

## **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, 8 December 2008 at 6.00 pm

### PRESENT:

Councillor Ralph Harrison (Chairman)

### Councillors:

T J Smith	M D May
J W Barrett	P H May
L E W Brown	P B Nathan
G K Davidson	M Sekowski
L Ebbatson	J Shiell
M Gollan	A Turner
D M Holding	S C L Westrip
A Humes	F Wilkinson
W Laverick	

### Officers:

S Reed (Development and Building Control Manager), C Potter (Head of Legal and Democratic Services), D Chong (Planning Enforcement Officer), C D Simmonds (Assistant Solicitor) and L Morina (Planning Assistant)

Also in Attendance: D Stewart (Durham County Council Highways Officer) and 12 members of the public were also in attendance.

### **37. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors G Armstrong, L Armstrong, S Barr, P Ellis, T H Harland, D L Robson and D Thompson.

### **38. MINUTES OF PREVIOUS MEETING HELD 10TH NOVEMBER 2008**

RESOLVED: "That the Minutes of the proceedings of the Meeting of the Committee held 10 November 2008, copies of which had previously been circulated to each Member, be confirmed as being a correct record subject to the Minutes being amended to show Councillor Turner having left the meeting before Item 5 (A) of the Planning Matters had been discussed.

The Chairman proceeded to sign the minutes.

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

Councillor Humes advised that he had received information through his letterbox in relation to one of the Items on the agenda and stated that although he had read the information, he had remained impartial.

The Chairman thanked Councillor Humes for raising this issue and stated that he thought all Members of the Committee had been lobbied in relation to this application.

Councillor Turner declared that as he had not attended September Committee Meeting when Items No.4 and 5 had originally been deferred, he would not take part in the discussion of these items. The Chairman clarified that only the Members present at September Committee Meeting could take part in the discussion of the deferred items and advised that he had a list of those Members.

Councillor Holding declared a personal interest in Items No. 2, 4 and 5 of the Planning Matters report as a Ward Councillor for that area. He stated that objectors had approached him in relation to these items and he had listened to their views, however he had not expressed any opinion and had remained impartial.

Councillor Nathan also declared a personal interest in relation to Items No.4 and 5 as Ward Councillor for that area.

Councillor M May queried whether to declare a personal interest in Item No.1 as a Member of North Lodge Parish Council. She felt that as the Parish Council had submitted comments in relation to the application she would leave whilst the item was being discussed.

The Head of Legal and Democratic advised that a personal declaration of interest would only be required if Councillor May had attended the Parish Council Meeting and had expressed an opinion in relation to the item either one way or another. He stated that if she had remained impartial at the meeting she could take part in the discussion of this item.

Councillor M May confirmed that she had attended the meeting but had remained impartial.

Councillor P May also declared a personal interest in Item No.1 as Ward and Parish Councillor for that area. He stated that he had attended the Parish Council meeting where the item had been discussed but he had also remained impartial.

In relation to Councillor Gollan's query, the Head of Legal and Democratic Services clarified that he would not need to declare a personal interest in Items No. 4 and 5 as a year had now passed since the previous applications had been presented to the Committee and on the condition that he approached the current applications without a previously formed opinion, he would be eligible to take part in the discussion of these items.

Councillor Shiell declared a personal and prejudicial interest in Item No. 3 of the Planning Matters report as the applicant of the proposal, however he would not be speaking in relation to the application. He proposed to leave the meeting whilst the item was being discussed and return once a decision had been made.

#### **40. CONFIRMATION OF SPEAKERS**

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

#### **41. PLANNING MATTERS**

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

The Chairman suggested that the order of the Agenda be changed to reflect the members of the public present and it was agreed that it be considered in the following order – Item Nos. 5, 4, 2, 1 and 3.

**At this point Councillor Turner left the Meeting.**

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

- (5) Proposal: Reserved matters application for the access, appearance, landscaping and scale for the erection of 10 no residential dwellings, pursuant to application 05/00440/REN**

**Location: West Farm, Waldrige Lane, Waldrige, Chester-le-Street, Durham, DH2 2NQ**

**Applicant: Mr T. McGiven – Holmside Construction**

**Reference: 08/00228/REM**

The Chairman clarified which Members were eligible to vote on Items No. 4 and 5, as only the members present when the application had been deferred at Septembers Committee Meeting could take part in the discussion.

