

## **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, 19 January 2009 at 6.00 pm

### PRESENT:

Councillor Tracie Jane Smith (Chairman)

### Councillors:

L E W Brown	A Humes
G K Davidson	W Laverick
L Ebbatson	M Sekowski
P Ellis	J Shiell
M Gollan	S C L Westrip

### Officers:

S Reed (Development and Building Control Manager), C D Simmonds (Assistant Solicitor), D Chong (Planning Enforcement Officer), L Morina (Planning Assistant) and M Fell (Democratic Services Assistant)

Also in Attendance: There were 9 members of the public in attendance.

#### **42. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors G Armstrong, L Armstrong, S Barr, J W Barrett, R Harrison, D M Holding, M Potts, K Potts, D L Robson and A Turner.

#### **43. MINUTES OF PREVIOUS MEETING HELD 8TH DECEMBER 2008**

RESOLVED: "That the Minutes of the proceedings of the Meeting of the Committee held 8 December 2008, copies of which had previously been circulated to each Member, be confirmed as being a correct record."

The Chairman proceeded to sign the minutes.

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

There were no declarations of interest received from Members.

#### **45. CONFIRMATION OF SPEAKERS**

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

## 46. PLANNING MATTERS

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

### (A) District Matters Recommended Approval

- (1) **Proposal: Variation of condition 6 of planning approval 08/00131/COU to allow opening hours of Monday to Wednesday 09:00 – midnight and Thursday to Saturday (including Bank Holidays) from 09:00 – 03:30 and Sunday 09:00 – 01:00 (previously restricted to 09:00 – 23:30 on all days) (amended description 2/12/08)**

**Location: 183 Front Street, Chester-le-Street, Durham, DH3 3AX**

**Applicant: Mr A. Ali – Reference: 08/00467/VAR**

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 Officers had reconsidered the character of the surrounding area and felt it would be appropriate to monitor the implications that the proposed later opening may create. He therefore suggested that an additional condition be added to the recommendation of approval that the proposed extended hours be approved for a temporary 12 month period only, to allow any effects of the proposal to be monitored.

Councillor Brown spoke in relation to the opening hours of comparable premises in the vicinity of the applicant's premises.

The Development and Building Control Manager advised that a similar premises in the area had not been required to apply via the planning system to extend their opening hours, as they had been established prior to the changes in planning legislation, and as a result were not restricted by any planning conditions in relation to their opening hours.

Councillor Brown raised further concerns in relation to the increased risk of littering and anti social behaviour as a result of the proposed extended opening hours of the takeaway and queried whether Members could restrict the days the applicant could remain open till 3.30am.

The Development and Building Control Manager advised that Officers felt the main impact which could arise as a result of the extended opening hours would be additional noise in the early hours; therefore Officers felt it would be

necessary to recommend approval for a temporary 12 month period which would allow the site to be monitored. He referred to another takeaway premise in the area and commented that their opening hours were slightly more restricted as they were in closer proximity to residential properties.

The Development and Building Control Manager also commented that both the Environmental Health team and the Police, as statutory consultees for this planning application, had not raised any objections. This had been influential in the Officers decision to recommend approval of the application.

In relation to concerns raised by Councillor Davidson on the opening hours of pubs/clubs in the area and the required monitoring of the premises over a 12 month period, the Development and Building Control Manager advised that two pubs/clubs in the area operate until 3am some days and that the Council's Licensing Officers, together with the Police, would monitor the premises over a 12 month period. He also advised that if approval were granted, the applicant would be required to have the matter reassessed and apply for a further extension once the 12 month period had passed.

In relation to a query raised by Councillor Westrip on whether local residents could raise any further concerns with Officers, the Development and Building Control Manager stated that if local residents were to advise Officers of a breach in planning conditions, then planning enforcement powers would allow the Council to take action.

He also commented that Officers rely on the information provided by local residents, in relation to alleged breaches of planning conditions across the District. He further advised that neighbouring residents would be fully consulted in 12 months time, should the applicant re-apply to extend the proposed late opening.

The Assistant Solicitor advised Members that through the Licensing Act 2003, a procedure is in place where by local residents could request a review of the licensed hours of a premise, if they felt the licensees were in breach of one of their licensing conditions. He further advised that the Licensing team would be more than happy to work with any residents who were experiencing problems with information as to the type of evidence they would need to produce, to allow an investigation to take place.

In relation to a comment made by Councillor Ellis on whether CCTV cameras would be installed at the premises, the Development and Building Control Manager advised that the applicant had not made reference to any CCTV cameras as part of this application, however they may be included as part of the licensing approval, as is often standard practice.

Councillor Gollan raised concerns in relation to the monitoring arrangements and whether they would remain in place once the District Council ceases to exist in March.

The Development and Building Control Manager assured Members that an electronic system was in place, which would notify Officers of important dates in relation to temporary approvals. He also stated that the new authority would be required to consult with local residents on any renewed or future applications in the same way as the District Council had, which would allow residents who previously raised concerns, an opportunity to do the same again.

Councillor Ebbatson informed Members that the last issue of the District News Magazine, which is to be published at the end of March, would contain contact details for the new County Councillors representing the Chester-le-Street area, should any local residents wish to contact them in relation to the monitoring of the premises.

Councillor Laverick stated that as both the Police and the Environmental Health team had not raised any objections to the proposal, he felt it would be difficult for Members to refuse the application.

It was proposed by Councillor Brown and seconded by Councillor Humes that the application be approved subject to the additional condition that the proposed extended hours be approved for a temporary 12 month period only, to allow any effects of condition to be monitored. This proposal was carried.

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

Extra 1.

