NO:	

A1

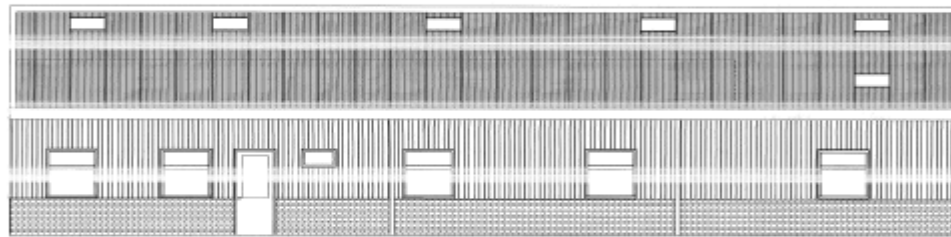
Client: COSTRA
 Project: BOWDS HOUSE FARM STORES
 Drawing: EXISTING AND PROPOSED BUILDING LAYOUTS
 Job Ref: 06000000 Drawing No: 04 Date: 2007/06/20
 Scale: 1:100 @ A1 Format: D3 Drawing No: 04 Date: 2007/06/20

EARTH FORMS
 ENGINEERS
 LONDON

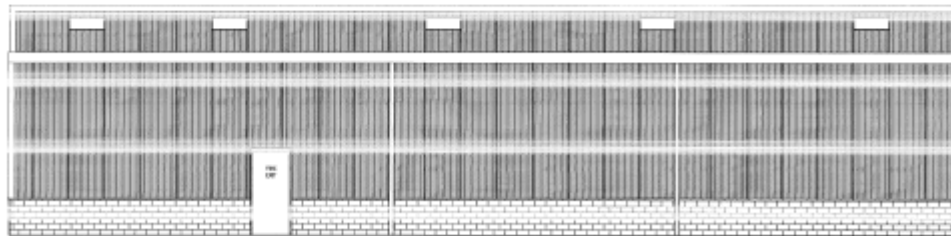


SIDE ELEVATION FACING HOUSES

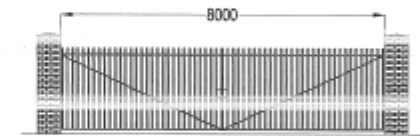
SIDE ELEVATION FACING OPEN COUNTRYSIDE



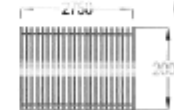
OFFICE ELEVATION FACING BOWES OFFICES



REAR ELEVATION



MAIN GATES

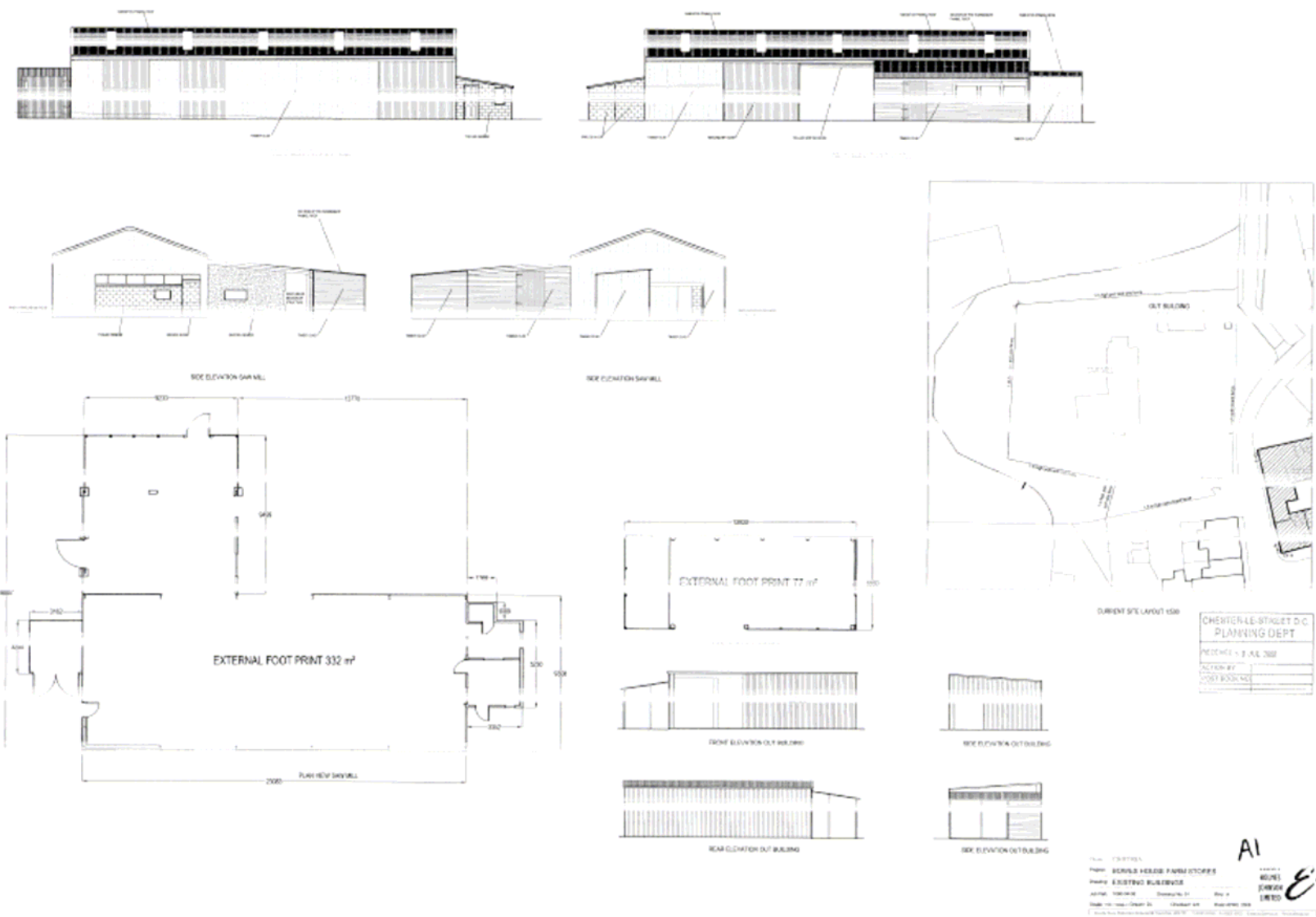


TYPICAL FRONT FENCE SECTION
Total Security Solutions DIAMEX
Galvanised and Polyester Power Coated
or Similar



Client: PROCTER	Drawn: JAMES
Project: BOWES HOUSE FARM STORAGE	Scale: 1:50
Design: PROPOSED ELEVATIONS	Date: 28 JUL 2008
Author: JAMES	Checked: JAMES
Scale: 1:50 @ A1	Drawn: JAMES

A1
E



CHESTER-LE-STREET DISTRICT COUNCIL
DIRECTORATE OF DEVELOPMENT SERVICES
PLANNING COMMITTEE **13 October 2008**

2.

