

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Council Offices, Spennymoor on **Thursday 22 November 2012 at 2.00 pm**

Present:

Councillor M Dixon (Chair)

Members of the Committee:

Councillors E Tomlinson (Vice-Chairman), D Boyes, D Burn, M Campbell, K Davidson, P Gittins, J Gray (substitute for E Paylor), G Holland, G Richardson, R Todd, J Wilkinson and M Williams

Apologies:

Apologies for absence were received from Councillors E Paylor and J Shuttleworth

Also Present:

A Inch – Principal Planning Officer
A Caines – Principal Planning Officer
C Cuskin – Legal Officer
D Stewart – Highways Officer

1 Declarations of Interest (if any)

There were no declarations of interest received.

2 Minutes

The Minutes of the meeting held on 18 October 2012 were agreed as a correct record and were signed by the Chair.

Matter Arising from the Minutes

3d 3/2012/0334 – Land off Primrose Hill, Newfield, Bishop Auckland Drainage Issues

Members were advised that the Chair and Vice-Chair of the Committee had met with a Project Engineer from Neighbourhood Services to investigate the current position with regard to drainage issues raised by residents of Newfield at the last meeting of the Committee.

The Chair informed Members of the current position in relation to the following areas that DCC had received complaints about:-

Stonebank Terrace - a works instruction had been issued to repair the broken pipe in the grass verge and encase it concrete for protection. The

works should be completed by the end of November or early December 2012;

Grey Street – there was a 25mm check between the adopted highway and the unadopted street. Water test and inspections had found that water did not flow from the adopted highway onto the unadopted highway unless there was a severe storm, such as that experienced on 28 June 2012.

Resolved:

That the information given be noted.

3 Applications to be determined

3a 7/2012/0346/DM - Land at Kelloe Bank, Trimdon Grange

The Committee considered a report of the Principal Planning Officer regarding an application for the erection of stables/storage building with hardstanding and retention of access (for copy see file of Minutes).

A Inch, Principal Planning Officer gave a detailed presentation on the application 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 2 additional conditions which would require the boundary hedgerows to the immediate north and south of the access to be cut back but not removed at least once a year, and for full details of site access improvements including radius kerblines and surfacing details to be submitted and agreed in writing by the Local Planning Authority within 2 months of the date of the permission.

Mr G Thompson, supporter and owner of the land addressed the Committee. He began by disputing the accuracy of the objections received relating to the removal of the hedgerow and site access works. Hedgerow removal had been permitted and was carried out in accordance with The Hedgerows Act 1997. At least 200m of additional hedgerow would be planted by way of compensation for the sections that had been removed, together with 20-30 oak trees around the site. The location of the new site access had also been allowed.

In closing he stated that the proposals would not constitute over development. The site was not changing into an area of small industrial units. Mr and Mrs Hedley rented 2 paddocks providing approximately 7 acres for the movement of animals in order to allow the grass and land to recover.

Mr Hedley, supporter and tenant of the land stated that he spent much of his spare time with his children and the horses. It was important to him to have somewhere he could enjoy the countryside with his children while they were growing up.

In discussing the application Members were advised that the proposals to plant oak trees would be included in the soft landscaping scheme and the development would

not commence until a detailed landscaping scheme had been submitted to and approved in writing by the Local Planning Authority. There would be no further removal of existing hedgerow on either side of the site access.

Resolved:

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

- Notwithstanding the details shown in the approved plans, the proposed access site visibility splays onto the serving public highway must be maintained at all times. This should involve cutting back, but not removing the boundary hedgerows to the immediate north and south of the access at least once every year. The agreed sightline shall remain unobstructed at all times.

Reason: To ensure an acceptable standard of access in accordance with saved policy D3 (Design for access) of the Sedgefield Borough Local Plan

- Within 2 months of the date of this permission, full details of site access improvements to include radius kerbline and surfacing details shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented within 2 months of their agreement.

Reason: To ensure an acceptable standard of access in accordance with Saved Policy D3 (Design for access) of the Sedgefield Borough Local Plan.

3b 7/2012/0348 - Sedgefield Racecourse, Racecourse Road, Sedgefield

The Committee considered a report of the Principal Planning Officer regarding a retrospective application for the erection of a temporary marquee to the rear of the main stand during November and December 2012 (for copy see file of Minutes).

