

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday, 13 February 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors A Bell, L Brown, I Cochrane, J Cosslett, S Deinali, J Elmer, P Jopling, C Kay, D McKenna, R Manchester, K Robson, K Shaw and A Surtees

Also Present:

Councillors R Crute and T Duffy

1 Apologies for Absence

Apologies for absence were received from Councillor D Oliver.

2 Substitute Members

There were no Substitute Members.

3 Minutes

The minutes of the meeting held on 9 January 2024 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

There were no Declarations of Interest.

5 Applications to be determined by the Area Planning Committee (Central and East)

a DM/23/03610/OUT - Rodridge Farm, Station Town, Wingate, TS28 5HG

The Senior Planning Officer, Lisa Morina gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that some Members of the Committee had visited the site and were familiar with the location and setting. The application was for an outline consent for residential development of up to 9 no. dwellings (all matters reserved) (resubmission) and was recommended for refusal, with reasons as set out in the report.

The Senior Planning Officer noted that there had been a previous outline permission granted for nine properties, granted in 2018, however, that permission had since lapsed. She noted that in the intervening period the County Durham Plan (CDP) had been adopted and a new application had been submitted. She explained that it was felt the application was contrary to CDP Policy 10, and therefore was recommended for refusal. She noted the current application was in outline, with proposed access shown and an indicative site layout, though that would be for agreement at the reserved matters stage.

In respect of statutory and internal consultees, the Senior Planning Officer noted that the Highways Section had noted some concerns with the proposed access, and the Contaminated Land Section had noted some pre-commencement conditions that would be required. She added that Spatial Policy had noted the application was contrary to CDP Policy 10 and the Tree Officer had noted that further information was required. She explained that the Landscape Section had noted concerns in respect of impact upon the landscape, and the Ecology Section had noted a requirement for a payment in relation to the Habitats Regulation Assessment (HRA) at the coast and towards Biodiversity Net Gain (BNG). She noted that the Affordable Housing Team also noted that a payment would be required. It was added that there had been no objections from members of the public and eight letters of support had been received. The Senior Planning Officer noted that the application had been called-in to Committee by one of the Local Members, Councillor R Crute who was also in attendance to speak. It was added that one letter had been received noting some concerns as regards light to a neighbouring property.

The Senior Planning Officer noted that the application represented development in the countryside which was not well related to either of the nearby settlements of Hutton Henry and Station Town and was in an unsustainable location with limited public transport and, as no specific exemption had been demonstrated, was contrary to CDP Policies 6 and 10. She noted that the applicant had noted a number of benefits to the scheme, such as boosting housing numbers, reuse of a brownfield site and economic benefits in terms of the construction phase, however, on balance Officer did not feel they were sufficient to outweigh the policy concerns and therefore the application was recommended for refusal.

The Chair thanked the Senior Planning Officer and asked Councillor R Crute, Local Member to speak in respect of the application.

Councillor R Crute thanked the Chair and Committee and noted he was at the meeting to highlighted benefits of the proposals in terms of both economic benefits and in bringing back into use a brownfield, former warehouse, site. He noted that eight letters of support was very positive, given the rural location and noted there had been no letters in objection. In order to help Members understand the history of the site, Councillor R Crute explained that the previous permission was for up to nine houses, and that a 30,000 square foot warehouse had been demolished in order to make way for those properties. He added that at this point the COVID-19 pandemic hit and the 'world had stood still'. He noted that the demolition of the warehouse had been to the applicant's expense and explained that the applicant was a local man, a local businessman, he was not a speculative developer.

Councillor R Crute noted that the area was desperate for jobs and the proposals would help in terms of local tradespeople getting work, as well as helping to address housing need. He added that the development was on a brownfield site, not greenbelt, and such development was encouraged by national policy, and he noted a Government announcement today around promoting the housing sector and the redevelopment of brownfield sites. He noted that the report stated that the location was not sustainable, however, the location had not changed since the 2018 application, which was deemed sustainable when that permission had been granted. He noted that within the applicant's statement it was highlighted that the site was within walking distance of the local bus stop and services ran to both Hutton Henry and Station Town. He reiterated that as the application site had not changed location and as the villages of Hutton Henry and Station Town had not changed location, he could not see how the application could be considered unsustainable or not well-related. Councillor R Crute noted that rural areas had limited bus services, however, the previous Planning Officer's assessment was that the location was sustainable.