Reference: 08/00340/CLU

Proposal Certificate of Lawfulness for an existing use of land as private garden area.

Location Land Adjacent to 35 Westhills Close Sacriston Durham

Applicant Mrs K. Embleton

Application Summary

Ward: Sacriston

Case Officer: Lisa Morina, Planning Assistant

Contact Details: 0191 387 2146

lisamorina@chester-le-street.gov.uk

Summary of recommendation: It is considered, based on the information provided, that the applicant's claim should be supported and that a Certificate of Lawfulness should be issued in this instance.

Accordingly it is recommended that the application be granted.

The Proposal

This report relates to an application for a Certificate of Lawfulness for an Existing Use (CLEU) which has been submitted under section 191(C) of the Town and Country Planning Act 1990 (as amended) by Mrs Embleton for land adjacent to 35 Westhills Close, Sacriston.

Specifically Mrs Embleton is seeking confirmation from the Council that the use of the land adjacent to her property as private garden area is lawful, and immune from enforcement action, by virtue of the fact that it has been ongoing continuously for a period of more than 10 years from the date of this application.

The land in question is owned by Cestria Housing and is classed as open amenity land in planning terms on the grounds that it was never historically acknowledged as being part of the curtilage of the property. It currently is open plan and is maintained by Mrs Embleton as an extension to her garden area.

The application is being reported to the Planning Committee as Mrs Embleton is an employee of Chester-le-Street District Council.

Consultation Responses

As the application relates to a Certificate of Lawfulness for an Existing Use, the planning merits of the proposal are not open for discussion (see further commentary below) and consultation on the application has therefore, been limited to those persons who it is considered may be in a position to provide evidence to substantiate or refute the applicant's claim. Accordingly, consultations have only been carried out with surrounding occupiers.

In response to this consultation, no letters of objection have been received to date.

However, in support of the Certificate, the applicant has submitted a petition from 4 residents within the estate to say that the area has been maintained by Mrs Embleton for as long as they have lived within the area (being between 6 and 14 years).

The Council's Operations Manager has confirmed that the land has never been maintained by the Council and or Cestria Housing (recently transferred to) for the period of at least 13 years 11 months.

Relevant Planning Policies and Considerations

As the application relates to a Certificate of Lawfulness for an Existing Use Application there are no Local Plan Policies relevant to the proposal.

The most relevant Central Government advice on the subject of CLEU applications is contained in Circular 10/97; Enforcing Planning Control. This Circular provides advice on the relevant area of legislation applicable to the proposal.

In affect the applicant is seeking a Certificate from the Council to confirm that the prescribed activities, i.e. in this case the use of land as private garden area, is lawful within the meaning of the Act as no enforcement action may be taken against it due to the fact that the use began more than 10 years from the date of the application and has been in place continually since.

Circular 10/97 advises that the onus of proof is on the applicant to prove her case that the use is lawful. The Circular goes onto advise that the relevant test for the decision maker to bear in mind is on the "balance of probability", having regard to the evidence provided. In particular the Circular advises that the Local Planning Authority should not refuse a Certificate because the applicant has failed to discharge the stricter, criminal burden of proof, of "beyond reasonable doubt". The Circular advises that applicants (and indeed objectors) evidence does not need to be corroborated and are to be accepted on face value. Furthermore it advises that if the Local Planning Authority has no evidence of their own to contradict the applicant's version of events, this is no good reason to refuse an application.

Having regard to the relevant tests, as briefly discussed above, the applicant has sought to prove this case, that the use of land as private garden area commenced in excess of 10

years ago and is therefore now immune from any enforcement action. In support of the application a 4 named petition has been received as well as a memorandum from the Operations Manager of Chester-le-Street Council regarding maintenance of this land.

Assessment of Proposal

In terms of assessing the application, as discussed above, Members will need to consider having regard to the available evidence whether or not, on the balance of probabilities, the applicant's claim should be accepted.

In terms of the representations received in support of the proposal, it should be borne in mind that they have been submitted from a variety of people. These include the owners of neighbouring properties of the land in question as well as Council Employees who would have a material interest in this land due to its use as public open space.

In addition to considering the evidence submitted Officers have carried out their own investigations into the applicant's claim. Available evidence which provides intelligence on the subject is aerial photography contained on the Council's GIS System taken in 2001 and also a website – Live Search Maps from 2007/2008 which shows a bird eye view of the area. This photography supports the applicant's claim as it does show the area of land in question as appearing to be part of the applicant's own garden area.

It is considered that this information represents evidence to which significant weight should be attached. Accordingly it is considered that with the benefit of this evidence to hand that the applicant has succeeded in proving this case and that the application should be recommended for approval as being lawful.

Conclusion

In conclusion and having regard to the available evidence including the comments received from the Operations Manager for Chester-le-Street District Council and neighbouring residents, it is considered, on the balance and probability, that the applicant's claim should be supported and that a Certificate of Lawfulness should be issued in this instance.

RECOMMENDATION CONDITIONS:-

Approve SUBJECT TO THE FOLLOWING

Extra 1.

The applicant has succeeded to prove, on the balance of probabilities, that the existing use of the land as private garden area is lawful, within the meaning of Section 191 (C) of the Town and Country Planning Act 1990 (as amended).

Land adj to 35 Westhills Close

Sacriston



Scale : 1:1250

3.

