

**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 10 September 2013 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors A Bell, G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, D Freeman, C Kay, A Laing (Vice-Chairman), J Lethbridge and B Moir

**Apologies:**

Apologies for absence were received from Councillors S Iveson and J Robinson

Prior to the commencement of the meeting the Chair reported the death of Councillor G Mowbray who had served on the Central & East Planning Committee since being elected onto the County Council in May 2013.

The Chair requested that appreciation of Councillor Mowbray's contributions to the Central & East Planning Committee be formally recorded and that those present join him in a minutes silence.

**1 Apologies for Absence**

Apologies for absence were received from Councillors S Iveson and J Robinson.

**2 Substitute Members**

Councillor A Turner substituted for Councillor S Iveson.

**3 Minutes of the Meeting held on 9 July 2013**

The Minutes of the meeting held on 9 July 2013 were confirmed as a correct record and signed by the Chair.

**4 Declarations of Interest, if any**

There were no declarations of interest.

**5 Applications to be determined by the Area Planning Committee (Central & East Durham)**

**5a 4/12/01003/FPA - East Durham Cathedral Farm, Sherburn, Durham, DH6 1EY**

The Committee considered a report of the Senior Planning Officer regarding a part change of use of agricultural land and building for employment use (B2 and Office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (retrospective) at East Durham Cathedral Farm, Sherburn, Durham DH6 1EY (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting.

Ms T Barber, agent for the applicant, addressed the Committee. She advised the Committee that Mr Johnson, applicant, had bought the site in 2009 and gained planning permission for the erection of an agricultural building. In 2012 he had purchased the adjacent area of land where trees and shrubbery had already been removed prior to the applicant acquiring the area. Ms Barber advised that the applicant had not cut down any of the trees, he had simply cleared the area when he took it over. Since that time the applicant had developed the site to include engineering works and stables.

Members were advised that in 2012 the Planning Authority had notified the applicant that consent was required for the changes of use and additional features on the site such as the horse exercise enclosure. Ms Barber advised that the applicant had been unaware that additional planning permission would be required, however upon being notified that consent was required, he had actively worked with the Planning Authority in preparing a suitable retrospective application.

Ms Barber highlighted that the NPPF gave strong support for sustainable development in the countryside and that the applicant was content with the restrictions placed on the permission restricting the size of the development. Furthermore Members were advised that the applicant was more than willing to undertake a scheme of replanting as set out in condition 4 of the application.

Several Councillors expressed concerns about the application, particularly in respect of it being a retrospective application. It was noted that the applicant had gained permission in 2010 for the entrance gates, but had then not realised that consent would be required for the change of use. Although of the opinion that the business case was robust, Councillors Moir and Davinson advised that on the basis the application was made in retrospect, they were unable to support officer recommendations.

Councillor Bell advised that having observed the premises on the site visit earlier that day, he had safety concerns in relation to the engineering works being

conducted in close proximity to the stable area. He suggested this could be a possible fire hazard.

Councillor Conway shared concerns regarding the retrospective nature of the application and while he shared the local concerns in relation to the engineering aspect of the business, he was keen to support business diversification in respect of the equestrian aspects of the business, but not the engineering.

Several Councillors voiced their support for the application, stating that the Planning Committee should not oppose good business plans and that other than it being retrospective, they could see nothing contentious about the application.

The Principal Planning Officer responded to the points raised as follows:-

- Retrospective application – Although it was acknowledged that on principle retrospective applications were not preferable, a balanced view should be taken. The application was size restrictive and changes of use on similar sites were not uncommon. Indeed the changes of use detailed in the application were consistent with other applications across the county.
- Safety concerns – Officers opinion was that due diligence had been applied and there were screens separating the various areas within the building.
- The Committee were advised that planning officers had persistently deferred the application until completely satisfied with the content.

Councillor Conway reiterated his concerns regarding the engineering aspects of the application. He did not feel the engineering works were ancillary to the agricultural work on the site.

The Principal Planning Officer clarified that the engineering works was a stand alone business and was contained within the existing building, not to be viewed as ancillary. He reiterated that it was common for such changes of use to agricultural buildings. Members were advised that while the majority of work was conducted off site, it was not for the Planning Authority to determine how a business should operate and he reiterated that the application was size restrictive however.

Seconded by Councillor Kay, Councillor Lethbridge moved approval of the application and upon a vote being taken it was:-

**Resolved:** That the application be approved subject to the conditions detailed within the report.

**5b 4/13/00694/S106A - Former Ushaw Moor County Infants School, Temperance Terrace, Ushaw Moor, Durham, DH7 7PQ**

The Committee considered a report of the Senior Planning Officer regarding the cancellation of S106 requirements in relation to the former Ushaw Moor County Infants School, Temperance Terrace, Ushaw Moor, Durham DH7 7PQ (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application.

Mr C Dodds, representing the applicant, addressed the Committee. Mr Dodds explained that the original costs of the development which had been anticipated prior to the purchase of the site had been underestimated. Additional works had been necessary on the site which had not been predicted and movement of sales on the site had also been slow.

The Committee were advised that notwithstanding the S106 contribution, the development did bring wider community benefits in that the developer employed local apprentices on the site and that the development was regenerating the area.

Councillor J Chaplow, local Member, addressed the Committee. She was extremely disappointed that the developer was applying for the removal of S106 requirements. The monies had been earmarked for artwork and a play area. The 3 local schools were to be involved in the development of the artwork and another play area was desperately needed within the village.