The Development and Building Control Manager informed the Members that he intended to be brief with the presentation of this item, as Members had previously considered both the photographs and plans of the site during September's Planning Committee when the item had been deferred and comments both for and against the application had been discussed in full. This included listening to the representations made by the speakers at this meeting.

He stated that at Members request, Officers were able to reconsider the matter with the relevant statutory consultees, i.e. Durham County Council as Highways Authority and the Durham Police Architectural Liaison Officer and invited them to attend the subsequent committee at which the applications were to be determined. The Development and Building Control Manager advised the Committee that, whilst both had been invited, only Mr. Stewart from the Durham County Council Highways Department was present.

The Development and Building Control Manager informed Members that the two principle reasons for the resolution to defer were noted in the report and related to highway congestion, in particular at the construction stage on Waldrige Lane and secondly concerns about the safety or otherwise of the proposed footpath link, which would also lead into the site from Waldrige Lane.

He advised that since the application had been deferred the Highways Authority had given consideration to the type of temporary arrangement they would expect to see along Waldrige Lane, which had resulted in additional conditions being attached to the approval. The Development and Building Control Manager also confirmed that as a result of representations from the Parish Council, Officers understood that the County Council had agreed to stop up Waldrige Lane at a point just west of the entrance into the site and to gate Waldrige Lane shortly after the turning from Waldrige Village.

The Development and Building Control Manager further reported that the Police had advised that they would not raise any objection to the proposal on the understanding that arrangements would be in place to stop up the Lane.

In relation to the comment made by Councillor Westrip on safety and crime issues within the development, the Development and Building Control Manager explained that a pedestrian link including anti-motorcycle bollards had been proposed between the two residential developments and would require to be implemented within the scheme as part of the approval. He presumed that the Highways Authority would adopt and assume the maintenance of the footpath, once they were satisfied that the scheme had been implemented as recommended by this Planning Authority. He also felt that the County Council's decision to stop up Waldrige Lane had been persuasive in the police withdrawing their objections.

Councillor Holding spoke in relation to advice given by the Director of Environment at Durham County Council in relation to a previous application and queried the standards used to assess whether Waldrige Lane could be used as a minor access road for a residential development.

The Durham County Council Highways Officer advised that due to the alignment and width of Waldrige Lane, they would not ordinarily encourage the use of this road for residential development however they would need to take into account the amount of vehicular movement, which may already pre-

exist relating to an existing business or activity, as this could affect their decision.

He spoke in relation to the planning inspectorate decision to uphold the refusal on appeal of the application submitted in 1994 on the grounds that Waldrige Lane was inadequate as a means of access for the proposed number of dwellings. He advised that he supported the comments made by fellow Officers in relation to the application submitted in 2002 for 10 dwellings on the same site and the Planning Inspectorates comments, as the number of journeys generated from the development would be comparable with the number of existing trips occurring on Waldrige Lane.

Councillor Holding raised concerns in relation to the access arrangements for the proposal in particular during the construction stage and also the lack of footpath provision along Waldrige Lane itself. Although he was in agreement with Durham County Council in relation to the proposed closure of Waldrige Lane to the west of the development site entrance, he felt he could not support the approval of the application until this had been agreed in principle.

Councillor Westrip sought clarification from Officers in relation to their legal position and the appeals process, should Members be minded to reject the application.

The Development and Building Control Manager advised that as the authority had twice made the decision to approve outline planning permission for 10 dwellings on this site, with the access clearly being proposed from Waldrige Lane, a decision to reject the proposal in principle at this Committee would be extremely difficult to defend at a public inquiry. He referred to the current applications and advised that the Committee were now looking at a slightly different situation than the previous two applications, as Members would now need to agree with the construction traffic associated with an additional residential development also using the access along Waldrige Lane. He stated that the decision to re-route the construction traffic to Waldrige Lane would lead to some noticeable improvements for the residents of the Meadow/Longburn Drive estate, therefore Officers recommend conditional approval of the proposal in light of these amendments.

The Head of Legal and Democratic Services clarified to members the differences between outline planning permission and the reserved matters application before them.

Councillor Davidson advised that he was in support of Durham County Council's decision to stopping up Waldrige Lane along with the additional footpaths proposed in the application and felt that as there had been no comments made in relation to material planning considerations, he could see no reason why the application should be refused and proposed to move the Officers recommendation for approval.