Councillor R Crute noted that Members on the site visit would have noted that the proposed properties would be near to other properties and bus stop and footpaths. He noted that paragraph 76 of the Officer's Report referred to the application being 2018, rather than 2019, and noted that at that time the application was considered as a development outside the settlement boundaries and as the saved policies from the Easington District Local Plan were considered out of date and at that time there was, as he understood, six years' worth of housing supply. He noted therefore it was for Members to decide whether they had been misled. He added that the CDP no longer had settlement boundaries, and in 2019 the impact of the development on the location had been considered and housing supply had not been an issue. He noted he did not feel the current situation was different from that in 2019 in terms of the location and sustainability.

Councillor R Crute acknowledged the warehouse had been removed, however that was a benefit to the area, and he felt that the applicant should not be penalised for carrying out that aspect of the previous permission. He added that punishing the applicant for the removal of the warehouse would be perverse. He noted that the National Planning Policy Framework (NPPF) suggested that sustainable development go ahead without delay and therefore, as the proposals were sustainable and provided benefit to the community and County Durham, he asked that Members support the application.

The Chair thanked Councillor R Crute and asked C Pipe, Agent for the applicant, to speak in support of the application.

C Pipe explained she would speak as regards the refusal reasons the Officer had set out. She noted that the proposed development was the same as that approved in 2019, now with the CDP refusal reasons in terms of sustainability, how well related the site was to settlements, and the impact upon the character of the area. She explained that in terms of sustainability, there were footpaths and nearby bus stops which had regular services to both Station Town and Hutton Henry. She noted that the location was sustainable, as it was when the previously application had been approved. C Pipe referred to a decision by the Planning Inspector relating to an application at Esh Winning, where a site with a bus stop opposite was approved as it was deemed to be in a sustainable location, with access to sustainable modes of transport linking to shops and facilities. She added that the view that the application site was sustainable was also shared by a planning Barrister, who's opinion was sought in relation to the application.

C Pipe noted that the current application was considered to be well related to nearby settlements, with the village sign for Station Town being visible from the site.

She added that in respect of the 2019 application, comments from Officers had been to note the application would not present significant visual harm. She asked why there had been a change of opinion since that time. She concluded by noting that the application was the same as the one approved in 2019, represented sustainable development, presented less than significant harm visually and was on a brownfield site, and asked Members approve the application.

The Chair thanked C Pipe and asked the Senior Planning Officer to respond to the points raised by the speakers.

The Senior Planning Officer noted that the introduction of the CDP was the key factor in this application. She added that while it was for up to nine dwellings, as was the previously approved application, the warehouse building was no longer in place. She noted the previous application that was approved was also in outline, with no details in terms of final design or layout having been submitted. She added that planning judgement was subjective, however, when looking at the application against the CDP, Officers did not feel the application site was in a sustainable location. She noted the 2018 application had an addition factor in its favour, the benefit of the removal of the warehouse, reiterating that element no longer being present in the current application.

The Lawyer (Planning and Highways), N Carter noted that the applicant's Agent had suggested that Members give significant weight to the previous approval in 2018/19. He noted that Officers suggested that the previous approval be given limited weight as there had been a significant change in policy, named the adoption of the CDP, as well as the previous application having a benefit in terms of the demolition of the warehouse, which the current application did not have. He added that the previous application had also not been implemented. He reiterated that the refusal recommendation from Officers was as the current application was judged to be different from the previously approved application, with the Planners judging the current application to not be well related to the nearby settlement and not in a sustainable location.

The Chair thanked the Officers and asked the Committee for their comments and questions.

Councillor A Surtees asked for clarification, if the 2019 was approved in part as a result of the warehouse demolition, were Officers now saying as a result of the demolition any development of houses would represent a greater impact on that resulting open space.

The Lawyer (Planning and Highways) noted that the previous application, where the warehouse had been considered unsightly, that demolition element had helped tip the balance in when weighing up benefits as per the NPPF. However, now that the warehouse had been demolished it could not be considered as a benefit in terms of the current application.

