

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, 13 October 2008 at 6.00 pm

PRESENT:

Councillor Ralph Harrison (Chairman)

Councillors:

G K Davidson	M D May
L Ebbatson	P B Nathan
M Gollan	D L Robson
D M Holding	J Shiell
W Laverick	

Officers:

S Pilkington (Planning Officer), D Chong (Planning Enforcement Officer), S Marshall (Democratic Services Assistant), S Reed (Development and Building Control Manager), J Taylor (Senior Planning Officer), L Morina (Planning Assistant) and J Smerdon (Regeneration and Planning Strategy Manager)

Also in Attendance: There were 3 Members of the public in attendance.

25. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillors L Armstrong, G Armstrong, A Turner, S Barr, A Humes, D Thompson, L Brown, M Sekowski, JW Barrett, P May, T Smith, M Potts, K Potts and P Ellis.

26. MINUTES OF PREVIOUS MEETING HELD 8TH SEPTEMBER 2008

RESOLVED: "That the minutes of the proceedings of the Meeting of the Committee held 8 September 2008, copies of which had previously been circulated to each Member, be confirmed as being a correct record, subject to the following amendment:

Page 62, final paragraph be replaced by: "Councillor Ebbatson asked for clarification on whether the fact that the two sites were owned by the same individual/developer in this planning application was a material consideration. The Development and Building Control Manager responded that ordinarily this was a material consideration but in this instance this had to be balanced

against the fact that outline planning permission had already been given for one of the sites.”

The Chairman proceeded to sign the minutes.

27. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS

Councillor Davidson declared a personal interest in Item 3 in the report as the applicant was personally known to him. He advised that he would be leaving the meeting whilst this item was considered.

The Chairman referred to Item 2 in the report and advised that he was a parish councillor for that particular ward but that he had not had any contact with anyone relating to the application.

28. CONFIRMATION OF SPEAKERS

The Chairman referred to the list of speakers and confirmed that the only speaker listed had entered the Chamber prior to the commencement of the meeting but had since left and not returned.

29. PLANNING MATTERS

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

(1) District Matters Recommended Approval

(1) 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

Applicant: K Middleton, Cestria Community Housing – Ref 08/00310/FUL

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

He advised that the site was located within the Green Belt and that the proposal therefore constituted a departure from the Local Plan. He stated that in his opinion approval of the development was a justified departure to the policy aims of the development plan due to the previous commercial use of the site as a timber saw mill, the fact that the proposed building was of smaller scale and a design improvement, and the fact that dense mature tree planting surrounded the site.

He advised that the design of the proposed structure was considered sympathetic to the character of the surrounding area and as such would not have an adverse effect on the Green Belt.

Councillor Holding queried if the new depot would be a replacement for the existing Bullion Lane Depot and if so there would be two issues to be taken into account, firstly whether the vehicles currently based at Bullion Lane would incur extra mileage going about the work being based at Bowes Park rather than at Bullion Lane and secondly, staff transport to and from work as there seemed to be a lack of public transport to the proposed depot. He queried if these issues had been assessed.

The Development and Building Control Manager stated that this was a valid point and that having regard to advice in the Regional Spatial Strategy the planning system was meant to be a promotion sites which are sustainable. He accepted that this site was outside of the settlement limit for Bournmoor and was in a remote location in the Green Belt. However he understood there was a bus stop on the classified road reasonably close to the access road in to the site. He advised that in terms of sustainability the site did not score as highly as the Bullion Lane depot site and that Members could take this fact into account as part of their consideration of the applications. He stated though that balanced against that fact there was an established industrial use on the site and that there was nothing in planning law to prevent another developer using the existing building on the site for industrial/commercial use without the need to apply for planning permission, that he felt the application should still be recommended for approval.

Councillor Nathan referred to the design and appearance of the building and queried to what extent did it match the design of the other buildings in the area.

The Development and Building Control Manager advised that it would not fit comfortably with the design of the Cestria Community Housing Association offices, which are more of a traditional design, but regard had to be given to the fact that there is an existing building of little merit on the site at present. He advised that had the existing building been of aesthetic merit there would have been the need for a much stronger design solution. He advised that on balance, the proposal was considered acceptable and that it would not adversely impact on the character of the site any more than the present building already did.

He also advised of an Extra Condition to timber clad the elevation which would face out onto the estate road this being more appropriate than sheeting proposed.

Councillor Davidson made reference to the trees which provide the screening and queried if they benefited from Tree Preservation Orders. He also referred to the mitigation measures in the submitted bat survey and queried what those measure were.

The Development and Building Control Manager advised that he was not aware if there was a Tree Preservation Order on the trees adjacent to the site. The Senior Planning Officer dealing with the case confirmed there was not an Order in place.

The Senior Planning Officer advised that bat boxes were to be placed around the site to promote long-term sustainability of bats. He also advised that the building was heavily contaminated and not attracting any bats at present.

Councillor Nathan queried the extent of use of the proposed storage facility, the level of use during the day and the expected number of visits to the site.