Councillor Ebbatson raised concerns in relation to the proposed improvement to the curb radii at Whitehill Way, as she stated that this had been of particular

concern to residents and queried whether the proposed changes could be made permanent, if the development was approved. She also spoke in relation to the traffic management scheme and queried whether local residents would be consulted in relation to the scheme and whether proposed extra conditions 5 and 6 could be rearranged to make them contingent on one another.

The Development and Building Control Manager spoke in relation to Councillor Ebbatson comments and advised that:

- In relation to the proposed radii improvement on Whitehill Way, Officers accepted that this would be beneficial as a permanent feature however as this had not been included as a recommended condition in the outline approval they would find it difficult to recommend that the condition be kept in perpetuity. He stated that they could only attach the radii improvement as an extra condition during the construction stage, however the improvements could remain in place once the work has been completed although he stressed that this could not be guaranteed.
- In relation to the suggestion that construction traffic could be restricted from using Waldrige Lane until a satisfactory traffic management scheme had been agreed by the Planning Authority, he advised that this would also be difficult to recommend as again this had not been included in the outline approval for 10 dwellings with access from Waldrige Lane which had previously agreed in principle by this authority.
- In relation to whether local residents would be consulted in terms of the proposed details of the construction traffic management scheme, he advised that due to the high level of public interest in the proposal, particularly during the construction phase, he would be interested in achieving this however he would need to seek advice from the Highways Officer as the correct procedure for this type of consultation.

The Highways Officer advised that the County Council would not usually consult with local residents in relation to temporary traffic management schemes. He stated that if as a planning authority they felt inclined to consult with residents, the County Council would give professional advice and guidance; however the final recommendation in terms of traffic management would be the highways authority's decision.

The Development and Building Control Manager clarified that once a scheme for this proposal had been submitted and discussed with the highways authority; local residents, parish councillors and ward members would be notified in relation to what had been agreed. However he stressed that in terms of planning law Officers were not under any legal obligation to do so.

In relation to the concerns raised by Councillor Nathan on lack of affordable housing provision, the Development and Building Control Manager explained that the outline application that had been granted for ten dwellings in 2002 and renewed in 2005 and had no affordable housing requirement attached to

this outline permission. As a result of that he advised that there was no legal standing to insist on affordable housing requirements for this overall site because the only element of the overall site which is a full application which allows Members to look at all the material considerations is the application for 14 dwellings and the relevant policy on provision of affordable housing in the local plan only applies to developments of 15 or more.

Councillor Brown expressed concern in relation to item 5 on the agenda and whether construction traffic would be prevented from using the access on Waldrige Lane if Members decide to refuse the current proposal.

Councillor P May confirmed that he would not take part in the vote for this item; however he queried whether the developer would be required to rectify any damage caused to Waldrige Lane, during the construction stage.

The Highway Officer advised that the existing condition of Waldrige Lane would be determined with the use of a pre-condition survey, the results of which would be agreed with the developer before work begins. He stated that the developer would then be required to carry out any repairs once the construction stage had been completed.

Councillor Laverick felt that it would be difficult to refuse that application on the movement of traffic along Waldrige Lane, as the Highways Officer had not raised any objections in relation to this and as a result this could be difficult to defend at a public inquiry.

In relation to the concerns raised by Councillor Gollan on the radii improvement on Whitehill Way, the Development and Building Control Manager advised that if the access for the proceeding application for 14 dwellings, item 4 on the agenda, had been proposed through Waldrige Lane then Officers would have the justification to recommend that the proposed radii be made permanent. However as the access for the 14 dwellings had been proposed through the Meadow Drive/Poppyfields estate, the only impact the development would have on the proposed radii at Whitehill Way would be during the construction stage, which would make it difficult to demonstrate a linkage between this development and any additional use of the junction at Whitehill Way other than the proposed access for the 10 dwellings.

Councillor Nathan sought clarification from the Legal and Democratic Services Manager as to what aspects of the reserved matters application, Members would be voting on.

The Legal and Democratic Services Manager advised that Members were being asked to vote on the reserved matters of the application in relation to the access, appearance, landscaping and scale, as the principle of the development had agreed by the outline approval.

In relation to a comment made by Councillor M May on access between the two developments, the Chair clarified that there would not be an access road

through the estates, however pedestrians would be able to access a footpath link between them.

Further to Councillor Davidson proposal to accept the officers' recommendation for approval, Councillor Westrip felt the proposal would difficult to defend at appeal if Members were minded to refuse the application and seconded the officers' recommendation for approval. This proposal was carried.