The opening hours hereby approved are for a temporary period of one year from the date hereof, and which shall expire on 19 January 2010 when the opening hours will revert back to those originally approved under application reference 08/00131/COU (unless an application to renew or vary the temporary permission is received prior to the expiry of the above temporary permission). In the interests of the residential amenity of the neighbouring properties within the nearby vicinity in accordance with policy R19 of the Chester-le-Street District Local Plan.

- (2) Proposal: Removal of Condition 4 and 6 of previously approved application reference 08/00096/COU to allow design of fence to remain and to remove need for the fence to be set back.**

**Location: 100 Queen Street, Grange Villa, Chester-le-Street,  
Durham, DH2 3LT**

**Applicant: Mr R. Robson – Reference: 08/00472/VAR**

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, the applicant had contacted Officers with a number of updates, which he requested be clarified to Members as follows:

- That an error had been made on page 33 of the Planning Matters report, which incorrectly states that, the fence is 500mm distance away from the footpath. The Development and Building Control Manager was in agreement with the applicant, and confirmed that the fence backed against the footpath, running directly behind the footpath.
- In relation to the letters of support received, he felt it was important to stress to Members that in his view the enclosure of the land had resulted in a reduction of anti social behaviour within the area, as youths had not been able to throw stones at his and neighbouring properties.
- The applicant felt that if the fence were required to be set back as Extra Conditions 6 had required, then this would create an unsightly gully area, which would facilitate the growth of weeds and the collection of rubbish.
- The applicant wished to stress that through discussions with the Council's Arboricultural Officer, an approved scheme had been agreed whereby the use of a tall evergreen type of shrubs will lead to year around masking of the fence.
- The applicant wished to clarify that the petition, which had been submitted in support of the application was actually a random survey of people within the village, which had produced a list of 121 people in support.
- The applicant stated that the palisade fencing currently erected, had been chosen through discussion with Council Officers after both the applicant and Officers had rejected various other types of fencing suggested.

**Miss Robson the objector, Mr Procter the supporter and Mr Robson the applicant, spoke in relation to the application.**

Councillor Ebbatson sought clarification in relation to the type of shrubbery the objector would prefer to be used to disguise the appearance of the fence.

Councillor Ebbatson raised further queries in relation to the ownership of the land including whether the District Council had previously owned the land and also whether they had retain ownership of an area of the land, after it had been sold to the applicant.

The Assistant Planning Officer clarified that the land had previously been unregistered which had allowed the applicant to undergo the correct procedure, in order to claim ownership of the land.

The Assistant Solicitor confirmed that once an application had been made and subsequently registered at the Land Registry, the land is deemed to be within the ownership of the applicant.

In relation to a query raised by Councillor Westrip on the type of fencing preferred by the objector, the Development and Building Control Manager clarified that the objector preferred a 'hooped' style fence, which he estimated would be half a metre lower than the current 'palisade' type fence, erected by the applicant.

Councillor Laverick was of the opinion that the fence was a practical solution. He further commented that he could see no merit in re-positioning the fence away from the footpath, as this would create another grass verge, for the applicant to maintain.

In relation to a concern raised by Councillor Davidson, the Development and Building Control Manager advised that he could not confirm whether a particular species referred to by the objector had been included in the landscaping scheme proposed by the applicant. He therefore proposed to include an additional condition to the recommendation of approval that the Council's Arboricultural Officer, approve any species used in the landscaping scheme, to ensure that potential poisonous species will not be used.

Councillor Sekowski sought clarification from the applicant on the position and depth of the hedge used in the landscaping scheme, in relation to the fence.

The Development and Building Control Manager confirmed that the Arboricultural Officer had recommended that the proposed hedge be planted half a metre back from the fence line, as this would mask the appearance of the 'palisade' fence and allow future growth.

Councillor Ellis was in agreement with the comments raised by Councillor Davidson and felt that the fence had improved the appearance of the area, however he did raise concerns in relation to the possible use of a poisonous species in the landscaping scheme.

In relation to a query raised by Councillor Westrip on the future maintenance of proposed hedge, the Development and Building Control Manager stated that the purpose of the landscaping scheme would be to mask the 'palisade' fence; therefore a degree of significant growth from the hedge would be required.

He further advised that it would be the applicant's responsibility to maintain the hedge and that Durham County Council, as Highways Authority, would investigate any obstruction of the footpath caused by a poorly maintained hedge.

It was proposed by Councillor Ellis and seconded by Councillor Brown that the application be approved subject to the additional condition that the Council's Arboricultural Officer, approve any species used in the landscaping scheme, to ensure that potential poisonous species will not be used. This proposal was carried.

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

Extra 1.

That the approved landscaping scheme under planning application 08/00096/COU is implemented in full within the first available planting season and retained thereafter to the satisfaction of the Local Planning Authority, for the lifetime of the proposed. In the interests of visual amenity and to accord with policy HP 16 of the Chester-le-Street Local Plan.

Extra 2.

Notwithstanding the details contained in the landscaping scheme approved under planning application 08/00096/COU, the precise species mix shall be agreed in writing with the Local Planning Authority to ensure that no species are considered to be detrimental to the health and safety of the surrounding residents. In the interests of residential amenity and to accord with policy HP 16 of the Chester-le-Street Local Plan.

## **(B) Planning General**

### **(1) 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."

### **(2) Notification of Planning Appeal Decision**

**ERECTION OF ONE DETACHED BUNGALOW AND MEANS OF ACCESS FOR LAND AT THE ENTRANCE TO VALLEY VIEW, SACRISTON, DURHAM DH7 6NX.**

RESOLVED: "That the decision of the Planning Inspectorate to dismiss the appeal, be noted."

At the close of the Meeting, the Chairman took the opportunity to convey best wishes to Councillor Harrison, following his operation.

The meeting terminated at 6.55 pm