Reference: 08/00354/FUL

Proposal Erection of canopy in children's play area at rear of nursery (retrospective application).

Location Eden Garden Nursery St Benet's Way Ouston Chester-le-Street Durham DH2 1QN

Applicant Mr G. Errington

Application Summary

Ward: Ouston

Case Officer: Lisa Morina, Planning Assistant

Contact Details: 0191 387 2146

lisamorina@chester-le-street.gov.uk

Summary of recommendation: The development hereby proposed will provide for an acceptable form of development which is not considered to have a negative impact on the visual amenity of the streetscene or be detrimental to the residential amenity of neighbouring properties.

Accordingly it is recommended that the application be approved.

The Proposal

This report relates to the erection of a detached canopy structure situated in the play area at the rear of Eden Garden Nursery situated within the grounds St Benets Roman Catholic Primary School based on St Benets Way, Ouston.

This proposal is being sought on a retrospective basis as a result of an enforcement complaint and subsequent investigations by Officers.

Site History

06/00582/FUL - Nursery to provide full day care facility. Approved 14/3/07.

Consultation Responses

The application has been advertised by way of site notice and direct mailing to adjacent occupiers. As a result of this exercise, three letters of public objection have been received to date with the following concerns:

- The proposal is for a canopy which has been put in place without planning consent.
- There is a long running complaint by residents to the building that this canopy is adjoining. The original planning consent was set out with conditions and the applicant has ignored a number of these until threatened with legal action.
- The structure dramatically reduces the appeal of the quiet cul-de-sac.
- The canopy is an ugly eyesore adjoining an even uglier portacabin business premises that is totally out of keeping with the street and Residents advise that they would not have chosen to live in the area if it was here before they bought their properties.
- The silver coloured support poles are totally out of keeping within the surrounding area and stand out clearly - The poles should be changed for something more in keeping or a screen should be erected to be in keeping with the surrounding area.
- Complaints have already been made to the Local MP regarding the structure, Local Government Ombudsman on the lack of action of the planning department and Environmental Health because rats have been seen around the rubbish from the site.
- The Council should take notice of resident's objections and complaints and refuse this application and any further applications by this applicant.
- The canopy is too large and out of place within the residential street.

Relevant Planning Policies and Considerations

The Chester le Street Local Plan does not include any Policies specifically relating to children's nurseries and additions to such buildings. However, this proposal can be assessed against policy 8 of the Regional Spatial Strategy (RSS).

The (RSS) sets out a long-term planning strategy for the spatial development of the North East Region of England. The RSS is part of the statutory Development Plan. The Regional Spatial Strategy was adopted in July 2008.

Policy 8 - Seeks to protect and enhance the environment. This in part should be achieved through promoting high quality design in all development that should be sympathetic to the surrounding area.

In determining this application the main issues to be considered are the design of the proposal in relation to the host property as well as the streetscene, the impact the proposal may have on the residential amenity of the neighbouring properties as well as other issues which have been raised as part of the consultation process.

Siting and Design of Development

The canopy is sited to the rear of an existing nursery which is set within the grounds of an established school site based on St Benets Way. The proposal due to its location is not visible from St Benets Way however, is visible to the neighbouring housing estate known

as Penhill Close. The canopy is located at the head of a cul-de-sac serving the southern section of this estate. The common boundary which runs between the school site and the cul-de-sac consists of mature hedging and bushes as well as two existing fences one being an approximately 2m high palisade style fence with a smaller close boarded wooden fence situated in front.

The proposal which is for a canopy style structure mounted on poles with a varying height of between 2.5m and 4m is not considered to cause a negative impact on the visual amenity of the streetscene when viewed from Penhill Close due to the existing screening in place. Although the proposed boundary treatment does not fully mask the proposal from the street, there are trees to the rear of the proposal which when viewed from Penhill Close act as a back drop for this proposal. Given these comments and the site circumstances, it is considered that the proposal would not have an adverse impact on the visual amenity of the streetscene.

It is not considered appropriate to impose additional screening or masking to this proposal as it is not considered to cause serious harm to the visual amenity of the streetscene.

Residential Amenity

The location of the structure is sited more than 15m away from the nearest elevations of the adjacent residential properties and is of an open plan nature. Given this as well as the side elevations of these properties having blank gable elevations, in addition to being set at an angle from this structure, it is considered that the residential amenity of these neighbours would not be adversely affected as there would be no overshadowing, overbearing or overlooking issues to these properties.

Objectors have raised issues with regards to noise and the proposal essentially reducing the appeal of a quiet residential cul-de-sac. However, the canopy structure is not considered to create any additional noise issues as the area in which the canopy is situated is an established play area for children.

Other Issues

Objectors have raised issues with regards to previous applications that have been approved by the Council as well as concerns over alleged non compliance with conditions from this approval. Issues have also been raised with regards to any future applications which may be submitted. These issues however are not relevant as part of this planning application and have been dealt with under separate issues therefore, can not be considered as material planning considerations when determining this application.

Objectors have also raised the issue of the canopy being in place (for some time) before an application has been submitted. However, Members will be aware that carrying out development without planning permission is not illegal as Regulations allow for applications to be submitted on a retrospective basis. Therefore, a development being carried out prior to planning approval being gained can not be considered as a material planning consideration and is therefore, not considered an appropriate reason to warrant refusal of an application.

Conclusion

Taking all relevant issues into account, it is considered that planning permission should be granted as the proposal is considered to provide an acceptable form of development within the streetscene which would not impact negatively on the visual amenity of the streetscene or the residential amenity of the neighbouring properties.

RECOMMENDATION

Approve

Extra 1.

