

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Crook on **Thursday 24 May 2012 at 2.00 pm**

Present:

Councillor M Dixon (Chair)

Members of the Committee:

Councillors E Tomlinson (Vice-Chairman), D Burn, M Campbell, P Gittins, G Richardson and R Todd

Apologies:

Apologies for absence were received from Councillors D Boyes, K Davidson, G Holland, E Paylor, J Wilkinson and M Williams

Also Present:

J Byers – Planning Team Leader (South and West Area)
A Inch – Principal Planning Officer
A Caines – Principal Planning Officer
C Cuskin – Legal Officer
D Stewart – Highways Officer

1 Declarations of Interest

Councillor E Tomlinson declared a personal and prejudicial interest in application 3/2012/0051 - Land to the rear of 2-10 Royal Grove, Crook as he had contributed part of his highways allowance as a local Member towards the development of the alternative footpath route.

Councillor G Richardson declared a personal and prejudicial interest in application 6/2011/0438/DM - Lane Head Farm, Lane Head, Hutton Magna as he was a customer of the applicant.

The Members left the meeting during discussion of the relevant application.

2 Minutes

The Minutes of the meeting held on 19 April 2012 were agreed as a correct record and were signed by the Chair.

With the agreement of the Committee the order of business was amended and item numbered 3(c) 6/2011/0351/DM/OP - Land south of Evenwood Gate was moved to the end of the Agenda.

3 Applications to be determined

3a 3/2012/0051 - Land to the Rear of 2-10 Royal Grove, Crook Change of Use of Land to the Rear of Nos. 2-10 Royal Grove, Crook

Consideration was given to the report submitted in relation to the above application (for copy see file of Minutes)

The Principal Planning Officer gave a detailed presentation on the main issues outlined in the report which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

Councillor J Bailey addressed the Committee on behalf of local residents and began by referring to Planning Policy. Paragraph 75 of the NPPF stated that planning policies should seek to protect and enhance existing public rights of way and access. Whilst he sympathised with the residents of Royal Grove he did not consider that anti-social behaviour was a relevant planning consideration.

If approved this proposal would not resolve anti-social behaviour problems but would move them elsewhere, and he noted that no evidence had been submitted by the Police in support of the application. Councillor Bailey read out the contents of an e-mail from DCC Rights of Way Section which gave details of their response as an internal consultee. He felt that their views should have been represented more fully in the Planning Officer's report.

The Open Spaces Society had objected on the grounds that the footpath was well used and its closure would not solve the problem of anti-social behaviour. The footpath was in a usable condition and the alternative footpath adjacent to the road was potentially dangerous. He therefore felt that pedestrian safety was a key consideration for the Committee.

Councillor E Murphy, local Member spoke in support of the application. Residents had experienced problems of anti-social behaviour since 1994 and had received support from former Wear Valley District Councillors and Durham County Councillors since 1997. The new footpath was provided to give users an alternative route, particularly for those who found it difficult to access the bank up to the public path. He had visited the site that morning and had not witnessed one person using the public footpath.

If the application was approved it was a step towards making it more peaceful for the residents of Royal Grove, and would reduce demands on the Police.

Jo Bird addressed the Committee on behalf of the Open Spaces Society and local residents. She advised that the footpath between 9 and 10 Royal Grove was very important, being a section of Public Footpath 57, and forming part of a very well-used circular route which had been promoted by DCC. The popularity of the route was demonstrated by the well-worn grass. She understood that whilst there had been anti-social behaviour issues in the past there were no problems at present.

She also outlined the process required to make a Stopping Up Order to extinguish the Public Right of Way if the application was approved.

Mrs C Freeman, a local resident and objector commented that Councillor Murphy had not mentioned that the public footpath behind Royal Grove was also well used. The metalled path was prone to flooding and was unsafe for pedestrians, being situated on a bend on the B6298. She also agreed with Jo Bird that there were no anti-social behaviour problems in the area at present. Whilst she understood the challenges faced by local residents a long-term solution should be explored to combat the problem of anti-social behaviour altogether, involving partnership working between the Police and the community.

