

DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held in Council Chamber - County Hall, Durham on **Tuesday 1 May 2018 at 1.00 pm**

Present:

Councillor F Tinsley (Chairman)

Members of the Committee:

Councillors A Bell, J Clare, I Jewell, C Kay, L Maddison, J Maitland, H Nicholson, G Richardson, A Shield, A Simpson, M Wilkes and S Wilson

1 Apologies for Absence

Apologies for absence were received from Councillors A Laing, J Robinson and P Taylor.

2 Substitute Members

Councillor J Maitland as substitute Member for Councillor Laing.

3 Declarations of Interest

Councillor Maddison informed the Committee that she was a local Member for the first application. N Carter, Planning and Development Solicitor informed Councillor Maddison that if a local Member had an open mind about an application and had not expressed firm views one way or the other then they could take part in the decision process.

4 Minutes of the meeting held on 3 April 2018

The Minutes of the meeting held on 3 April 2018 were confirmed as a correct record and signed by the Chairman.

5 Applications to be determined

a DM/18/00431/FPA - Whitworth Park Phase 4, Spennymoor, DL16 7RQ

The Committee considered a report of the Senior Planning Officer regarding an application for the erection of 45 houses, including access and infrastructure (re-plan and substitution of house types on 230 plots (Phase 5)) (for copy see file of Minutes).

S Pilkington, Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photograph, proposed site layout, site photograph from Lotherton Drive, view across the development site and view from Carr Street where a roundabout was proposed.

Councillor Darkes, local Member addressed the Committee to object to the application. Councillor Darkes opposed the application which sought permission for the re plan and substitution of house types on 185 plots which would result in an additional 45 dwellings up to a total of 230, which was a 25% increase and could lead to problems with residential parking. The area was saturated with new homes with permission for 1,700 already approved, yet there had been zero provision or investment in infrastructure, for example GP provision, the derelict town centre, congestion and the disappointing number of jobs created at DurhamGate over those which were anticipated. Additionally, key facilities were not located within walking distance and this was not a sustainable development. Councillor Darkes asked the Committee to refuse the application.

Councillor K Thompson, local Member addressed the Committee to object to the application. Councillor Thompson informed the Committee that profit margins had shrunk on the Whitworth Park development because Phase 1 had involved the re-siting of ancient grasslands and land had been banked. This was explained at Paragraph 95 of the officer's report. Policy H4 of the Sedgefield Borough Local Plan, which set out the housing development in the Whitworth Park area of Spennymoor, stated that this would be granted only as part of a comprehensive planning scheme to include an 18 hole golf course, but this had now disappeared from the development scheme. Councillor Thompson referred to Paragraph 7 of the report, specifically the review mechanism in the Section 106 agreement for the delivery of offsite affordable housing and informed the Committee that none as yet had been built.

The developers had bought the land at a high price and then land banked it, and were now seeking to squeeze more profit out of the development. Permission for 1700 houses had been granted in the Spennymoor area which would provide a 10-year supply for the area. Spennymoor was becoming a commuter town without any improved facilities, and if this application was approved, further Section 106 money should be provided for community facilities.

Sandra Bell addressed the Committee to object to the application. The application did not embrace sustainability, with no plans for renewable energy and the developer had not been asked to consider any. The application did not meet the target set in the 2008 Climate Change Act which proposed that 1 in 20 houses would be connected to a heat network by 2020, yet the site was suitable.

Jan Hutchinson asked why the application did not comply with NPPF 10, dealing with climate change and asked where the sustainability was from the developer. The developer had not proposed other forms of low carbon energy on other parts of the development. The developer should not expect home owners to retro-fit energy saving measures.

Councillor A Gardener of Spennymoor Town Council referred to work carried out by Dr Adams of the Durham Energy Institute into low carbon energy and the heating of homes from renewable sources. There were old mine workings beneath these proposed properties and Dr Adams had concluded that a heat network would be perfect for this site. Councillor Gardener asked that if the application was approved a restriction be added to look at low carbon homes and energy security. If this restriction was not added, Councillor Gardener requested that the application be deferred so that analysis of 3 years of energy research on the site could take place.

Mr J Ridgeon, agent for the applicant, addressed the Committee. The developer did adopt a sustainable approach to the development, for example by adopting a fabric first approach which reduced the environmental impact through construction. A community heat network was not appropriate for the development because construction had commenced and the coal authority was not supportive of it because of contamination issues. Northumbrian Water was also not supportive, and the NHBC would not provide a 10-year certificate to the development if a community heat network was proposed. The application was to provide an increased number of smaller, first-time starter homes which addressed a housing need in County Durham.