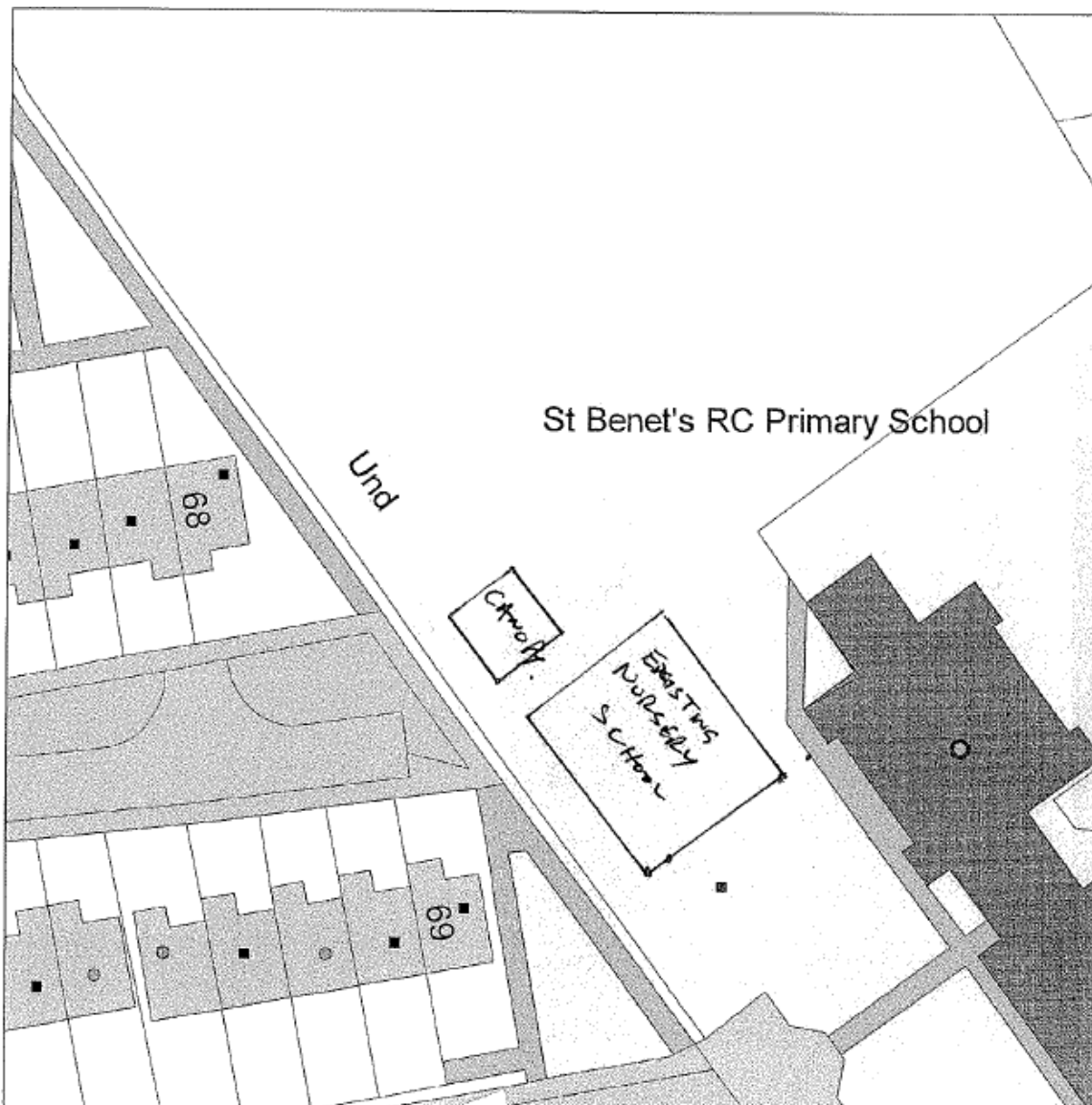
As the proposal is being sought on a retrospective basis no conditions are relevant in this instance.