Mr Winter, the applicant stated that residents had worked closely with the Highways Authority, the Police and the Community Safety Partnership over a number of years to explore options to resolve anti-social behaviour. As a result residents had been guided down this route. None of the objectors lived in Royal Grove and therefore did not have to experience the problems they suffered late at night. The Neighbourhood Policing Team was in support of residents and Durham County Council had a duty under Section 17 of the Crime and Disorder Act to do all it could to prevent crime and disorder in the area. He also considered that the implication by objectors that DCC had created an unsafe footpath adjacent to the B6298 was incredulous.

In responding to the comments made D Stewart, Highways Officer stated that the alternative footpath adjacent to the B6298 had been created by the Highways Authority with part-funding from the highway allowances of local Members, and was not regarded as unsafe. There were no safety issues associated with the footpath being located on a bend, a situation which was common to many other areas, both locally and nationally.

In determining the application the Committee was reminded by the Council's Legal Officer that consideration should only be given to the proposal before Members for consideration (ie the proposed change of use of the land to residential garden), and that the procedure for Stopping Up the public footpath would be subject to a separate process which was not before Members for determination.

The Committee considered that it had to balance the need to prevent anti-social behaviour with the needs of footpath users. The public footpath was well-used and a Member commented that since the bushes had been cut back anti-social behaviour had reduced. He therefore felt that it would be beneficial to retain both footpaths. A further Member agreed and added that the public footpath was a lot safer for pedestrians than the metalled path adjacent to the B6298, particularly for children.

Resolved:

That the application be refused.

Reason: The change of use of the land to residential garden would result in the loss of amenity to the local community by means of the loss of a well-used pedestrian route, without a safe and convenient alternative route, contrary to Policy GD1 of the Wear Valley District Local Plan as amended by Saved and Expired Policies 2007 and paragraph 75 of the NPPF.

**3b 6/2011/0438/DM - Lane Head Farm, Lane Head, Hutton Magna
Erection of Farm Office, Workshop, Storage Building, Seasonal
Workers Accommodation, Regrading of Landscape Bund and Provision
of Additional Hardstanding Area**

Consideration was given to the report submitted in relation to the above application (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation on the main issues outlined in the report which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

The Committee was advised of an additional condition to be included which would prevent the provision of further accommodation on-site for seasonal workers without planning permission.

Councillor R Bell addressed the Committee against the application. He noted that whilst the report stated that non-compliance with previous conditions was not a material consideration, he was concerned that there had been a number of breaches and that recent complaints were currently being investigated. This included an appeal in relation to the replacement grain dryer.

In terms of site operations residents were concerned about plastic recycling activity which he considered was being operated as a business. He also considered that residents would notice an increase in traffic as a direct result of these proposals. He pointed out that there were no amenities in Hutton Magna which meant that workers would have to drive to access facilities.

Councillor Bell also asked why local people were not employed and stated that whilst occupancy of the accommodation was to be restricted by condition he had reservations about how this would be enforced. He had similar concerns with regard to enforcement of the condition relating to the use of the workshop. The application did not seek to replace existing amenities but to create a new residential block which would add to the problems of low water pressure in the area.

The local Member then referred to a summary document he had prepared which referred to the considerable number of conditions proposed and the statutory responses. Conditions were only useful if they performed a physical act and did not rely on the behaviour of the applicant. As far as he could see the only physical condition related to foul drainage and in his opinion the remaining conditions were inherently unenforceable other than by a heavy DCC officer monitoring presence. The residential development was contrary to Policy H6 of the Local Plan and the erection of a large hangar-like building on an already excessively developed site, amounted to an industrial estate in open country, and was contrary to Policy ENV1.

Mr Brophy, Hutton Magna Parish Council concurred with Councillor Bell that this site was in effect an industrial estate and the application was against the principals of the NPPF. Residents did not want another large hangar next to their village.