Councillor S Deinali noted she was Local Member for the Blackhalls division and knew the area very well. For context, she explained that the site was between Hutton Henry and Station Town, and the road was one frequently used by pedestrians, especially for children walking to the local schools. She added there was a lot of other development in the area, and that the walking routes were safe and lit. In terms of sustainability, Councillor S Deinali noted that shops and services would not be sustainable in the more rural areas if there was not some level of development to ensure there was a demand for such services. She asked if the CDP was actually saying that if there was not already an existing building to replace in the countryside, then development could not go ahead? She added the local bus did serve Hutton Henry and Station Town, with onward links to the nearby town of Peterlee. She noted the comments in respect of broadband viability, however, she felt that the more residents there were in an area, the more viable such provision became. She concluded by noting she felt the application should be supported, as it was a sustainable location and there were benefits to the local economy.

Councillor A Bell noted he had attended the site visit and had read the report, noting the 2019 permission had included demolition of the warehouse. He asked if the demolition had counted as the development having started, then stopped as the COVID-19 pandemic had hit. He added that on the site visit he had noted the close proximity of the bus stop to the site entrance and asked, if permission was granted, if the bus stop would need to be moved. He noted there were no objections from local residents, and he was sure that any objections from Highways could be overcome, given the applicant owned the adjacent land. He concluded by noting he respected the Officers' views and the reference to policy, however, he felt the application should be supported and moved approval of the application.

Councillor P Jopling agreed with the comments from Councillor A Bell and added she felt the access was good, that it was use of a brownfield site, and while she understood the recommendation for refusal in the context of the change in policy following the adoption of the CDP, she felt there had been a set of unfortunate circumstances, and that the applicant had clearly intended to move ahead with development, hence the demolition of the warehouse. She noted she did not feel it was correct to say the application site was not well related to the nearby settlements, it was right next to one of the settlements.

She added that there were clearly transport links with the bus service and noted it was not surprising that the previous application had not been implemented given COVID-19 and increasing costs linked to inflation. She noted that she felt the demolition of the warehouse was a positive and that there were enough reasons to approve the application.

The Chair noted the previous application had been an outline application and did not include reserved matters and asked for confirmation from the Officers.

The Senior Planning Officer confirmed that was the case, adding that as there had been pre-commencement conditions, the demolition of the warehouse had been unauthorised. Councillor A Bell noted that if the demolition had been unauthorised, then Planning Enforcement should have served notice to the applicant. The Senior Planning Officer noted that Planners had not been aware at the time of demolition and were only made aware when the new application had been submitted. The Lawyer (Planning and Highways) noted that while it was clear the demolition was unauthorised, enforcement was only undertaken where it was expedient to do so. He added that the demolition had been deemed acceptable in principle, as per the 2019 outline approval.

Councillor J Elmer noted he had listened to the debate and felt it difficult to reconcile the Officers' comments and the application as set out. He understood the apparent unfairness when looking at the previously approved outline permission, however, he did not see why no reserved matters application had not been forthcoming in the intervening period, even during COVID-19 the application would have been a paper exercise.

Councillor J Elmer noted previous development on a former Council depot site, and that it had been noted that such would not set a precedent, however, it did show that similar development could be allowed and was possible. He noted the bus stop was right next to the proposed site, with it being usual to argue a site was sustainable with a bus stop within 400 metres, being much closer in this case. He noted he had not heard as regards the frequency of the bus service, however, that was not the only issue. He added there was consideration needed in terms of access to services and the broader sustainability of the local area. He noted CDP Policy 10 related to impact on the countryside, and he noted that when on the site visit, he could see the site occupied an elevated position, which was quite open and clearly visible within the countryside. He noted that CDP Policy 10 always provided an opportunity to block development in the countryside, and that if the Council did not block via that policy, then there could be a precedent for development in the countryside, even if on a brownfield site, leading to less and less distinction between countryside and development.

However, he added that the application was an outline application and that he felt any application at the reserved matters stage should recognise that nine dwellings represented an over-densification of the site, in terms of separation distances, and that reference should also be made as regards how the visual impact of the development on the countryside could be mitigated.

Councillor A Surtees noted the points raised by Councillor J Elmer and noted a similar application at High Hesleden that had been agreed, with it having been felt in that case that the benefits of the development in terms of the economy and sustainability outweighed any negative impact. She noted the approval of the former Council depot site, with objections having been made by the public, however the application before Members being recommended for refusal with no objections from the public. She added the application site was brownfield, had a previous approval, and she felt that it was unfair to hold the demolition of the warehouse against the application, as it had been felt as a benefit in terms of the originally approved application. She noted she felt that a development of nine properties on the site would be preferable to a former industrial site that was left after the demolition of the warehouse. She noted there was a shortage of housing and noted that if the applicant was required to pay s106 contributions towards homes, ecology and the coast she could not agree with the Officers' recommendation, and she would support approval.