The Senior Planning Officer reminded the Committee that there was extant permission in place on the site for the developer to construct 185 dwellings. This application was to remove some of the larger proposed dwellings and construct smaller dwellings instead.

Geothermal heating was encouraged where appropriate, but there were no planning policy targets for this and no local targets in the Local Plan. The Authority could not insist the developer utilised geothermal energy.

This was an allocated site for housing development in the Local Plan and a committed site as part of a 5 year housing land supply. The viability of the development was established when planning permission for the site was first granted and this development was not over and above what was envisaged in the original Section 106 agreement.

Councillor Thompson asked, if no additional Section 106 money was requested with this application, whether more could be requested in the future. The Senior Planning Officer replied that the Section 106 contribution towards affordable housing was dependant on the viability on site, but if this increased then a contribution for offsite affordable housing would be triggered.

In response to a request from Councillor Shield, the Senior Planning Officer indicated the location of the 185 properties which had already been approved.

Councillor Maddison informed the Committee that the application did not comply with standards for water betterment and flow rates. Over the last year, an older development on the Greenways estate had experienced excessive surface water flowing to it with some drains not being able to handle the capacity of water. This had resulted in water ingress into gas pipes.

The proposed SUDS arrangement for the development was adjacent to the development and had exposed culverts, which allowed easy access to children yet contained stagnant water. Public rights of way had been breached by water from the culverts which were protected by a single wire open fence. Councillor Maddison asked that the scheme be examined as a whole to provide detailed protection.

Councillor Wilkes informed the Committee that this was an application to substitute 185 houses with 230 houses. There was a need to consider whether the new application was of good design and layout and whether it complied with policies.

The layout of the site showed it to have a main road through it with 30 properties proposed along this road, some of which had long driveways and some of which only had one parking space. This could lead to the potential for parking to take place on the road, which was a narrow estate road. This aspect of the layout of the estate did not comply with NPPF Part 7 in that it was not a good design, did not create safe and accessible environments and was not visually attractive.

The development did not meet Policy T1 of the Local Plan because reference had been made to Public Rights of Way being breached. The development also did not comply with Policies D1, the general principles for the layout and design of new developments, D2, design for people and D5, requiring layout of developments to provide a safe and attractive environment of the Local Plan. Councillor Wilkes considered the development to be of poor design and layout and not one which he could support. Councillor Wilkes moved that the application be refused. Councillor Richardson seconded refusal of the application.

Councillor A Bell referred to the Section 106 agreement offsite contribution of £150,000 and asked whether this would remain regardless of the decision of the Committee. He also asked whether the significant areas of open space at the development had been compromised.

Councillor Jewell informed the Committee that while he had listened to the issues raised by the objectors, this application appeared to reflect approval which was already in place. Paragraph 56 of the report stated that the principle of development on the site for residential purposes had been accepted previously, this application was a variation of an already approved application.

Councillor Kay agreed that the principle of the development had already been accepted and that this application was to increase the number of dwellings. Councillor Kay asked whether the square footage of the site met with housing designs and parking met standards.

Councillor Tinsley referred to previous permissions for the site which permitted the development of 506 dwellings and asked what the total number of dwellings would be if this application was approved. He also asked whether the proposed development met car parking standards.

J McGargill, Highway Development Manager conformed that the proposed development did meet parking standards. With reference to the access road through the development, this had already received approval.

The Senior Planning Officer informed the Committee that the drainage scheme achieved greenfield run-off rates and was designed to have standing water. The condition proposed for drainage for Northumbrian Water related to the layout of pipes on the estate.

The Section 106 agreement was in place and would remain, with a deed of variation to link it to the new permission. Permission was in place for 506 dwellings across the site, and with this application, 505 would be delivered, with some apartments and semi-detached properties previously being discarded. The development proposed a density of 40 dwellings per hectare, but there were areas of amenity space which were not factored into this.

Councillor Clare informed the Committee that he had listened to all arguments put to the Committee. The question for the Committee to decide was whether there were sufficient grounds to refuse the application. Parking met the County Council minimum standard. Referring to viability, this was governed by a government standard and a computer based exercise. Although Councillor Wilkes considered the proposal to be a poor design, design was a matter of opinion and it was for Members to decide whether to support the views of professionally qualified officers or the opinion of Councillor Wilkes.

With reference to flooding concerns, the existing scheme had been approved and was practical. Councillor Clare agreed there was a need for greater use of sources of sustainable energy, however the use of ground source heat and solar panels needed to be included into the developing County Durham Plan.