He disagreed with the comments in the report in relation to water pressure. The report advised that leaks found in the supply from nearby Smallways had been repaired but Yorkshire Water had no record of this. Water pressure in the village was already low and residents had been informed by Yorkshire Water that the problem would persist until pipes were replaced. Residents had been advised to fit their own water tanks for use at times of heavy demand. This was unacceptable and the additional accommodation would exacerbate the problems.

Mr Laidler, objector referred to the recent changes to National Planning Policy which emphasised the importance of the natural environment on the wellbeing of communities, with planning proposals being about enhancing and improving where people lived. The NPPF removed previous constraints and allowed the views of local communities to be taken into account alongside Planning Policy.

Mr Nixon, objector reiterated the views of Mr Brophy and Mr Laidler. He produced a photograph which showed the impact the new building would have on his amenity as nearest neighbour, in terms of noise and light pollution.

He referred to a number of complaints about low water mains pressure and to 13 incidents, the most recent of which was 2 weeks earlier when the supply was cut off altogether. The site was over-industrialised and there had been no consultation with residents on the proposals. He was also concerned that conditions relating to the grain dryer could only be monitored during the harvest period.

Mr G Swarbrick, the applicant's agent stated that the application should be judged on its own merits and that there were no unresolved issues of non-compliance with previous planning conditions.

All uses that currently took place on site were lawful and the current application would mean that the company was better placed to meet the long term needs of their business operations.

Existing offices comprised of portacabins and the new building would improve visual amenity. 15 local people were employed but they did need to bring in seasonal workers during harvesting. These workers were housed in temporary accommodation which was brought onto the site as needed, and this was costly.

Occupancy of the accommodation would be controlled by condition and the workshop would be used for fleet maintenance and storage of vehicles, machinery or equipment used by AWSM Farms only. This would also be the subject of a planning condition. Currently maintenance was carried out in the southern end of the yard and the building was not fit for purpose. The new workshop would be further away from residents.

The application accorded with planning policy and existing activities would not be increased on site. There would be no further impact on residents, and the economic benefits the proposals would bring about should be given significant weight.

Prior to determining the application Members sought clarification in relation to concerns expressed about low water pressure. The Officer explained that no objections had been received from Northumbrian Water and Yorkshire Water. Yorkshire Water had responsibility up to the meter at Smallways and had advised that water pressure was acceptable up to that point. Beyond this the connection to Lane Head was a private shared system, and as such was a private matter.

In determining the application Members acknowledged that previous non-compliance with planning conditions was not a material consideration and that the proposal would bring about further benefits to the local economy. Concerns about occupancy would be addressed by condition and an additional condition should be included to prevent any further accommodation being brought onto the site without planning permission.

Resolved:

That the application be approved subject to the conditions outlined in the report and to the following additional condition:

‘Notwithstanding the provisions of Part 5 of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no further accommodation for seasonal agricultural workers shall be provided without the prior written permission of the local planning authority upon an application submitted to it.

Reason - In order that the local planning authority may exercise further control in this locality in the interests of neighbour amenity and impact on local water supply capacity. To accord with policy GD1 of the Teesdale District Local Plan 2002 (as Saved and Amended)’.

**3c 6/2012/0047/DM - Land at High Riggs, Barnard Castle
Residential Development Comprising 100 No. Dwellings (30 Affordable)
and Associated Infrastructure**

Consideration was given to the report submitted in relation to the above application (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation on the main issues outlined in the report which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

The Committee was advised of an additional condition which would require the submission of a landscape management plan by the applicant.

Councillor J Watson, Barnard Castle Town Council stated that whilst the proposal was in an area of high landscape value and outside the settlement limits of the

town, this application should be supported. He accepted that it had been identified as an 'amber' rated site for development in the SHLAA but noted that other 'green light' sites were not immediately available.

The Town Council welcomed the provision of affordable housing, particularly in view of rising house prices in Barnard Castle. They were satisfied with proposals relating to rainwater retention, soft landscaping and access, although would like to see improvements to the pedestrian refuge.

The Town Council was of the view that more 3 bedroomed houses should be provided to assist first time buyers and welcomed the Section 106 contribution towards play areas and allotments.