Eden Garden Nursery

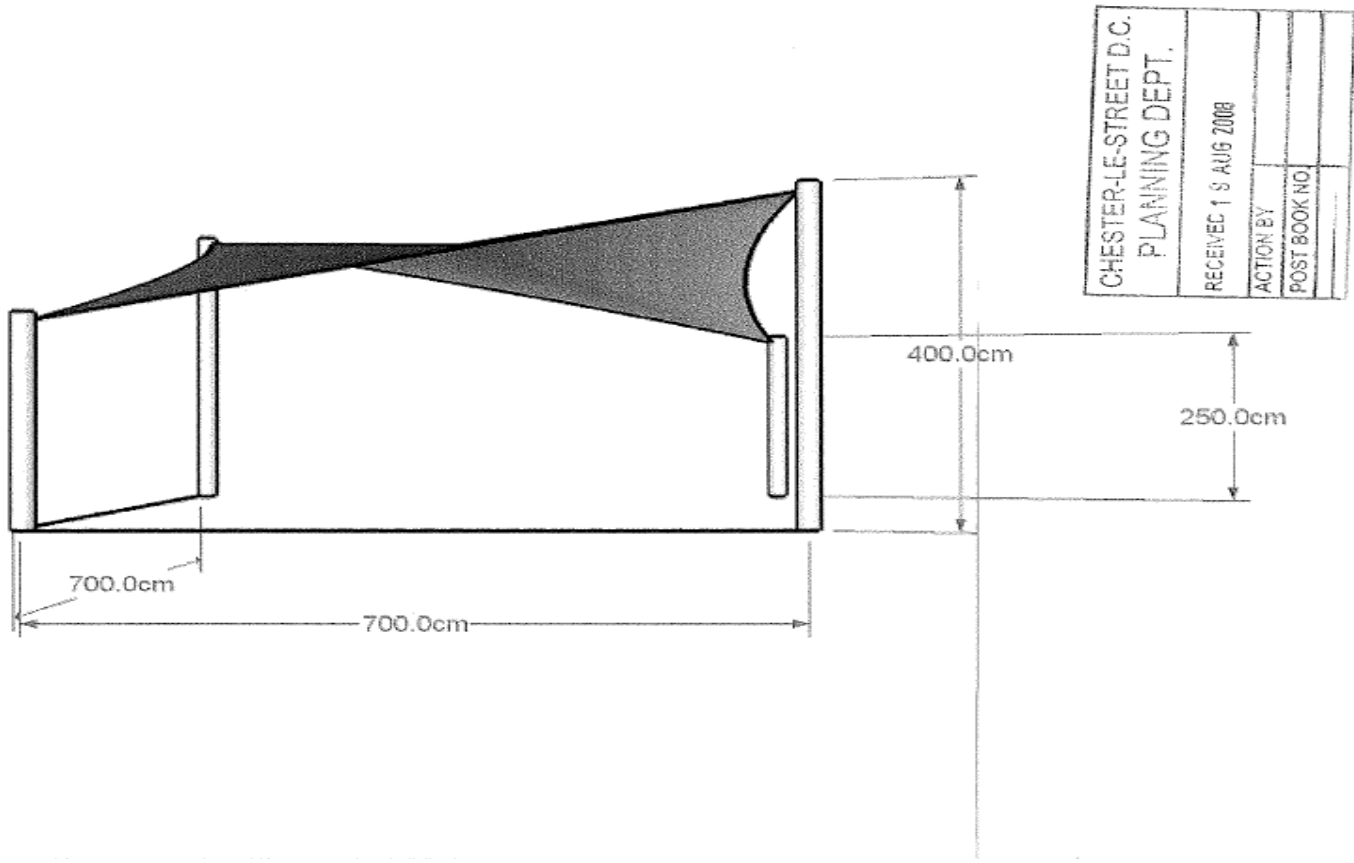
St Benets Way, Ouston



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CHESTER-LE-STREET DISTRICT COUNCIL
DIRECTORATE OF DEVELOPMENT SERVICES
PLANNING COMMITTEE 13 October 2008



CHESTER-LE-STREET DISTRICT COUNCIL
DIRECTORATE OF DEVELOPMENT SERVICES
PLANNING COMMITTEE **13 October 2008**

4.

Reference: 08/00361/FUL

Proposal Erection of timber decking and paved areas to existing rear garden.

Location Garden Farm Public House Carlingford Road Chester-le-Street Durham DH2
3EH

Applicant Enterprise Inns

Application Summary

Ward: Chester South

Case Officer: Steven Pilkington, Planning Officer

Contact Details: 0191 387 2145

 stevenpilkington@chester-le-street.gov.uk

Summary of recommendation: Subject to the attached conditions, the decking provides for an acceptable form of development, which would not impact negatively on the visual amenity of the surrounding area or the residential amenity of neighbouring properties and as such complies with the relevant policies of the Development Plan.

Accordingly the application is recommended for approval.

The Proposal

Retrospective planning permission is sought for the erection of a raised decking and patio area located to the rear of Garden Farm Public House. The decking has been erected approximately 6 months ago and replaces a landscaped area. The decking encompasses the perimeter of the site providing a grassed area to the centre and measures a maximum of 0.9m in height from the existing ground level.

Relevant Planning History

There is no relevant recent planning history to the site

Consultation Responses

Neighbouring residents have been notified of the development by individual notification letters and by site notice. To date three letters of objection have been received.

The objections can be summarised to the issues below:-

- Loss of privacy,
- Increase in noise,
- Increase in lighting,
- Loss of trees,
- The decking area has encouraged the wrong type of clientele to attend the premises,
- Increase in vermin

Environmental Health - No Objections

Economic Development – No Response received

Relevant Planning Policies and Considerations

Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plans are the adopted Chester-le-Street District Local Plan and the Regional Spatial Strategy for the North East (RSS). The following policies are considered relevant:-

Regional Spatial Strategy

Policy 8 of the RSS - Protecting and Enhancing the Environment –sets out that planning proposals should seek to promote a high quality of design and promote development that is sympathetic to its surroundings.

Local Plan

R19 – Food and Drink – Sets out that food and drink uses will be considered appropriate in principle within existing retailing centres where the development would not impact on the amenity of the occupants of residential properties from noise, fumes, smell, lighting and activity levels at the site, including highway issues and waste management issues.

Impact on surrounding land users

Objections have been raised regarding the increase in noise generated from the premises. However as established in case law (Lewisham LB22/12/94) a pub and its garden form one planning unit. Therefore it is considered that the land to the rear of the pub could be used as a beer garden without the need for planning permission. On this basis it is considered that any noise generated from the decking is not significantly greater than would be generated under the permitted use of the area as beer garden. It should also be

noted that the councils Environmental Health Department have raised no objections to the development.

Residential properties are located to the east and south of the application site. As the decking and patio have effectively increased the height of the ground by a maximum of 0.9m a loss of privacy arises for neighbouring residents. This is primarily due to the presence of the boundary treatments (1.6m in height from the maximum height of the decking), which allow patrons of the pub to look directly into neighbouring gardens and windows. In addition to this a section of boundary fence is open boarded further reducing the privacy of neighbouring residents.

In order to address these issues it is recommended that a condition be attached to the application, requiring that the boundary treatments are increased in height to 1.8m and close boarded. It is considered that this increase in height will prevent ready views to neighbouring properties.

Views may however, still be achievable to the rear windows of the properties of 2-8 St Mary's Close, especially from the eastern most elevation of the site. However this will be at a minimum distance of approximately 32m, which is deemed acceptable based on separation guidelines outlined in Appendix 1 of the Local Plan.

Character of the Area / Visual Amenity

The decking is not visible from outside the site and therefore does not impact directly on the character of the area. However the decking encloses a number of semi mature trees, which do contribute to the character of the area. In addition to this, objections have been raised regarding previous trees that have been removed on the site. However after assessing the proposal, it is considered that due to the construction methods of the decking, the health of the trees should remain unaffected, protecting the amenity of the area. In addition to this the trees in question are not protected by Tree Preservation Orders.

Other Issues Raised

Objections have been raised regarding the possible increase of rats present in the premises, due to food falling between the decking. However it is considered that this is a matter for the Environmental Health Department to regulate and does not form a material planning consideration in this application.

Objections have also been raised regarding the increase in lighting of the area. However planning permission is not required to illuminate the garden by means of lighting additional to the existing public house. Lighting nuisance is considered an issue for the Environmental Health Department to regulate.

Further objections have also been raised regarding the 'type of person' that is attracted to the pub and the noise they generate. However again this is not a material planning consideration as the use of the premises has been established.

Conclusion

The proposed scheme has been considered against the policies identified above; it is considered that the proposal conforms to these policies as the scheme does not impact on the character of the surrounding area or the amenity of neighbouring land users. There are no material planning considerations that indicate a decision should be otherwise and therefore the application is recommended for approval.