The Development and Building Control Manager advised that the developers had submitted a transport assessment with the application which detailed what the operational parameters would actually be. He stated that Durham County Council, as Highways Authority, had taken the view that the level of impact would not necessarily be any greater than what could be achieved if the site were to be used with the existing building without the need for planning permission.

The Senior Planning Officer advised that consultation had taken place with Cestria Community Housing Association and it was understood that one heavy goods vehicle approximately once a week visiting the site and one light goods vehicles using the site during the week would be the typical number of vehicular visits.

Councillor Laverick stated his concerns that, if approved, this application would open the floodgates for other applications in Green Belt areas.

The Development and Building Control Manager advised that if it was not for the fact that this was a previously developed site with a substantial structure already on site, the current screening alone would not justify the recommendation of approval.

He advised that should Members be minded to approve the recommendation, an informative could be added to the approval certificate making the developer aware that although approval for development in the Green Belt would be given on this occasion, that is only very much under special circumstances in that there is an existing development in place which has led to that decision.

Councillor Ebbatson raised a concern with regard to the consultation response from the Highways Authority stating there were no objections to the development provided the access to the site was from the main access road which terminates to the east of the nearby garden centre. She stated that this response suggested that there was an alternative access route and that should approval be given the condition regarding access would need to be strengthened.

The Development and Building Control Manager advised the entrance to the east of the garden centre, which the Highways Authority were requiring to be used, was by far the most convenient access for the site but that there was another access route to the Lambton Estate but this was quite narrow in parts and would not be suitable for larger vehicles. He advised that he would propose to add an Extra Condition to say that vehicular movements associated with the development have to use the access onto the A183, being the road to the east of the garden centre.

He also advised that he had considered further the green travel plan issue and the sustainable transport comment made by Councillor Holding and stated that national advice and advice in the Regional Spatial Strategy tended to indicate that these types of conditions should only be attached to a major development proposal. However he stated that if Members did have a particular concern about the sustainable development credentials of the development proposed, he would not be adverse to adding an extra condition to the recommendation that Cestria Community Housing Association would have to submit a green travel plan for approval. He stated that in the case of larger developments the Regional Spatial Strategy also advises it is appropriate to attach planning conditions to require ten percent renewable energy provision on site and that this could be attached due to the Green Belt location of the site and the fact that in general sustainable development terms it probably does not score highly, Cestria could be asked to look at the construction methodology, look at how they are going to power the building once built to achieve a ten percent renewable energy target.

It was proposed by Councillor Davidson and seconded by Councillor Laverick that the application be approved subject to the extra conditions to require the applicant to submit a green travel plan, achieve a ten percent renewable energy target and subject to the condition to require the vehicular access to be from the access road being the A183.

This proposal was agreed by Members.

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.

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.

Extra 6.

Within three months of the commencement of the development hereby approved or as agreed in writing by the Local Planning Authority a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include at least 10% decentralised and renewable energy or low carbon sources unless otherwise agreed in writing with 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 Regional Spatial Strategy North East Policy 38 and Planning Policy Statement 1.

Extra 7.

Within six months of the occupation of the development hereby approved the developer shall submit a Travel Plan to demonstrate proposed measures to reduce the reliance on the use of the private motor car to access the development to the satisfaction of the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the agreed travel plan, unless otherwise first agreed in writing with the Local Planning Authority. To ensure the development meets the aims of sustainable transport and to accord with the aims of policy 2 of the Regional Spatial Strategy and policies T15 and T17 of the Chester-le-Street Local Plan.

Extra 8.

Notwithstanding the details submitted the hereby approved development shall only use the access road from the junction with the A183 Chester Road alongside the Garden Centre and adjacent the Bournmoor Filling Station in

the interest of highway safety and in accordance with Policy T15 of the Chester-le-Street Local Plan.

(2) Proposal: Certificate of Lawfulness for an existing use of land as a private garden area

Location: Land adjacent to 35 Westhills Close, Sacriston

Applicant: Mrs K Embleton – Ref 08/00340/CLU

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

He advised that the applicant was seeking confirmation from the Council that the use of the land adjacent to her property as private garden area was lawful and immune from enforcement action, by virtue of the fact that it has been ongoing continuously for a period of 10 years from the date of the application.

He advised that the Council's Operations Manager had confirmed that the land had never been maintained by the Council and/or Cestria Housing for the period of at least 13 years 11 months.

He also advised that there had not been any objections from the surrounding residents but that 4 letters had been received in the form of a petition from neighbouring residents confirming that the applicant had maintained the land as an extension to her own garden for a minimum of 10 years.

Councillor Robson stated that he was in support of this application as he could see no reason as to why there would be any objections and proposed that the application be approved which was seconded by Councillor Davidson.

This proposal was agreed by Members.

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:

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).

Prior to consideration of the following item, Councillor Davidson left the meeting.

(3) Proposal: Erection of canopy in children’s play area at rear of nursery (retrospective application)

Location: Eden Garden Nursery, St Benet’s Way, Ouston

Applicant: Mr G Errington – Ref 08/00354/FUL

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

He advised that the report related to the erection of a detached canopy structure situated in the play area at the rear of the nursery which provided a covered play area for the children attending the nursery. He also advised that the proposal was being sought on a retrospective basis as a result of an enforcement complaint and subsequent investigations by officers.