A Inch, Principal Planning Officer gave a detailed presentation on the application 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 8 events were proposed and not 7 as stated in the report, 3 of which had already taken place.

Councillor D Brown, local Member addressed the Committee on behalf of residents, stating that their main concerns related to noise nuisance. Problems had first arisen in 2003 during a party at the racecourse when the level of noise disturbance had affected the whole village. Unfortunately this was a retrospective application as the marquee had been erected and some of the proposed events had already taken place. The occupiers of the nearest property to the south of the racecourse had lived there for a number of years and had always experienced problems with noise.

Councillor J Robinson, local Member was not in attendance but had sent an e-mail which was read out to the Committee. In addition to noise nuisance, it was noted

that the racecourse had also advertised marquee weddings in 2013. The Parish Council had expressed the view that the racecourse's timing of the erection of the marquee meant that hardly any events would be lost if planning permission was refused.

Mrs Marion Cant, local resident spoke against the application and a copy of her statement was circulated to the Committee (for copy see file of Minutes). She lived in a property to the south of the racecourse which was surrounded by open farmland. Over the last few years the number of entertainment events at the racecourse had changed the character of the land surrounding her property and others.

There was a long history of well-documented noise nuisance associated with the premises and Mrs Cant referred to occasions when a Noise Abatement Notice had been issued and when the noise monitoring procedure implemented by the racecourse had been ineffective. She also referred to other planning matters where the applicant had been non-compliant, and these were set out in her statement.

The marquee had been erected almost one month before the application was reported to Committee, the control of noise levels had been inconsistent and as the applicant had not adhered to conditions in the past there was no guarantee that they would do so in the future. If the Committee approved the application she asked that conditions include the dates of the events, and a requirement for Independent Noise Surveys to be carried out at each one.

Mrs Julia Bowles of Sedgefield Village Residents Forum reiterated the concerns expressed by the local Members and Mrs Cant stating that residents in and around the village were experiencing the real effects of events at the racecourse on an ongoing basis. Such was the strength of feeling that in October 2011 residents had attended a Statutory Licensing Sub-Committee meeting to make representations in respect of the Premises Licence.

She also reiterated Mrs Cant's views about non-compliance of planning matters, which included a failure to implement a safe crossing for pedestrians.

Mrs Bowles concluded that the Council had a responsibility to safeguard residents against problems of noise etc and local people were disappointed that their concerns had not been considered substantial enough to recommend refusal of the application.

If the application was granted she asked that the conditions suggested by Mrs Cant be included in the permission and that the permission be suspended if there were any noise nuisance issues.

Jill Williamson of Sedgefield Racecourse referred to the event in 2003 mentioned by Councillor Brown and advised that this had been held before she worked at the racecourse and would not be repeated. The racecourse had always tried to work with residents and she had met with relevant Officers in August/September 2012 to discuss the proposed position of the marquee. Previously the marquee had been

erected in the car park but for November and December 2012 had been located between the buildings to reduce visual impact and the potential for noise nuisance.

The business offered local employment and their clients were well-respected people with a lot of disposable income. This was of benefit to local businesses.

The Premises Licence included a condition requiring noise monitoring to be carried out in accordance with a Noise Monitoring Procedure. Noise levels measured at the charity event on Saturday 17 November 2012, which featured a 40 piece military band, were less than a car. The remaining events would generate even lower levels of noise and she assured Members that the racecourse would continue to adhere to conditions.

In conclusion J Williamson commented that the racecourse had been nominated for an award for its charity fund-raising which, if successful would be of benefit to both the racecourse and the local community.

Councillor Boyes expressed concern about the applicant's disregard of planning and licensing matters, and the erection of the marquee before the planning application had been determined.

The Principal Planning Officer responded to the comments made, advising that the reference to the provision of a safe crossing for pedestrians related to a planning application in respect of the car boot sale and was not relevant to the determination of this application. A Noise Abatement Notice had been issued earlier this year but since then a Noise Monitoring Procedure had been put in place by the racecourse.

Councillor Holland stated that the marquee was located between buildings and was not unsightly. He did not consider that noise nuisance to dwellings located 400-600m metres away would be overwhelming. The racecourse was an important contributor to the local economy and to charity, and he therefore supported the application, subject to condition 1 being amended to include the specific dates of the remaining events.