RECOMMENDATION
CONDITIONS:-

Approve SUBJECT TO THE FOLLOWING

Extra 1.

Notwithstanding the submitted information, within one month of the date of the permission hereby granted, a scheme identifying:-

- The increase in height of the boundary treatments to the eastern and southern boundaries of the site to 1.8m from the maximum height of the decking, and
- The replacement of the open boarded fence to the eastern boundary of the site with a closed boarded fence,

Shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented to the satisfaction of the Local Planning Authority within two months of the date of this permission. To protect the privacy and amenity of neighbouring residents and to conform to policy R19 of the Chester-le-Street Local Plan.

Garden Farm

Carlingford Road, Chester-le-Street

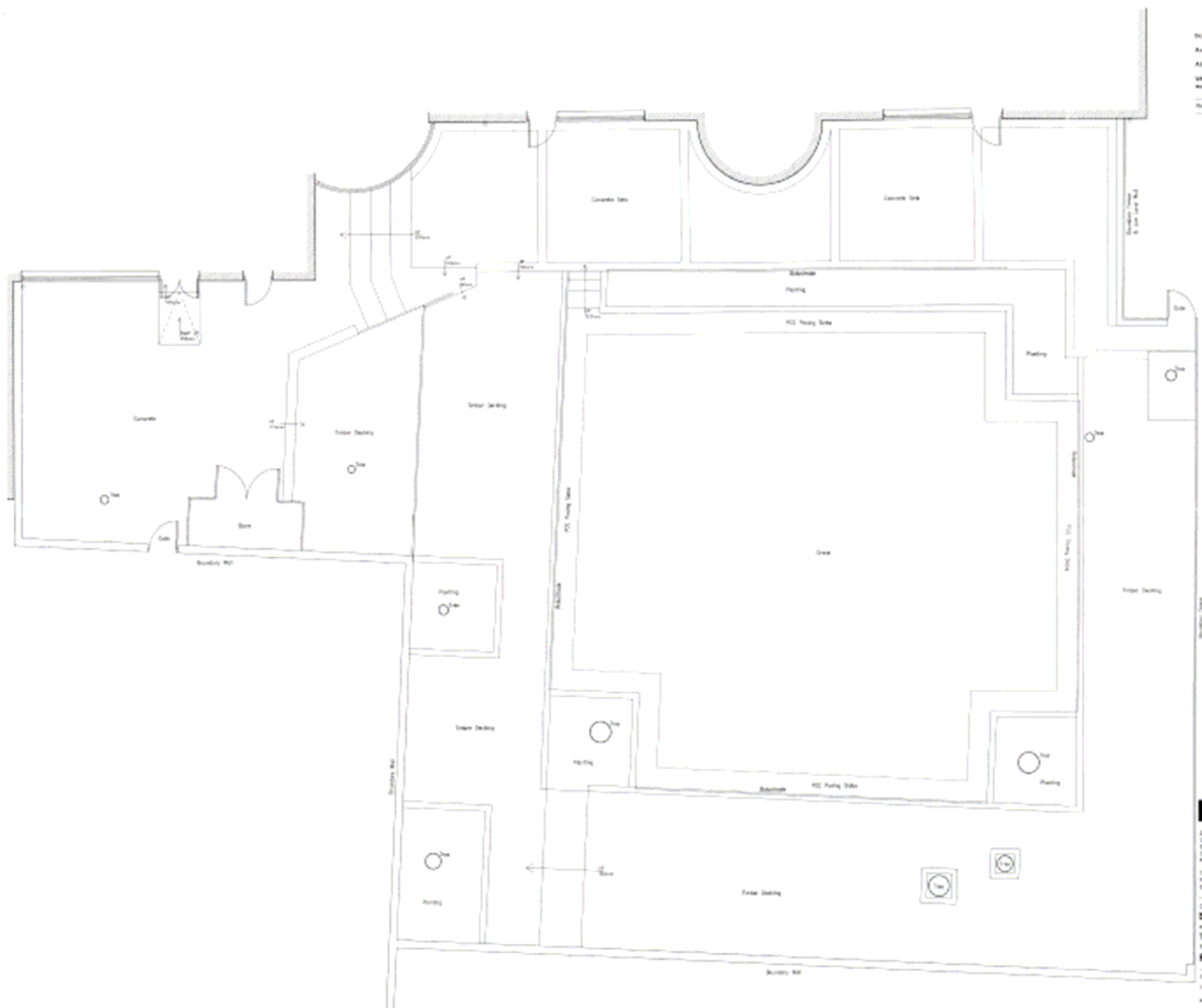


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CHESTER-LE-STREET DISTRICT COUNCIL
DIRECTORATE OF DEVELOPMENT SERVICES
PLANNING COMMITTEE 13 October 2008



Do not scale off this drawing
 Any discrepancies must be reported immediately
 All dimensions to be checked on site
 We do not accept liability for alterations outside our
 customary practice

Number	Description	Date

CHESTER-LE-STREET DISTRICT COUNCIL
 PLANNING DEPT
 PROJECT: E.A.N. 2008
 DRAWING NO:
 DATE:

dea partnership

dea Partnership Ltd
 Chester, Cheshire
 100, Market Street
 Chester, CH1 1RN
 Tel: 01244 271000
 Fax: 01244 271004
 E: info@deapartnership.co.uk