Councillor Tinsley asked Councillor Wilkes to detail his proposed grounds for refusal of the application. Councillor Wilkes replied that the application should be refused because it did not comply with NPPF Part 7 in that it was not a good design and did not provide a safe environment and did not comply with Policies Ti, D1, D2 and D5 of the saved Sedgefield Borough Local Plan.

The Committee voted on the **proposal** by Councillor Wilkes, **seconded** by Councillor Richardson, that the application be refused. This was **defeated**.

Acceptance of the Officer's recommendation was **moved** by Councillor Clare, **seconded** by Councillor Jewell and upon a vote being taken it was

Resolved:

That the application be approved subject to the completion of a deed of variation to the existing Section 106 Legal Agreement to apply the existing obligations relating to affordable housing, off-site highway works, open space and woodland management/maintenance, and community contribution to this new permission in addition to the existing permissions and the Conditions contained in the report.

b DM/18/00478/WAS - Mount Huley Farm, Croxdale, Durham, DH6 5JX

The Committee considered a report of the Senior Planning Officer regarding an application for an anaerobic digestion plant at Mount Huley Farm, Croxdale, Durham (for copy see file of Minutes).

C Shields, Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photograph, site layout, site elevations, view of the site entrance and view of the site.

Councillor Blakey, local Member, addressed the Committee to object to the application. The site of the proposed anaerobic digestion plant was near to the A167 which was an arterial route onto Durham City and access to it would involve heavy wagons with waste from all parts of the country turning in from and out onto the A167, which had a speed limit of 60 m.p.h.

There was already an anaerobic digestion plant within 5 miles of this site which could be seen from the site. The site was near to an area of business development, was on a gateway to Durham City used by tourists and had a Nature Reserve and SSSI within 5 miles of it.

Councillor Blakey asked how many jobs would be created as a result of this application. The design of the digester plant was poor and would be visible from the A167 and there were concerns about possible smells being produced from the plant. Councillor Blakey asked the Committee to refuse the application.

Councillor Dunn, local Member, addressed the Committee to object to the application. Paragraph 55 of the officer's report referred to the development resulting in some harmful visual and local landscape effects as a consequence of the scale of the development. The development proposed a flare stack of some 5 metres in height and other plant on site would measure some 10 metres in height, which would be visible to residents of Hett village, Bowburn, Coxhoe and Quarrington Hill.

Councillor Dunn referred to the proposed Condition 5 of the planning permission and asked whether a hedgerow would be sufficient to screen the plant and how fast this would grow. With reference to the number of public responses to the application, which were detailed at Paragraph 61 of the report, Councillor Dunn informed the Committee that very few local residents had been consulted because the majority of surrounding properties were commercial properties. However, since Croxdale and Hett Parish Council had been made aware of the application it had received a number of representations.

The anaerobic digester at Quarrington Hill was bright green in colour which made it obviously visible. Councillor Dunn welcomed that if the application was approved the applicants would need to submit details of colours and finishes so that the plant would be less visible. Councillor Dunn also suggested that if approved Condition 5 should include a requirement for planting capable of rapid growth, the movement of vehicles as detailed in the proposed Condition 12 should be restricted after 8 p.m. or 9 p.m. rather than the proposed 11 p.m. which he considered to be too late. There should also be a Condition to prohibit the movement of HGV's through Hett village.

Councillor M McKeon, local Member, addressed the Committee to object to the application. NPPF Part 1 referred to building a strong, competitive economy and NPPF Part 3 referred to promoting economic development in rural areas. The application site was within the proximity of the DurhamGate development which had attracted businesses such as Costa Coffee, Dominoes and a family pub and there was concern that this development could be act as a deterrent to investors to the area.

While the proposed left in/left out access to the site was welcomed, more information about traffic routes to the site was needed, because HGV's might travel through Hett village as a rat run to the site. Hett and Croxdale were beautiful, peaceful villages and the impact of this development would be contrary to NPPF Parts 7, 11 and 12.

Councillor McKeon requested that the application be rejected, but if approved, consideration be given to additional conditions to screen the digester, prevent of HGV's through Hett village and limit operating times for HGV access to the site.

Mr M Ord, local resident and Member of Croxdale and Hett Parish Council addressed the Committee to object to the application. The development would have a significant visual impact on Hett and Thinford and would lead to increased traffic movements on the A167, an already busy road. The development may also have an adverse impact on house sales at a nearby development.

Mr Ord asked how vehicles on site would be monitored to ensure they switched off their engines when making deliveries. He also asked where any gas produced by the plant would go to and whether this could be a fire risk, and whether the presence of food waste on the site could lead to an increase in vermin.