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

Extra 1.

The development must be begun not later than the expiration of two years from the final approval of the reserved matters. In accordance with Section 92 of the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004).

Extra 2.

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 drawings received 19th August 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 3.

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 hard standings, walls and / or roofs of the buildings 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 Policy HP9 of the Chester-le-Street District Local Plan and Policy 8 of the Regional Spatial Strategy.

Extra 4.

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 the provisions of Policy HP 9 and HP 17; of the Chester-le-Street District Local Plan.

Extra 5.

Notwithstanding the information submitted with the application for the duration of all construction works access shall be taken from Waldrige Lane only unless otherwise agreed in writing with the Local Planning Authority in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 6.

Prior to development commencing a scheme for the management of construction traffic (to include an existing highway condition survey) on Waldrige Lane shall be submitted to and approved in writing by the Local Planning Authority and then implemented in accordance with the approved scheme unless otherwise agreed in writing, in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 7.

No development approved by this permission shall be commenced until:

- a) the application site has been subjected to a detailed site investigation scheme for the investigation and recording of contamination and a report 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 8.

The works to trees indicated on site plan (p)14 received 2nd June 2008 for retention and pruning shall be undertaken prior to works commencing in accordance with the recommendations of the Arboricultural Report dated

March 2008 pages 10 and 11 section 5.0, Appendix 2A, 4 and 5 unless otherwise agreed in writing with the Local Planning Authority, in the interests of avoiding compaction of the roots for the long term health and well-being of the tree and in the interests of visual amenity to accord with the aims of Policy HP9 of the Chester-le-Street Local Plan.

Extra 9.

Post development but prior to occupation Schwegler woodcrete bat boxes shall be installed around the site in accordance with the recommendations in section 4.4 of the White Young Green Bat Survey unless otherwise agreed in writing with the Local Planning Authority in the interests of enhancing biodiversity and conservation interests in accordance with Planning Policy Statement 9 and policy 33 of the Regional Spatial Strategy.

**(4) Proposal: Proposed erection of 14 no houses with associated access road, driveways and landscaping**

**Location: West Farm, Waldrige Lane, Waldrige,  
Chester-le-Street, Durham, DH2 2NQ**

**Applicant: Mr T. McGiven – Holmside Construction**

**Reference: 08/00227/FUL**

Councillor Ebbatson requested an additional condition be added to the approval restricting the hours of construction within the site, in the interests of sustainable development and existing residential properties in the area.

The Development and Building Control Manager was in agreement and stated that similar conditions had been applied to similar forms of development in residential areas. He suggested that two extra conditions be added, with one condition to control the hours of construction and the other to require the developer to submit a methodology as how the site will be constructed.

Councillor Davidson requested that a vote takes place to show whether Members were in agreement with the proposed extra condition. Members voted in favour of the additional conditions and the proposal was carried.

In relation to the concerns raised by Councillor Westrip on the Health and Safety aspects of the site, the Development and Building Control Manager advised that the Health and Safety Executive were responsible for ensuring safety on a construction site and as the relevant statutory body they would deal with any breaches of Health and Safety law.

Councillor Davidson advised that he was in support of the application as he felt the comments raised were not material planning considerations and proposed to move the Officers recommendation for approval.

Councillor Nathan raised comments and expressed concern in relation to the following issues:

- The increase in traffic the proposal will bring along Waldrige Lane during the construction stage, which will be damaging for existing residents and local amenities.
- The increase in traffic the proposal will bring through the Meadow Drive/Poppyfields estate as the proposed access to the residential development.
- The applicants decision to build 14 houses rather than 15, which would lead to a requirement for social housing.

The Development and Building Control Manager advised that Officers felt the existing Meadow Drive/Poppyfields estate would not be suitable for accommodating construction traffic, resulting in the use of Waldrige Lane during the construction stage and the future access for the development being proposed through the existing residential estate. In relation to Councillor Nathan's comments on the alignment of the roads and footpaths of the Meadow Drive/Poppyfields estate, he stated that Highway Officers were of the opinion that the road and pavement capacity already in place would be perfectly adequate to accommodate the extra dwellings proposed and the Planning Matters report provided details of a number of existing estates within the Chester West and Chester South wards with similar estate layouts.