R Hanley spoke on behalf of local residents against the application. She explained that this was a rural, beautiful setting in an area of high landscape value, outside settlement limits. If approved, she was concerned that a precedent would be set to develop other Greenfield sites. 10 other sites had been identified for development which were more suitable. This site was located at an entrance to the town and tourists would be greeted by a new housing estate which was out of character with other dwellings in Barnard Castle.

The materials for the bungalows were not typical to the area and the application was contrary to Local Plan Policy GD1. The developers had consulted with residents but she believed that it had been progressed without their needs being taken into account.

Mr Driver, the applicant's agent stated that the developers were committed to the project and following consultation with residents had taken on board their comments and incorporated them into the final proposals. The bungalows would be located 44m away from the houses on Darlington Road, and therefore exceeded recommended privacy distances. The objections had been made by residents of Darlington Road and did not represent the views of the whole town.

Affordable housing was to be provided with a 50:50 split between social rented and intermediate housing. This was unusual but there was a recognised need for this in the area to assist young people onto the housing property ladder. Materials would be locally sourced where possible and the design and layout was deemed to be acceptable by Planning Officers.

In response to a question Mr Driver confirmed that they would also look at a contribution to Marwood Parish Council as part of the Section 106 Agreement.

D Stewart, Highways Officer responded to Barnard Castle Town Council's comments in relation to the pedestrian refuge. He advised that there was a pedestrian refuge to the west of the development site which pedestrians could use to cross the road before reaching the busy main road near the petrol station. This was deemed to be acceptable in terms of highway safety.

In discussing the application Members considered that the concerns of the objectors had been addressed by the developer and welcomed the proposal for affordable housing on this site.

Resolved:

That the application be approved, subject to the completion of a Section 106 Legal Agreement to secure a scheme for the provision of 30 affordable dwellings and to the conditions outlined in the report. Such conditions to include the following:-

‘A landscape management plan, including management and maintenance responsibilities and schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason - To ensure the open space and landscape areas within the development are appropriately managed and maintained in the interests of visual amenity. In accordance with policies GD1 and H12 of the Teesdale District Local Plan 2002 (as Saved and Amended)’.
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**3d 7/2012/0103/DM - Land at 14 North Road, Spennymoor
Outline Application with Details of Layout, Access and Scale, for the
Erection of Four Dwellings Including the Demolition of 14 North Road,
Spennymoor**

Consideration was given to the report submitted in relation to the above application (for copy see file of Minutes).

A Inch, Principal Planning Officer gave a detailed presentation on the main issues outlined in the report which included photographs of the site.

Councillor N Foster, local Member spoke on behalf of local residents against the application. Their main concerns related to highway safety on North Road and the speed of traffic travelling along it. If approved this application would exacerbate the problems. The photographs presented by Planning Officers did not reflect the character of the whole area.

Other concerns included noise and disturbance which may be mitigated by planting, and whilst the layout avoided direct overlooking, the privacy currently enjoyed by neighbouring properties would be removed because residents would be overheard while sitting in their gardens.

Density of the site was also an issue as it was out of character with the surrounding area. On balance the concerns expressed by residents had not been mitigated.

Mr Simpson, an objector stated that the garden was unique and it would be an insult to the former owner to destroy it and the wildlife that was attracted there. The development was not needed; 2 recent articles in the local press referred to a

similar development less than a mile from North Road and a further 2000 houses were proposed at Thinford. He also disagreed with the views of Planning Officers that it would be unreasonable to refuse the application on the grounds that there were unsold properties less than a mile away.

Access arrangements were of concern in view of problems of access onto North Road which was already busy, particularly at peak periods.

Mr Athey, objector stated that as part of the proposals a dwelling was to be built adjacent to his own bungalow and he was concerned that the first floor windows of that property would overlook his garden. He understood that screening was proposed using existing shrubs and the silver birch trees but as could be seen from the Planning Officer's photographs there would be very little tree coverage in winter months.