Mr Hepplewhite, agent for the applicant, addressed the Committee. The statement from the applicant on the application was contained in Paragraphs 62 to 68 of the officer's report. The applicant welcomed the recommendation of officers that the application should be approved and was comfortable with the proposed conditions. Additionally, the applicant would accept a routing condition so that a rat run through Hett village was not created. The applicant had worked closely with planning officers and all national planning conditions had been satisfied. The application would have no significant adverse impact on the landscape, would produce no noise or odour nuisance and was an appropriate form of sustainable development at the site. Mr Hepplewhite asked that the Committee approve the application.

Councillor Blakey informed the Committee that the restriction of HGV's through Hett village would not be able to be policed because farm traffic used this route.

The Senior Planning Officer responded to the issues raised.

A vehicle routing condition could be placed on the permission so that there was no access for HGV's through Hett village.

The gas produced would not pose any fire risk and in the event of a fire would burn with a 'pop'. The gas flare would only operate when the export gas line was not available.

The facility did not intend to hold more waste than was needed and food waste would be stored in sealed containers in the reception building. The end product was less odorous than compost.

Referring to the hours of operation, the hours of 7 a.m. to 11 p.m. was proposed by environmental health officers who did not want the facility to operate overnight. These hours could be reduced to 9 p.m. if the Committee so decided.

Within County Durham there were three other anaerobic digester plants on farms and their buildings were not dissimilar to farm buildings.

The agent from the DurhamGate development had not raised any objection to the proposed development. Nearby businesses produced food waste and may consider it environmentally sustainable to have this facility so near.

Councillor Wilkes referred to concerns which had been expressed about the screening of the facility and asked how long it would take for the screening trees to grow and also asked the heights of the proposed buildings.

The Senior Planning Officer replied that the reception building would be 10 metres in height and the storage tanks 8 metres.

Councillor Wilkes asked what type of green landscaping would be used. The Senior Planning Officer replied that the whole site would be on a concrete base which would be sunk down and bunded. The soil bund around the site would be approximately half the height of the site and planting would take place on top of this bund. The Senior Planning Officer considered that the condition proposed on landscaping offered sufficient latitude to negotiate suitable enhancements to the planting scheme to alleviate the concerns raised by Members.

Councillor Richardson referred to a previous application for an anaerobic digester at East Hedleyhope which local people had objected to and which was refused by Committee. The applicant appealed the decision and this was upheld. Local people had expressed concern about visual impact and odours, however the digester plant was barely noticeable and there had been no problems with odour. Councillor Richardson **moved** approval of the application.

Councillor Shield referred to an anaerobic digester plant at Thomas Swan which took feedstock waste and had been the subject of excessive complaints from local residents about odour. Paragraph 59 of the report referenced that at times there was likely to be odour events which were likely to lead to increased odour and therefore potentially complaints.

Paragraph 88 of the report stated that odour levels would be within acceptable thresholds but there could still be incidents of nuisance odours. These odours were very overpowering.

Councillor Shield referred to Policy W31 in the County Durham Waste Local Plan and questioned whether this development could be accommodated safely on the highways network. Policy W33 in the Local Plan required that suitable mitigation measures were taken to ensure harmful impacts of visual intrusion were kept to an acceptable level. The two domes of the plant at Iveston were quite visible and Councillor Shield considered that the buildings associated with this application would also be visible.

Policy 36 of the Local Plan required that the waste management facilities should be fully contained within well designed buildings or structures. These were in place at the Thomas Swan facility yet problems with odours still arose.

Councillor Shield also considered the application to be contrary to NPPF Part 8 because it did not promote healthy communities. He therefore opposed the application under Policies W4, W31 and W33 of the County Durham Waste Local Plan and under NPPF Part 8 and **moved** that it be refused.

Councillor Clare informed the Committee that he had noted the worries put forward by local Members and representatives and had given these weight. Referring to visual amenity he considered that the buildings proposed were similar to those normally associated with a farm and that officers had given assurances regarding screening. The traffic generated by the development would result in 8 vehicle movements per day, 4 in and 4 out, and this extra level of traffic on a road such as the A167 was not significant, and heavy farm vehicles already accessed the existing farm. Farms generated odours in any event and the proposed digester would be completely enclosed with material stored inside buildings. These buildings would be under negative pressure so when doors were opened air would go in to the buildings rather than escape from them. The success of an anaerobic digester system depended on the quality of practice of the operators of the facility.