In relation to a comment made by Councillor P May on the possibility of an access road between the two developments, the Development and Building Control Manager advised that any planning permission given by this planning authority would be based on the detailed plans submitted by the developer and in this case the plans show only a pedestrian link between the two sites. He stated that if the developer intended providing an access road through the estate, he would be required to submit a new planning application to the authority, as the plans would no longer correspond to the permission.

Councillor Ebbatson queried whether an additional condition should be included in the approval stating that the proposed radii at the access to Whitehill Way must be altered to accommodate to the construction traffic.

The Highways Officer advised that there would be cost attached to creating and removing the proposed road alterations to Waldrige Lane, which the developer would be required to fund. He stated that if the alterations were carried out to a robust permanent standard, then it would be their intention to leave the alterations in place rather than ask the developer to remove them once construction of the proposal had taken place.

The Development and Building Control Manager suggested re-wording extra condition 16 of the approval to state that a scheme for the management of construction traffic is to include an existing highway condition report and realignment of the radii on Whitehill Way and that unless the County Council were willing to fund the improvements, then it would be for the developer to finance.

Discussion ensued in relation to the specific inclusion of the road alterations scheme as part of extra condition 16. The Highway Officer advised that the current phrasing of extra condition 5 and 6 allow for any yet unspecified improvement measures along Waldrige Lane as well as the previously identified radii improvement, however if Planning Officers felt the alterations should be specifically included as part of the recommended conditions then he would support their decision.

Councillors M May and Nathan were of the opinion that the surface improvement of Waldrige Lane would detract from the character and the beauty of the area.

Councillor Nathan raised further concerns in relation to suitability of Waldrige Lane for construction traffic, the security of local residents, the pedestrian link between the two developments and the suitability of Heathfields as the access road for the development, and because of this he did not support this application.

Councillor Gollan spoke in relation to extra condition 13 in the recommendations and queried whether this condition could be reinforced to prevent a scheme being submitted which was less than the target of 10 percent decentralised and renewable energy or low carbon sources in the development.

The Development and Building Control Manager advised that the Regional Spatial Strategy (RSS) specifies that a local authority must set a target of at least 10 percent when securing schemes to minimise energy consumption within a development, which would be non negotiable. He stated that since the RSS had been put in force by the authority, a number of schemes, which met the 10 percent requirement, had been secured and he felt optimistic that a similar scheme could be secured with this development.

Further to Councillor Davidson proposal to accept the Officers' recommendation for approval, Councillor Westrip stated that as the police and highways authority had not raised any objections in relation to the proposal he felt it would be difficult to refuse the application and seconded the Officers' recommendation for approval. This proposal was carried.

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

Extra 1.

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).

Extra 2.

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 19th August 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 3.

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 hard standings, walls and / or roofs of the buildings have been submitted to, and approved in writing by, the Local Planning Authority in order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity and in accordance with the provisions of Policy HP9 of the Chester-le-Street District Local Plan.

Extra 4.

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

Extra 5.

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 the provisions of Policy HP 9 and HP 17; of the Chester-le-Street District Local Plan.

Extra 6.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and / or re-enacting that Order with or without modification), no walls, fences, palisades or other means of enclosure shall be erected forward of the main front (or side in the case of corner sites) walls of dwellings, in order to ensure the

satisfactory appearance of the development upon completion in the interests of visual amenity and the preservation of the open-plan character and appearance of the development in accordance with Policy HP9 of the Chester-le-Street District Local Plan and Policy 8 of the Regional Spatial Strategy (NE).

Extra 7.

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 8.

The works to trees indicated on site plan (p)09 received 2nd June 2008 for retention and pruning shall be undertaken prior to works commencing in accordance with the recommendations of the Arboricultural Report dated March 2008 pages 10 and 11 section 5.0, Appendix 2A, 4 and 5 unless otherwise agreed in writing with the Local Planning Authority, in the interests of avoiding compaction of the roots for the long term health and well-being of the trees and in the interests of visual amenity to accord with the aims of Policy HP9 of the Chester-le-Street Local Plan.

Extra 9.

Prior to occupation of the dwellings hereby approved, Schwegler woodcrete bat boxes shall be installed around the site in accordance with the recommendations in section 4.4 of the White Young Green Bat Survey unless otherwise agreed in writing with the Local Planning Authority in the interests of enhancing biodiversity and conservation interests in accordance with Planning Policy Statement 9 and policy 33 of the Regional Spatial Strategy.

Extra 10.