The Development and Building Control Manager confirmed that 3 letters of objection had been received.

Councillor Holding referred to the photographs and commented that the canopy looked very attractive and he did not have any objections to the proposal.

Councillor Laverick commented that the properties of the objectors did not look directly on to the canopy and he therefore did not have any objections to the proposal. He stated that he was disappointed that once again a retrospective application was being made by this school and that they should be reminded of their responsibilities.

It was proposed by Councillor Holding and seconded by Councillor Laverick that the application be approved.

This proposal was agreed by Members.

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

Councillor Davidson returned to the meeting.

(4) Proposal: Erection of timber decking and paved areas to existing rear garden (retrospective application)

Location: Garden Farm Public House, Carlingford Road, Chester-le-Street

Applicant: Enterprise Inns – Ref 08/00361/FUL

The Chairman advised that Mr Redpath, an objector, had registered to speak in relation to this matter but had left prior to the commencement of the meeting.

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

He went on to advise that 3 objections to the proposal had been received.

He advised that fencing had been erected to screen the decked areas and that Extra Recommended Condition 1. would secure an increase in the height of the boundary fence to 1.8 m.

The Development and Building Control Manager advised that since the report was published, amended plans have been submitted to show the increase in height of the fence and as such he proposed to add an Extra Condition to say notwithstanding the details contained in the application the development must be carried out in accordance with amended plans received on 7 October 2008.

He advised that he would be looking to impose further Extra Conditions as follows:

- The fencing to a height of 1.8m has to be installed within 28 days from the date of any approval
- Decking area can only be used between 11.00 and 21.00 hours
- That any external furniture to be sited on the decking area has to be agreed with the Local Planning Authority.

The Chairman raised concerns that since this was a retrospective application, a permanent structure to provide customers with cover from the elements may appear without planning approval and warned that this needed to be monitored.

Councillor Gollan asked for clarification of the Extra Condition for furniture to be placed on the decking.

The Development and Building Control Manager advised that any furniture, regardless of height must have approval prior to being placed on the decked area. He felt this would be necessary to ensure that any such furniture did not adversely affect neighbouring residents.

Councillor Ebbatson welcomed the proposed Extra Conditions and stated that it was important to respect the privacy of the neighbours of the property.

Councillor Robson queried if the fence could be made double-sided to help loss of privacy and also noise reduction.

The Development and Building Control Manager advised that Extra Condition 1 required the open boarded fence to be replaced with a closed boarded fence to avoid overlooking through the gaps in the fence.

Councillor Davidson made reference to the fact that the trees were not protected by Tree Preservation Orders and commented that his understanding was that the trees on that particular estate were covered by a "blanket" Tree Preservation Order.

The Development and Building Control Manager advised that he would investigate the matter further and if there was not an existing Order in place this could be looked at further.

Councillor Nathan queried how long the decking had been in place as there were only 3 objections received.

The Planning Officer advised that it had been erected approximately 12 months ago.

It was proposed by Councillor Holding and seconded by Councillor Davidson that the application be approved subject to the amendment to Extra Condition 1 to say notwithstanding the details contained in the application the development must be carried out in accordance with amended plans received on 7 October 2008, and further Extra Conditions to ensure the fencing to a height of 1.8m has to be installed within 28 days from the date of any approval, the decking area only to be used between 11.00 and 21.00 hours and any external furniture to be sited on the decking area has to be agreed with the Local Planning Authority.

This proposal was agreed by Members.

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:

Extra1

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 07 October 2008; 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 2.

The additional fencing shown on the amended plans (Proposed elevations and Proposed Plan) received 07 October 2008, shall be erected within a period of 28 days from the date of this decision, unless otherwise agreed in writing with the Local Planning Authority. The erected fencing shall be maintained in perpetuity to the satisfaction of the Local Planning Authority unless otherwise agreed in writing by the Local Planning Authority In order to

protect the amenity of neighbouring residents and to comply with policy R19 (Food and Drink) of the Chester-le-Street Local Plan.

Extra 3.

Notwithstanding the submitted information no furniture or structures (such as 'jumbrellas', heat lamps or seating) shall be erected on the decking hereby approved, unless otherwise agreed in writing by the Local Planning Authority. To protect the amenity of neighbouring residents and to comply with policy R19 (food and drink) of the Chester-le-Street Local Plan

Extra 4.

Notwithstanding the submitted information, the decking hereby approved shall not be used by patrons of the public house between the hours of 2100-1100, unless otherwise agreeing writing by the local planning Authority. To protect the amenity of neighbouring residents and to comply with policy R19 (food and drink) of the Chester-le-Street Local Plan.

(2) List of Planning Appeals and Current Status

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."

(3) Notification of Outcome of Appeal Decision

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

RESOLVED: "That the decision of the Planning Inspectorate to overturn the Council's decision and allow the appeal, be noted."

The meeting terminated at 7.00 pm