Client:
Enterprise Inns

Project:
THE GARDEN ARMS, Chester-le-Street

Drawing No:
Existing Plan

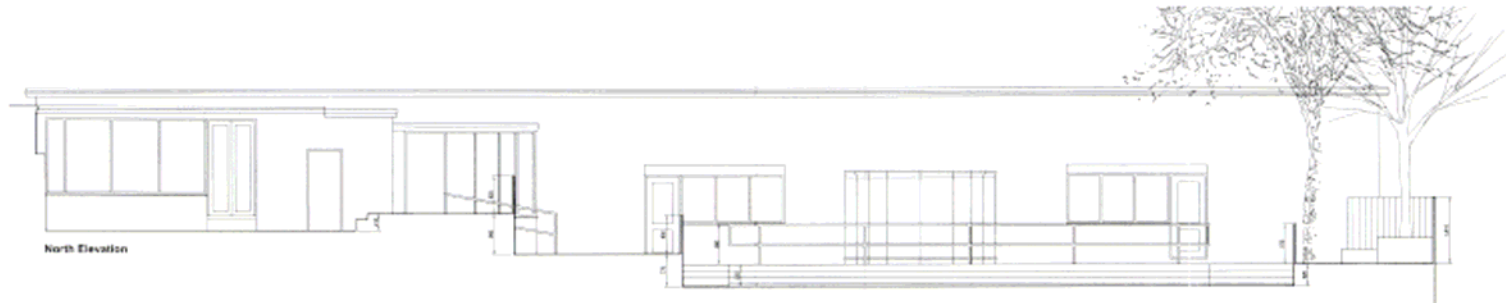
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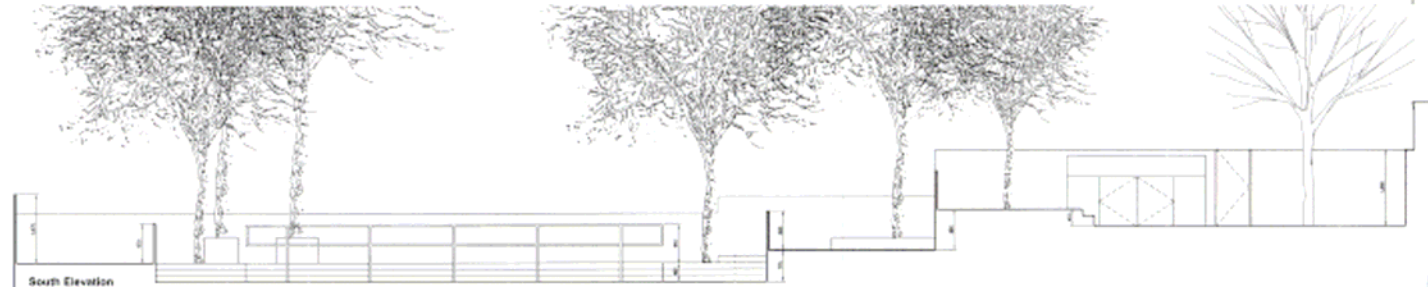
East Elevation

Do not scale off the drawing
 Any discrepancies must be reported immediately
 All dimensions to be checked on site
 We do not accept liability for alterations outside our
 professional control.

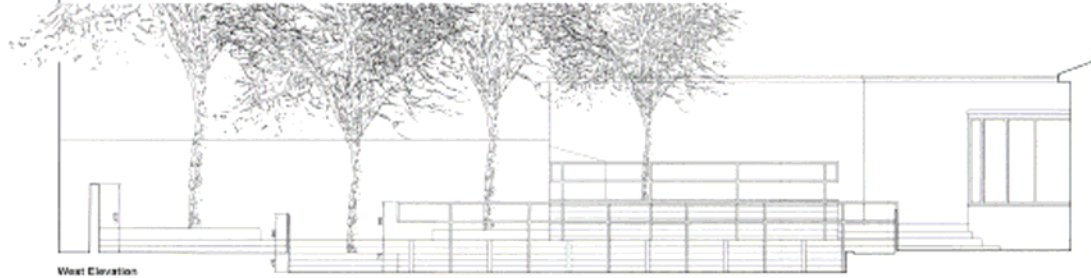
No.	Date	By



North Elevation



South Elevation



West Elevation

CHESTER LE-STREET O.C.
 PLANNING DEPT.
 RECEIVED 13 OCT 2008
 PROJECT NO. 2008/0008

de a partnership

DEA Partnership LLP
 Company Secretary
 Somerset House
 11 South Colonnade
 London EC1A 3BB
 T: 020 7493 2000
 F: 020 7493 2001
 E: info@deapartnership.co.uk

Client
Enterprise Inns
 Project
THE GARDEN ARMS, Chester-le-Street
 Drawing No.
Existing Elevations

AI

No.	Date	Drawing Number	Rev.	By	Check
1.01	0076	2003/08/02		LP	

ITEM 2 Appeals Update

1 October 2008

List of Planning Appeals and Current Status

The Planning Applications listed below have been, or are currently, the subject of appeals against the decision reached by the Planning Committee. Planning Appeals are considered by a Planning Inspector from the Planning Inspectorate, a body which is independent of Chester-le-Street District Council.

Key to Appeal Type Code

- W - Written Representations
- I - Hearing
- P - Public Inquiry

If you wish to view a copy of an Inspector's decision letter regarding any one of the appeals listed below please contact the Planning Division on 0191 387 2172 or 0191 387 2173 in order to arrange this.

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
07/00115/FUL /	Mr A.J. Laverick	4 Station Lane Pelton Fell Chester-le-Street Durham DH2 2RL	Single storey ground floor extension to kitchen and replacement sun lounge for conservatory	W / 29.10.2007	E:425239 N:552103	Appeal Withdrawn / 11.01.2008

PLANNING COMMITTEE 13 October 2008

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
07/00276/FUL /	Mr Thomas	New Dwelling Adjacent to Willowbrook Woodburn Close Bournmoor Chester-le-Street Durham DH4 6DH	Erection of conservatory to rear, creation of new window opening to side elevation and installation of additional roof light to rear	W / 24.01.2008	E:431238 N:550971	Appeal Allowed / 01.05.2008
07/00285/FUL /	Mr D. Kumar	53 Longdean Park Chester-le-Street Durham DH3 4DG	Conversion of garage to office, single storey extension to rear to provide sun lounge and extension above garage to provide additional bedroom and extended kitchen area plus widening of driveway.	W / 14.02.2008	E:427588 N:552791	Appeal Allowed / 15.07.2008
07/00438/FUL /	McCarrick Construction	1 - 4 Chalmers View Newcastle Road Chester-le-Street Durham DH3 3TE	Retrospective application to allow glass panels between bay windows instead of previously approved timber panels in application 06/00016/FUL	W / 30.05.2008	E:427422 N:551915	Appeal Allowed / 02.09.2008