The development hereby permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 until arrangements have been made to secure the provision of adequate open space for sporting use within the locality in accordance with a detailed scheme, which has first been submitted to and approved in writing by the Local Planning Authority. In order to ensure the development makes adequate provision for recreational and open space facilities and to comply with the aims of Policies HP 9 and RL 5 of the Local Plan 2003.

Extra 11.

The development hereby permitted by this planning permission shall not be initiated by the undertaking of a material operation as defined in Section 56(4)(a)-(d) of the Town and Country Planning Act 1990 until arrangements have been made to secure the provision of adequate public artwork provision within the locality in accordance with a detailed scheme, which has first been submitted to and approved in writing by the Local Planning Authority. In order to ensure the development makes adequate provision for public artwork provision to comply with the aims of Policy BE 2 of the Local Plan 2003.

Extra 12.

Prior to development commencing a scheme to provide an anti motorcycle access facility and associated fencing/railings along the central footpath linking to Waldrige Lane shall be submitted to and approved in writing by The Local Planning Authority and thereafter implemented in accordance with the approved scheme prior to the occupation of the dwellings unless otherwise agreed in writing. In the interest of residential amenity and crime prevention in accordance with Policy HP9 of the Local Plan, Policy 2 of the RSS and the Crime and Disorder Act 1998 (as amended).

Extra 13.

Prior to the commencement of the development hereby approved a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall 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 Statements 1 and 3.

Extra 14.

Prior to the commencement of development a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority in the interest of the adequate disposal of surface water and thereafter implemented in accordance with this approved scheme in accordance with Planning Policy Statement 25 and Policy 24 of the RSS.

Extra 15.

Notwithstanding the information submitted with the application for the duration of all construction works, access shall be taken from Waldrige Lane only unless otherwise agreed in writing with the Local Planning Authority in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 16.

Prior to development commencing a scheme for the management of construction traffic (to include an existing highway condition survey) on Waldrige Lane shall be submitted to and approved in writing by the Local Planning Authority and then implemented in accordance with the approved scheme unless otherwise agreed in writing, in the interests of highway safety and residential amenity in accordance with policies HP9 and T15 of the Chester-le-Street District Local Plan.

Extra 17.

No operations associated with the construction phase of the development hereby approved shall be carried out outside the hours of;

Monday to Friday - 08:00 to 1800

Saturdays - 0800 to 1300

Sundays - None

Bank Holidays – None

In the interests of residential amenity and the avoidance of any potential disturbance or disruption to adjoining residents which may have arisen though working outside these hours, in order to protect the amenities of local residents and to accord with the aims of Policy HP 9 of the Chester-le-Street Local Plan.

Extra 18.

Prior to works commencing a construction methodology to include all potentially noisy operations and details of plant and heavy equipment shall be submitted to and agreed in writing with the Local Planning Authority and implemented on site in accordance with this agreement for the duration of the building works in order to protect the amenities of local residents and to accord with the aims of Policy HP 9 of the Chester-le-Street Local Plan.

**Councillor Turner returned to the Meeting.**

**(B) District Matter Recommended Approval**

- (2) Proposal: Resubmission of previously approved application 05/00318/FUL for the erection of 1 no dwelling (amended plans received 24/11/08).**

**Location: 1 Olive Street, Waldrige, Chester-le-Street,**



## **Durham, DH2 3SQ**

**Applicant: Mr T. O. Graham – Reference: 08/00440/FUL**

The Development and Building Control Manager advised that planning permission for the construction of one dwelling had been issued in 2005 and subsequently built in accordance with the approval. However since the dwelling had been built, a complaint had been received and consequently investigated by Officers, which revealed that the applicant did not own the entire site when the original planning application had been submitted. He stated that although land ownership was not a material planning consideration, the applicant had been invited to re-submit the proposal so the correct certificate could be considered as part of the application.

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

**Mr Robinson the objector, and Mr Graham the applicant, spoke in relation to the application.**

In relation to the query raised by Councillor P May as to whether any objections had been received when the original application was approved in 2005, the Development and Building Control Manager referred to the Committee report from August 2005 and advised that although it did not specify the number of objections, the reasons for the objections were as follows:

- The application site according to the Local Plan map is outside the settlement boundary and within the greenbelt, and as a result the development does not comply with policies NE2, NE4 and NE5.
- That building on this site, in the view of the objectors, would set a precedent, which would allow future building works to creep to the south west of the village.
- Concerns that the proposal will lead to parking problems especially during the construction stage.
- The new building would be incongruous within the village and would have a detrimental impact on the street scene and the street pattern.
- It would detract from the character of the village as a pit village.
- The proposal would result in a loss of privacy.