The Chair noted the current proposals represented an outline planning permission, with Officers being able at the reserved matters stage to comment on the number of proposed properties and any mitigation that may be required in terms of visual impact. The Senior Planning Officer confirmed that an acceptable scheme would need to be submitted at any reserved matters stage, else Officers would refuse the application.

The Chair noted that Councillor A Bell had moved approval, Councillor S Deinali indicated she would second the motion for approval.

Councillor L Brown asked as regards highways issues, namely the proximity of the bus stop to the proposed access and visibility splays. The Principal DM Engineer, D Battensby noted that there were a number of issues, one being the close proximity of the bus stop to the access, and therefore a s278 agreement would be required in terms of the bus stop and footways. In respect of visibility splays, that issue had been highlighted previously in respect of the 2019 approval, with it not seeming possible to achieve the requirements within the red line boundary of the application site. He added that if the applicant owned the adjacent land, it may be possible to include a condition in terms of a proper access be achievable.

The Lawyer (Planning and Highways) noted the motion for approval and asked Members to clarify whether they felt the application was acceptable in terms of policy, or whether they were saying that the application was in conflict with policy, however, they were taking a different view in terms of weighing up benefits against harm, contrary to the Officer's position set out in paragraph 152 of the report. He also asked, if Members were minded to approve the application, that delegation was given to Officers to add a suitable suite of conditions and s106 legal agreement in terms of the matters discussed, affordable homes, biodiversity net gain and the heritage coast and s39 agreement in relation to onsite monitoring in respect to biodiversity.

Councillor A Bell referred to paragraph 152 of the report, noting he felt the benefits of bringing previously developed land back into use, the economic benefits of construction and housing supply meant the application did comply with policy. Councillor S Deinali added she felt the application would also help support the sustainability of the area, including the safety of residents and promoting the local economy.

The Senior Planning Officer noted that there would need to be a number of conditions, including pre-commencement conditions that would require further information from the applicant, as well as issue to be resolved at the reserved matters stage including: drainage; tree reports; landscaping details; materials; working hours; broadband information; and removal of permitted development rights in perpetuity. Councillor J Elmer asked if that would include visual mitigation measures. The Senior Planning Officer noted that would be within any landscape condition, and would depend upon the number, scale and design of the dwellings proposed at the reserved matters stage. She added that EV charging would also be a condition at that stage. Councillor L Brown noted that solar panels should also be included at that point. The Senior Planning Officer noted that there would a list of conditions relating to CDP Policy 29, with the full list to be delegated to Officers.

The Chair noted Councillor A Bell had moved that the application be approved, he had been seconded by Councillor S Deinali and upon a vote being taken it was:

RESOLVED:

That the application be **APPROVED**, with delegated authority to Officers in relation to an appropriate suite of conditions and legal agreements.

b DM/23/03850/TEL - Land West of 8A Church Close, Peterlee, SR8 5QT

The Planning Officer, David Richards gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that some Members of the Committee had visited the site and were familiar with the location and setting. The application was for the installation of mast and associated apparatus, and the recommendation was that prior notification was required, and that such prior notification be refused, for the reasons as set out in the report.

The Planning Officer noted the aerial photos showed the nearby leisure centre and area of high landscape value (AHLV). He noted there had been 32 letters of objection, including from the local MP Graham Morris. He added that in terms of prior notification, the applicant was required to demonstrate that existing sites had been exhausted, and Officer had not felt that was the case. He concluded by noting the mast was 20 metres, a significant height which would be unduly prominent in the area.

The Chair thanked the Planning Officer and asked Councillor T Duffy, Local Member, to speak in respect of the application.

Councillor T Duffy thanked the Chair and Committee and the Officer for his report and presentation. He noted the many objections from local residents and the MP as set out by the Officer. He explained that he was not denying that there was a need for such masts for communication, however, the proposed site was not suitable, with better locations nearby, such as on the leisure centre building or police station. He noted the issues that has been raised locally in terms of parking charges at the community hospital that had led to displaced parking, and any granting of permission for the 20-metre-high mast would be a further impact upon those local residents.