There was an anaerobic digester facility at Newton Aycliffe located in the middle of an industrial estate and this had not prevented companies from setting up there.

Councillor Clare considered there were no grounds for refusal of the application.

Councillor Maitland informed the Committee that she had concerns about the level of odour which may be generated depending on climatic conditions.

Councillor Kay informed the Committee that he had listened to concerns which had been expressed. This was an application for an anaerobic digester which meant that it operated without oxygen and Councillor Kay asked whether other digesters being referred to were aerobic digesters.

The Senior Planning Officer replied that the facilities at Quarrington Hill, Newton Aycliffe, High Hedleyhope and Hope House Farm were all anaerobic digesters. Councillor Kay added that an aerobic digester at Easington had not been a success and asked the distance to the nearest residential property.

The Senior Planning Officer replied that the village of Hett was 1.3km to the north, with East Farm to the south of the site and DurhamGate to the west. Councillor Kay considered that this was an agricultural building in the countryside which needed to be in the right colour. The proposed screening would enhance and mitigate the development. This was an alternative to fossil fuels and Councillor Kay **seconded** approval of the application.

Councillor Wilkes understood the concerns of local people but struggled to see how the application could be refused and asked how defensible a refusal could be at appeal.

The Senior Planning Officer replied that he stood behind the recommendation to approve the application. The application was similar to that for High Hedleyhope which was refused by Committee but allowed on appeal.

Councillor A Bell informed the Committee that he **seconded** Councillor Shield's motion that the application be refused.

The Senior Planning Officer provided the Committee with information about the odour problems caused at the anaerobic digester at Consett. The digester took in a blend of crops and stored them on site with no reception buildings and this had caused odour issues. There was no reception building because the crops were not waste and therefore the facility was not monitored by the Environment Agency. The management of the site had been an issue with silage clamps not being operated correctly and the effluent lagoon not being constructed correctly. The Consett site was therefore quite different to that under consideration and poor management was the real issue at Consett.

Councillor Tinsley informed the Committee that the application had been moved by Councillor Richardson and seconded by Councillor Kay. The routing of HGV's by condition and operating time up to 9 p.m. would be delegated to officers in consultation with the Chair of the Committee.

Upon a vote being taken it was

Resolved:

- (i) That the application be approved subject to the Conditions contained in the report and
- (ii) An amendment to Condition 12 to read 9 p.m. instead of 11 p.m. and
- (iii) An additional Condition for HGV routing precise wording of which would be delegated to officers in consultation with the Chair of the Planning Committee

c DM/18/00139/FPA - British Oxygen Co, Vigo Lane, Chester-le-Street, DH3 2RD

The Committee considered a report of the Senior Planning Officer regarding an application for the replan of part of permission DM/16/04052/FPA comprising 99 dwellings, incorporating 27 additional dwellings, total of 230 dwellings, at Vigo Lane, Chester le Street (for copy see file of Minutes).

G Blakey, Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photograph, proposed site layout, view from Vigo Lane, housing on site and proposed.

The Senior Planning Officer informed the Committee that, following the receipt of further information, there was a need to update the proposed Condition 8 in accordance with submitted documentation.

In reply to a question from Councillor Tinsley, J McGargill confirmed that parking on the development met minimum parking standards.

Councillor Clare informed the Committee that this was a brownfield site and he considered the density of housing was reasonable. Councillor Clare **moved** approval of the application.

Councillor Wilkes supported the views of Councillor Clare and **seconded** approval of the application.

Councillor Jewell referred to Paragraph 51 of the report and the concerns raised by Durham Constabulary regarding the density of the development and likely high level of car ownership resulting in conflict. The Senior Planning Officer replied that those concerns related to an original scheme, however, small layout changes had been made to give more open vistas.

Councillor A Bell considered that this was a very attractive scheme and gave credit to the developer.

Upon a vote being taken it was

Resolved:

That the application be approved subject to the completion of a Section 106 Legal Agreement to secure the following in addition to the original planning approval:

- provision of 15% affordable housing units on site (of which 70% affordable rent and 30% discounted sale)
- £66,176 towards the provision of additional capacity at secondary schools in the Chester-Le-Street area
- £27,000 towards the provision or improvements to open space and recreation within North Lodge Electoral Division
- retain contribution of £22,000 towards off-site biodiversity improvement at Waldrige Fell SSSI.

and the conditions contained in the report, subject to Condition 8 being amended following consultation with the Chairman of the Committee.

6 Planning Development Management Performance Summary 2017/18

The Committee noted the planning development performance summary for 2017/18 (for copy see file of Minutes).