He stated that the report also listed a number of what were considered as non-material issues raised by objectors, which are also detailed below:

- That the property will be commercial as apposed to residential in nature.
- Concern as to how the adjoining owner would maintain the gable wall.

- Concern as to how the applicant would ensure the remaining gap would be water and weather tight.

In relation to the concerns raised by Councillor Humes on the scale and design of the original application, the Development and Building Control Manager clarified that the dwelling had been built as per the footprint and scale approved at the Planning Committee in 2005. He stated that the reason the applicant had been asked to submit a retrospective application had been to rectify the land ownership discrepancy, as approval had been granted based on the applicant's statement that he owned the entire site. He confirmed that the applicant had now signed the correct land ownership certificate to declare that he does not own the entire site.

Councillor Ebbatson proposal to accept the Officers' recommendation for approval as she felt the retrospective application had been required to resolve a technical matter, as the dwelling had been built in accordance with the granted planning permission, which was seconded by Councillor Davidson.

It was agreed to approve the Officer's recommendation of conditional approval.

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 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 24th November 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.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) any external alterations to the dwelling (except painting and repairs) and any development within the curtilage of the dwelling (i.e. development permitted under Schedule 2, Part 1(Class A-H inc.)) shall require the benefit of planning permission in order to ensure the satisfactory appearance of the development upon completion and in the interests of visual and residential amenity and to comply with Policy HP9 of the Chester-le-Street District Local Plan.

Extra 3.

Notwithstanding the submitted information, the two rear facing windows of the 2-storey of-shot shall be fitted with obscure glazing, and such glazing shall be retained in perpetuity. In the interests of residential amenity and for the

avoidance of any potential overlooking in accordance with policy HP9 of the Chester-le-Street Local Plan.

**Mr Stewart, the Highways Officer and Councillor Holding left the Meeting at 7.30pm.**

**(1) Proposal: Erection of 26 external lighting columns and luminaires.**

**Location: 2 Drum Park, Drum Industrial Estate, Chester-le-Street, Durham, DH2 1AE**

**Applicant: Mr E. Harper – Gladman Homes**

**Reference: 08/00423/FUL**

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

The Development and Building Control Manager advised that since the report had been produced, a consultation response had been received from Network Rail stating that they have no objection to the proposal. In relation to the response, he stated that Network Rail had requested that an additional conditions be included in the recommendations stating that the first three months following the installation and operation of the new lighting columns, an assessment of the impact the lighting columns have on the operation of the railway line shall take place and if there are any concerns in relation to driver visibility, a revised scheme would need to be submitted by the developer and agreed by this planning authority. The Development and Building Control Manager recommended that the proposed condition be included in the approval and that the developer undertake the monitoring of the scheme.

In relation to the concerns raised by Councillor P May on the impact the proposed lighting scheme would have on local residents and the nearby motorway, the Development and Building Control Manager advised that the developers had submitted a technical report, prepared by a qualified lighting consultant, which demonstrated the possible impact the lights could have on neighbouring properties. He stated that the report had been scrutinised by the Officers from the Environmental Health team, who used a standard methodology to establish the level of impact the lighting scheme would have on local properties and concluded that the lighting scheme as it stands would be imperceptible to the residents east of the site. He therefore he felt an additional condition, similar to the condition requested by Network Rail to monitor the scheme for three months would not be required.

The Development and Building Control Manager spoke on the impact the proposed lighting columns may have in relation to the motorway and advised

that in his opinion the columns would be barely visible due to the height of the current commercial units in the area and also the bunding situated to the east of the site. He also spoke in relation to the design of the lighting units and advised that the light would be angled downwards to minimise the light spill and to ensure the units do not 'over' light the area.

In relation to the concerns raised by Councillor Westrip on whether the scheme would include energy efficient lighting, the Development and Building Control Manager advised that Officers had received an outstanding methodology from the developer, which provided details of how the development as a whole would employ sustainable development principles.

Members raised comments and expressed their concerns in relation to the following issues:

- Visibility of the lighting units to residential properties
- 24 hour operation of the light on the site
- Impact on local ecology

Councillor Laverick was of the opinion that the visibility of lighting units would be obscured by the height of the bunding and landscape associated with the East Coast Mainline and could see no reason why the application should be refused.