The Chair thanked Councillor T Duffy and asked local residents who were in objection to the application to speak.

R Scott noted he was a local resident, and also a Town Councillor, however he was speaking in his capacity as resident. He explained he lived in the area just off O'Neill Drive adjacent to Castle Eden Dene and while the area was within the town centre, it retained a more rural feel. He explained that a mast of 20 metres in height would be out of character with the area, especially on the entrance into the estate, impacting upon all that lived there.

He noted there was a statement in terms of every effort being taken to camouflage the mast, however, at that height it would be significantly higher than all the surrounding trees and would be incongruous. He added there were far better suited areas in the more commercial areas nearby. He noted the applicant had noted that it would take 'too long' to secure alternative land, however, he felt that it was simply a matter of money, with NPPF Paragraph 121(c) stating that '*For a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure...*'. He noted several examples nationally where this had been cause to reject such masts and urged Members to concur with their Officer's recommendation for refusal.

P Wilding noted he too was a local resident and concurred with the comments from the Planning Officer and R Scott. He explained that the majority of the local residents felt the mast was far too large and also far too close to residential properties. He reiterated that Government advice was to reduce the size of masts where possible and to explore alternative sites, again with no evidence of such site being considered. He noted previously refused applications and that the proposed mast was too close to properties. He noted Peterlee was a new town, deliberately designed without overhead power lines and large masts and poles. He noted that the land was in the ownership of the Council and noted that the Council could recommend to asset management to reject any siting of equipment.

The Chair thanked R Scott and P Wilding and asked the Committee for their comments and questions.

Councillor A Bell explained he had attended the site visit, and it had been very clear that it was the wrong location for the siting of such a large mast. He noted a smaller pole located further around from the site and suggested that could be an alternative the applicant may wish to seek. He moved the Officer's recommendation, that prior notification was required and that such prior notification be refused. The Principal Planning Officer, Jennifer Jennings noted that a key aspect was discounting alternative sites, and with a number of existing buildings in the area, Officer had not felt the applicant had gone through that process sufficiently to give justification for their preferred site.

Councillor J Elmer noted he too had attended the site visit it and agreed that a 20-metre-high mast was huge, and he was very concerned of the impact on local residents and has almost been against the application at that point. He added he did not think it was possible for such a mast to be located at the site and felt that the applicant had not considered other site and therefore he would second the motion proposed by Councillor A Bell.

Councillor L Brown noted that she had also attended the site visit and had similar thoughts to those of Councillor A Bell and J Elmer. She noted the reference to the proximity to the AHLV, and given the scale of the mast, she too would support the Officer's recommendation.

Councillor C Kay noted he had been involved in work relating to such monopoles for the last 20 years. He noted that while they were required, and required to be tall in order to operate on line-of-sight, the proposal would be visual incongruent. He noted in his local area, a similar pole had been incorporated on to Bishop Auckland College in order to better blend in, and he felt a similar solution would be beneficial for the people of Peterlee. The Principal Planning Officer noted each proposal for a mast would be judged upon its own merits, with the Bishop Auckland College site having been the developer's preferred site in that case.

She added that there was always a greater impact when in residential areas and reiterated that Officers felt in this case that there could be an opportunity for alternative locations to be considered. Councillor C Kay noted he could not disagree with the comments from the Officers.

Councillor P Jopling explained she had attended the site and felt it really was the wrong place, too close to the nearby nursery and not worth any potential risk to the children in her opinion. She noted the site was also very close to residential properties and felt the Officer's recommendation was the correct call. She noted she too felt there were other better suited areas, such as the leisure centre, albeit likely more expensive adding she felt that may have been a deciding factor in terms of the application.

The Lawyer (Planning and Highways) asked Councillor J Elmer if he had made up his mind as regards the application prior to Committee. Councillor J Elmer noted he had not made up his mind in advance and would have been happy to have been persuaded at Committee that the application was acceptable, however, he had not been convinced and supported the Officer's recommendation.

The Chair noted Councillor A Bell had moved that the application be approved, he had been seconded by Councillor J Elmer and upon a vote being taken it was:

RESOLVED:

That prior notification was required and **REFUSED** for the reasons as set out within the Committee Report.