PLANNING COMMITTEE 13 October 2008

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
07/00495/FUL /	Mr J. Johnson	Johnsons Garage 3 Newcastle Road Chester-le-Street Durham DH3 3TJ	Demolition of car showroom & workshop and erection of 10 no apartments & associated works (Amended description)	W / 05.03.2008	E:427405 N:551809	Appeal Allowed / 20.06.2008
07/00497/FUL /	Mr & Mrs Fletcher	Land to The West of The Poplars Arcadia Avenue Chester-le-Street Durham	Proposed erection of 1 no dormer bungalow and detached garage	W / 25.01.2008	E:427290 N:552194	Appeal Withdrawn /
07/00502/ADV /	JC Decaux	AP Developments 28 - 29 Front Street Pelton Chester-le-Street Durham DH2 1LU	Display of externally illuminated free-standing 48 sheet advertisement hoarding, size 3.048 metres x 6.096 metres, along east elevation of front of site (retrospective application).	W / 01.02.2008	E:424956 N:553078	Appeal Dismissed / 06.05.2008

PLANNING COMMITTEE 13 October 2008

Application Number / ODPM reference number	Applicant	Appeal Site	Proposal	Appeal Type / Appeal Start Date	OS Grid Reference	Status / Date of Appeal Decision
07/00544/FUL /	Mr & Mrs Cree	3 Kingsmere Chester-le-Street Durham DH3 4DB	Erection of single storey extension at side of dwelling and erection of detached garage in garden area at side/front (amended plans received 18 February 2008).	W / 11.06.2008	E:427309 N:553411	Appeal In Progress /
08/00089/FUL /	Mr P. Blaydon	Land at Entrance to Valley View Sacriston Durham	Erection of one detached bungalow and means of access	W / 09.07.2008	E:423797 N:546791	Appeal In Progress /

CHESTER-LE-STREET DISTRICT COUNCIL

DIRECTORATE OF DEVELOPMENT SERVICES

PLANNING COMMITTEE **13 October 2008**

ITEM 3 Notification of Outcome of Appeal Decision

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

Site Location: **1-4 Chalmers View, Chester-le-Street, DH3 3TE**

Decision: **The Appeal was allowed**

Notification has recently been received from the Planning Inspectorate of a decision reached in an appeal lodged by McCarrick Construction against the planning refusal for the above development.

Members may recall that this application was presented to the Planning Committee in December 2007 with a recommendation for refusal which was accepted by Members. The refusal reason was based on a perceived poor design quality resulting in a development which was considered to have a negative impact on the streetscene.

The key considerations for the Inspector were the impact on the visual amenity of the street scene and how the proposal would impact on the appearance of the area.

The Inspector in summarising the design issues stated the following:-

“The glass panels are an unusual feature, but do not look out-of-place or incongruous on the building. I am not persuaded that they “jar” as referred to by the Council.

The vicinity of Chalmers View, Newcastle Road contains a variety of buildings, including traditional two-storey housing and the large, modern Civic Centre opposite. The block of apartments, incorporating the glass panels, does not harm the streetscene, relating well to its surroundings and respecting the predominant character of the area.

I note the general support for this view in written representations of local residents. It follows that the provision of the glass panels is not out of accord with the aims of policy HP9 of the Local Plan”.

Accordingly, the appeal was allowed. A copy of the appeal decision is appended to this report for Member’s consideration.

Appeal Summary

Ward: Chester North

Case Officer: Lisa Morina, Planning Assistant

Contact Details: 0191 387 2146 lisamorina@Chester-le-street.gov.uk



Appeal Decision

Site visit made on 18 August 2008

by **J D Waldron** MCD BArch Architect

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
2 September 2008

Appeal Ref: APP/G1305/A/08/2075478

1-4 Chalmers View, Newcastle Road, Chester-le-Street DH3 3TE.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by McCarrick Construction Co Ltd against the decision of Chester-le-Street District Council.
- The application Ref: 07/00438/FUL dated 28 September 2007 was refused by notice dated 12 December 2007.
- The retrospective application is for glass panels between bay windows instead of timber panels approved under planning permission: 06/00016/FUL.

-
1. Policy HP9 of the Chester-le-Street District Local Plan adopted in 2003 sets out the criteria which need to be fulfilled for residential development to be acceptable. Under criteria (i) residential development needs to relate well to the surrounding area and respect its predominant character.
 2. Chalmers View is a block of 4 apartments in a prominent corner position on Newcastle Road. The block is 2-storey, brick-built with a pitched roof covered in tiles. It is of simple, generally traditional design. The front elevation is symmetrical and incorporates two bay windows on the ground floor and two above on the first floor. The glass panels are between the heads of the ground floor bay windows and the cills of the first floor bay windows.
 3. A feature of the design is that each bay is framed in UPVC. Thus the glass panels are incorporated within the overall UPVC framing. They are of very dark green glass and relate well to the white UPVC framing, appearing quite different from the clear glazing of the windows above and below. The glass panels are an unusual feature, but do not look out-of-place or incongruous on the building. I am not persuaded that they "jar" as referred to by the Council.
 4. In the vicinity of Chalmers View, Newcastle Road contains a variety of buildings, including traditional two-storey housing and the large, modern Civic Centre opposite. The block of apartments, incorporating the glass panels, does not harm the streetscene, relating well to its surroundings and respecting the predominant character of the area. I note the general support for this view in the written representations of local residents. It follows that the provision of the glass panels is not out-of-accord with the aims of Policy HP9.
 5. For the reasons given above I conclude that the appeal should be allowed.
-

Formal Decision

6. I allow the appeal, and grant planning permission for the development already carried out, namely **the provision of glass panels between bay windows instead of timber panels approved under planning permission: 06/00016/FUL** at 1-4 Chalmers View, Newcastle Road, Chester-le-Street DH3 3TE in accordance with the terms of the application, Ref: 07/00438/FUL dated 28 September 2007 and the plans submitted with it.

John Waldron

Inspector

PLANNING COMMITTEE 13 October 2008

Stephen Reed
Development and Building Control Manager
2 October 2008