Councillors Humes and M May were in support of the comments made by Councillor P May that the lighting scheme be monitored in relation to the impact on local residents and felt that a condition to this effect, should be included in the recommendation.

Discussion ensued in relation to an additional condition being included in the recommendation for approval, which would assess the impact of the lighting scheme for local residents.

Councillor Ebbatson felt it would be difficult to propose a condition of this nature, as she was unsure as to who would be responsible for monitoring the impact on residents, during this period.

The Development and Building Control Manager advised that Extra Condition 2 requires that the development be carried out in accordance with the planning approval, however if Officers had reason to believe that this was not the case, they could obtain specialist advice and investigate any concerns once construction had taken place.

The Development and Building Control Manager spoke in relation to the site being lit up over a 24 hour period and advised that Health and Safety requirements in relation to vehicles being transported around the site. He also advised that in relation to the ecology issue, the lighting scheme had been designed to minimise light spill outside the site and that the specialist report submitted with the application shows that light will only cover the hard standing area.

In relation to Councillor Gollan's request for clarification on the additional conditions being added to the recommendation for approval, the Development and Building Control Manager advised that he felt Network Rail's request for an additional condition should be included, as this would monitor the impact of the site on the railway. However he felt that a condition to monitor the impact on local residents would not be required as if they were affected by light intrusion as a result of the development, then they could contact Environmental Health Officers who would have powers to address the complaints on their behalf.

Councillor Davidson felt it would be negligible to refuse the application on these grounds as Environmental Health Officers would investigate complaints on behalf of local residents and proposed that the application be approved in accordance with the additional conditions, which was seconded by Councillor Turner.

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 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).

Extra 2.

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 3.

Notwithstanding any description of the materials in the application, no development shall be commenced until precise details of the colour of the lighting columns has 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 IN3 of the Chester-le-Street District Local Plan and Policy 8 of the Regional Spatial Strategy.

Extra 4.

Notwithstanding the information submitted a scheme for the maintenance of the lighting units shall be submitted to, and approved in writing by the Local Planning Authority prior to the erection of the floodlighting and thereafter the lighting shall be maintained in accordance with the approved scheme. In the

interest of residential and visual amenity in accordance with Policy IN3 of the Chester-le-Street Local Plan and Policy 8 of the Regional Spatial Strategy.

Extra 5.

Notwithstanding any information submitted for the first three months following the installation and operation of the new lighting an assessment will be made to check the effect of the lighting on the operation of the nearby railway line. If it is found that there is a problem with driver visibility, additional screening/cowling or light adjustment will be employed as appropriate to alleviate the problem, to the satisfaction of the Local Planning Authority in association with Network Rail and the train operating companies to ensure the safe operation of the railway line.

**Councillor Humes left the Meeting at 8.00pm.**

**At this point Councillor Shiell declared a personal and prejudicial interest in the following Item and left the Meeting.**

- (4) Proposal: Erection of first-floor extension above existing garage at side of property and construction of single-storey extension at front of site including construction of pitched roof over remaining flat roof at front and rear.**

**Location: 126 Hilda Park, Chester-le-Street, Durham, DH2 2JY**

**Applicant: Mr J. Shiell – Reference: 08/00442/FUL**

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

Councillor Davidson proposed to accept the Officer's recommendation of conditional approval, which was seconded by Councillor Turner.

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 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).

Extra 2.

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 3.

That the facing materials to be used for the external walls and roofs of the development hereby approved shall match in colour and texture those materials used on the existing dwelling house to the satisfaction of this Local Planning Authority, and where such matching materials are not available samples of the materials which it is proposed to use on the development shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of any development on site. Reason - In order to ensure that the proposal does not have an adverse impact upon the scale, form, character or appearance of the building upon completion, as required by Policy HP11 of the Chester-le-Street District Local Plan.

**Councillor Shiell returned to the Meeting.**

**(C) 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."

At the end of the Meeting the Chairman proposed to change the date of the next Committee Meeting to Monday 19<sup>th</sup> January 2009 at 6.00pm.

RESOLVED: "That the next Meeting of the Committee be held on Monday 19<sup>th</sup> January 2009 at 6.00pm."

Councillor Davidson took the opportunity to thank Officers for inviting the County Council Highways Officer to attend the Meeting.

**At the close of the Meeting, the Chairman wished everyone a Merry Christmas and a Happy New Year.**

The meeting terminated at 8.15 pm