Following discussion it was **Resolved:**

That the application be approved subject to the conditions outlined in the report and to condition 1 being amended to read as follows:-

'1. The marquee hereby approved shall only be used for entertainment events on the following days:-

27 November 2012
7 December 2012
14 December 2012
15 December 2012
26 December 2012

Thereafter the marquee shall be removed from the site no later than 7 January 2013 and the land reinstated to its pre-existing condition.

Reason: The marquee is not considered suitable for permanent retention in accordance with the requirements of Policy D1 of the Sedgfield Borough Local Plan as amended by Saved and Expired Policies September 2007.'

3c 6/2012/0240/DM - Land at 2 Bankwell, Low Etherley, Bishop Auckland

The Committee considered a report of the Principal Planning Officer regarding an application for the erection of a dormer bungalow and alterations to the existing frontage area to improve turning space for vehicles (for copy see file of Minutes).

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

Councillor Hugill, local Member addressed the Committee in support of the application. He advised that the proposed bungalow was needed to accommodate the applicant's medical condition. The dwelling would be erected on a site where there used to be buildings and therefore would not be out of line with the defined settlement boundaries.

The proposed turning area would allow residents to exit the site forwards which would be safer than reversing onto the road, particularly as the shortest distance in a vehicle was from the driver's seat to the front of the bonnet. Contrary to the comments of the Highways Authority, he considered that vehicles travelling at 30mph would be able to stop safely within the sight visibility splay. In addition he was not aware of any accidents at that location.

There was a recently built dwelling located immediately adjacent to the site. The Highways Authority had not offered any objections to the planning application for that property.

To conclude he stated that the application accorded with National and Regional Planning Policy in terms of the provision of facilities for people with disabilities.

Dr M Bell, the applicant's agent, in addressing the Committee, referred to Policy 50 of the NPPF which placed emphasis on the delivery of a mix of housing based on the needs of different groups, including people with disabilities. In his opinion the land was a brownfield site and showed an old photograph of Mr Schroeter's property surrounded by houses. New building works were still taking place in the 1980's.

He also considered that the site constituted previously developed land in accordance with Policy H4 of the Teesdale District Local Plan 2002 (Saved).

In terms of the objections submitted by Highways he referred to the test in the NPPF which stated that development should not be refused on transport grounds unless cumulative residual impacts were severe. There had not been any accidents at this location, visibility from the site along the road was around 250m and the

proposed turning circle would mean that the access would be safer as vehicles would exit the site forwards.

D Stewart, Highways Officer responded to the issues raised. The Highways Authority had no objection to the recently built dwelling next to the site because the alignment of the road was more favourable at that point. The photographs displayed showed the minimum setback distance of 2.4m and the stopping distances referred to in the report reflected the minimum required in accordance with current guidelines.

Because of the serious visibility issues outlined in the report, whether a vehicle left the site forwards or in reverse would make no fundamental difference to the safety of the access.

Members discussed the application at length. Councillor Holland acknowledged that no accidents had occurred at the site, however he appreciated that the access onto the road was potentially dangerous and asked if there were any road safety measures that could be implemented to mitigate the risk. Possible measures were discussed by Members and included a mirror, SLOW signs or 'No Right Turn'.

Councillor Richardson added that he travelled the road frequently and it was not possible to speed along the route at any point or exceed the 30mph limit.

The Chair suggested that in determining the application the Committee needed to balance the medical requirements of the applicant with the visibility problems at the access.

The Highways Officer responded that such was the disparity between visibility distances and speed of traffic there were no meaningful measures that would slow the traffic to an acceptable speed. He acknowledged that there were many similar situations at other sites across the County but the additional dwelling at Bankwell Terrace would worsen existing conditions there. In addition road safety measures such as those referred to were governed by legislation which was outside the control of the Local Planning Authority. He added that un-reported accidents at minor junctions was not unusual but this did not in any way diminish the potential risks at Bankwell Terrace.

In response to a question from Councillor Campbell he advised that a residential dwelling created between 6 and 10 vehicular movements a day on average and at Bankwell Terrace there was only one access onto the highway.

Members proceeded to determine the application. Councillor Davidson agreed with Planning Officers concerning the weight that could be given to medical conditions as a material planning consideration. The opinion of the Highways Officer was clear and should not be disregarded. A further dwelling on the site would increase vehicular movements.

Members accepted that it would not be feasible to approve the application subject to mitigation measures being explored to alleviate the highway safety. However the access was already being used by the existing property and it was considered that

on balance the personal circumstances of the applicant and need for the dwelling outweighed the highway issues.