The Committee were advised that the developer had already been aware of 3 red brick and steel retainer walls, prior to purchase. Furthermore Councillor Chaplow disputed the applicant's claims that sales were slow on the site. She advised that the houses were good quality and were selling, she therefore did not accept that the developer was failing to make a profit.

In relation to the apprentices employed on the site, Councillor Chaplow suggested that none were from the village.

Councillor A Bell felt that the application be refused. If the developer was failing to make a suitable profit, then it was up to the developer to increase the market value of the properties. The original permission had been granted subject to the S106 contribution and at that time the applicant was happy to accept those conditions.

Councillor C Kay supported the refusal of the application, stating that any commercial enterprise should have in place a robust business plan with a contingency plan built in. He suggested that if the applicant felt that the site was fraught with difficulties, then that was an issue between the developer and who they bought the site from. It was unfair to deprive a local community of monies which had previously been pledged.

Councillor Freeman echoed those comments and did not doubt that in time all plots would be completed and occupied.

In response to a query from Councillor Conway, Mr C Dodds clarified that sales revenues had been reduced during the course of the development. Of those properties which had been completed, only 8 had been sold. Of those 8, some had been sold with the assistance of the help to buy scheme, without which, sales would have been a lot less.

Mr Dodds further clarified that although none of the apprentices on the site were directly from Ushaw Moor, they were from the surrounding area. Indeed many of those employed on the site, including the site manager, were from the local area.

In relation to the abnormal costs which had been incurred by the developer, Mr Dodds advised that the application had been accompanied by a viability assessment which the Planning Authority had since confirmed to be correct.

Councillor Davinson could not support the application. He argued that some developments would be capable of exceeding a 20% profit whereas some would be unfortunate not to. Ultimately it was the decision of the developer alone as to what the profit margins would be set to. Furthermore he objected to the argument that developments outside of the A1/A19 corridor would often be subject to poor sales and to suggest that could be expected to be the case, would result in setting a precedent to developers in similar outlying areas.

The Principal Planning Officer responded to the points raised as follows:-

- Officers had full empathy regarding contributions to the community and always endeavoured to maximise S106 allocations. In Ushaw Moor there were significant quantifiable benefits to the scheme of development, which was the only scheme of its kind in that area.
- Guidance stated that viability of a development must be taken into consideration and Members were advised that the Planning Authority regularly challenged developers on the issue of viability. Such applications to remove S106 requirements were not brought before Planning Committee lightly, and attempts would have been made to maximise contributions to the community in all cases.

Councillor C Kay suggested that the viability of a scheme should be taken into consideration at the time of seeking the original planning permission and not at a later point when a commitment to contribute to the community had already been made. Further to a query from Councillor Kay the Principal Planning Officer clarified that for planning permissions less than 5 years old, there was no right of appeal for an applicant should the Planning Authority decide to refuse to cancel the S106 requirements in this instance.

**Resolved:**

That the application to cancel the S106 requirements via a legal deed, be refused.

**5c 4/13/00619/FPA - Finchale View Riding School, Pit House Lane, Leamside, Durham**

The Committee considered a report of the Planning Officer regarding the erection of an indoor arena and associated landscaping at Finchale View Riding School, Pit House Lane, Leamside, Durham (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting.

Mrs S Mordey, applicant, addressed the Committee. Members were advised that she had run a riding school on the site for 5 years. The school had started as a part

time venture however the client base had grown over time, largely through existing client recommendations.

The ages of clients ranged from 4-60 years and all students were unfortunately subjected to cold conditions during winter months, as all facilities were currently outdoor. As such Mrs Mordey tended to build the business up during the summer months and then lose business during the winter because of the cold conditions.

Mrs Mordey advised that earlier this year the business had achieved accreditation from the Association of British Riding Schools. She therefore hoped that this seal of approval would help her in expanding the business further afield to allow a larger client base to benefit from education.

Mrs Mordey very much liked her business being secluded and hidden from view. She was keen to introduce shrubbery to protect the area further and was happy to endorse the use of Jupiter Green to further blend the proposed development in with the landscape. Furthermore Members were advised that, although not her responsibility, Mrs Mordey regularly tended to the roadside grass in the vicinity of her business as she was very aware of the visual amenity of the area.

The Committee were advised that the applicant was keen to make the business as self sufficient as possible, and intended to utilise rainwater in the future by collecting it in underground containers.

By approving the application, Mrs Mordey stated that the Committee would be allowing her the opportunity to sustain her business all year round, take on additional staff and apprentices, and open up her school to a wider area.

Councillor B Moir took pleasure in approving the application having heard how the applicant intended to develop her business for the benefit of the community. Several Members echoed their support for the application and the future plans for the business.

**Resolved:**

That the application be approved subject to the conditions detailed within the report.

**5d PL/5/2013/0302 - St Johns Square, Seaham**

The Committee considered a report of the Planning Officer regarding the construction of car park and associated works at St Johns Square, Seaham (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members of the Committee were advised that since the report had been published, both the Environment Agency and Northumbrian Water had confirmed that they had no issues to raise in respect of the application.

Seconded by Councillor A Laing, Councillor G Bleasdale moved that the application be granted.

**Resolved:**

That the application be approved subject to the conditions detailed within the report.