Mr Athey also believed that flood risk was an issue. Their garden was currently waterlogged and this would worsen once existing trees and landscaping were removed. The development would have an impact on biodiversity; currently the garden was a haven for wildlife, including a rare invertebrate, and if the application was approved an important habitat would be lost.

Mr White, the applicant's agent stated that this was a small scale residential development on a sequentially preferable site in a sustainable location. The primary elevations would not overlook neighbouring properties and would be screened by much of the existing landscaping which was to be retained.

The access road was deemed to be acceptable by highways and at 4.8m accorded with highway legislation.

In determining the application Members acknowledged that this was an outline application and the concerns expressed relating to flood risk etc would be addressed at the reserved matters stage.

Resolved:

That the application be approved subject to the conditions outlined in the report.

**3e 6/2011/0351/DM/OP - Land South of Evenwood Lane, Evenwood Gate, Bishop Auckland
Proposed Residential Development (Outline Application)**

Consideration was given to the report submitted in relation to the above application (for copy see file of Minutes).

A Inch, Principal Planning Officer gave a detailed presentation which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

The Officer advised that since the report had been circulated representations had been received from local Member Councillor P Charlton. Councillor Charlton

indicated her support to the application. Evenwood Gate would benefit from some rejuvenation, although it would have been better if the former Brown Jug Public House had been included in this development. However the area was looking 'run down' and this would give it a boost. The area intended for development was not prime land.

Whilst she was aware that Regional Planning Policy highlighted a preference for previously developed sites there had been exceptions to this.

Councillor S Hugill, local Member also spoke in support of the application. The applicants wished to improve this untidy corner which was situated on a busy route to Barnard Castle. Approval had been granted previously for the erection of a bungalow, caravans and garage on the application land, and for 13 dwellings on the Brown Jug site.

Access onto Evenwood Lane off this site would not present any problems as it was a quiet road and traffic was slowing at this point for the junction onto the A688. The village benefitted from a number of local facilities and a regular bus service to Bishop Auckland where there were 2 new supermarkets.

The businesses in Evenwood Gate and the school were in support of the proposal which would attract younger people to live in the area, which was much-needed.

Mr J Lavender, the applicant's agent expressed concern that the application was recommended for refusal based on 'indicative' plans which he did not believe was a matter for consideration as part of an outline application. In his opinion the principle of the development and access were the main issues for determination.

He expressed further concerns that there had been no mention in the report of paragraphs 214 and 215 of the NPPF which made it clear that Teesdale Local Plan should only be given proportionate weight to policies in the NPPF. Contrary to the Officer's statement in the report the NPPF stated that to promote sustainable development in rural locations housing should be located where it would maintain and enhance the local community, and development in one village may support services in villages nearby. The report emphasised separation of Evenwood and Evenwood Gate yet local people recognised the inter-relationship between the two. Residents of both villages supported the proposals.

He concluded that this application represented a well-designed sustainable development in principle, on a site which could be safely accessed, with good transport links. He referred to the earlier application on the Agenda relating to High Riggs, Barnard Castle which was situated further outside the settlement limits and which Members had approved.

In responding to the comments made by the applicant's agent in respect of the NPPF the Principal Planning Officer explained that it did not change the statutory status of the Development Plan as a starting point for determining applications. The site would be a substantial addition to the settlement and would be a substantial distance from facilities. As such, residents would drive to make use of any services and there was no guarantee that they would use those located in Evenwood Gate.

Whilst the application had been submitted in outline form it included an indicative housing layout plan. These details intended to demonstrate that an acceptable form of development could be achieved on the site. Access was deemed to be acceptable but in terms of the principle of the development Planning Officers considered that it was not in a sustainable location.

In determining the application a Member commented that this application would improve an untidy corner and that not all of the site was in open countryside. However, Members noted that 70% of the site was greenfield and that 5 other sites in Evenwood had been classified 'green light' in the SHLAA as suitable for residential development. If approved this application may hinder development of these areas of land.

In response to the comment of the applicant's agent with regard to the High Riggs application, Members reiterated that each planning application was considered on its merits and that comparisons should not be made between the two sites.

Resolved:

That the application be refused for the reasons outlined in the report.