Resolved:

That the application be approved and authority be delegated to Officers to formulate appropriate conditions. Such conditions to include the following:-

- The dwelling hereby approved shall not be occupied until the turning area described in drawing no. SS/2012/planning/05A has been fully constructed. Thereafter the turning area shall be retained and kept free of obstruction to allow the turning of vehicles.

Reason: In the interests of highway safety and to comply with Policy GD1 of the Teesdale District Local Plan 2002.

- Notwithstanding the provisions 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) the proposed garaging facilities shall at all times be retained for the parking of motor vehicles and shall not be used for or converted into habitable residential living accommodation.

Reason: In the interests of highway safety and to comply with Policy GD1 of the Teesdale District Local Plan 2002.

3d 3/2012/0393 - General Bucher Court, Hawthorn Road, Bishop Auckland

The Committee considered a report of the Principal Planning Officer regarding a retrospective application for a 2m high timber security fence and gates (for copy see file of Minutes).

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

Councillor Lee, local Member addressed the Committee. Residents were concerned about the impact of the fence on neighbouring properties. This was a retrospective application and as such local people had been unable to make their views known before the fence was erected.

The fence was intrusive, overbearing and attracted anti-social behaviour. It had also restricted the use of an existing footpath across the site. CCTV cameras had been installed which pointed into neighbouring properties and as surrounding roads were narrow she was surprised that the Highways Authority had offered no objections to the proposals.

In closing she stated that the application was contrary to Regional Planning Policy 8 of the Regional Spatial Strategy and Policy GD1 of the Wear Valley District Local

Plan as amended by Saved and Expired Policies September 2007, and should be refused.

Councillor Lethbridge, local Member stated that the camera above the fence and the high level lighting caused anxiety and fear among residents which could not be appreciated on the site visit that morning. Healthy leylandii trees had been cut down without permission and the applicant had stated that tenants of Bucher Court gained considerable peace of mind as children could no longer hide out in or around their homes, but this had caused fear among the residents in neighbouring properties. Because it was a retrospective application and the works had already been carried out there was a feeling of injustice among local people.

D Rowntree, local resident spoke on behalf of all those people who had complained. He reiterated the comments of both local Members and added that the fence was of poor quality and construction, giving Bucher Court the appearance of a secure unit, particularly with the CCTV cameras and lighting. The fence also reduced the amount of light and views of greenery on the site, and encroached onto the public highway.

The footpath previously allowed children to access Cockton Hill school without having to use the main road. They now had to use the Oak Terrace/Elm Terrace alleyway which was poorly lit and even darker because of the fence.

He understood that the fence had been erected on the advice of Durham Constabulary's Crime Prevention Officer and if it was to remain asked that it be constructed of a different material such as anti-climb mesh which would allow more light, would be less oppressive and would prevent youths climbing over and sitting on the fence.

In response to the comments made the Principal Planning Officer stated that it was unfortunate that the works had been carried out without planning permission but the applicant had erected the fence on the advice of the Crime Prevention Officer. The leylandii trees that had been removed were not protected, however those remaining had been served with a Tree Preservation Order. Part of the fence had been removed following a 21 day Notice served under Section 43 of the Highways Act 1980 because it had encroached onto the public highway.

C Cuskin, Legal Officer advised Members that this application related only to the retention of the boundary fence and gates, therefore the comments made in relation to CCTV and other items, which the Committee had been advised were not material considerations, should not be taken into account.

In response to a question from Councillor Williams in relation to the loss of the footpath, the Principal Planning Officer advised that the Public Rights of Way Section had confirmed that there were no recorded rights of way through the site.

In discussing the application Councillor Boyes felt that the views of the Crime Prevention Officer should be accepted but was concerned that this was a retrospective application. If the applicant had followed the correct planning

procedure residents would have been consulted and given the opportunity to submit their views.

Councillors Holland, Campbell, Richardson and Tomlinson expressed the view that the fencing was not of poor quality; the fence would have been expensive, being of timber wood material and the colour finish enhanced its appearance, although Councillor Williams felt that a lighter colour would have been preferable.

It was noted that sections of the fence above existing boundary walls were to be removed and Councillor Tomlinson felt that this was a welcome concession by the applicant.

Councillor Davidson considered that the application should be approved as it improved security at Bucher Court and reduced anti-social behaviour.

Following discussion it was **Resolved:**

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