

**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 14 January 2014 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors G Bleasdale, J Clark, P Conway, D Freeman, A Laing (Vice-Chairman), J Lethbridge, B Moir, J Robinson, C Kay, R Lumsdon and I Jewell (substitute for M Davinson)

**Apologies:**

Apologies for absence were received from Councillors S Iveson

**Also Present:**

Councillor Jimmy Alvey, Councillor Grenville Holland and Councillor Nigel Martin

**1 Apologies for Absence**

Apologies for absence were received from Councillors M Davinson and S Iveson.

**2 Substitute Members**

Councillor I Jewell substituted for Councillor M Davinson.

**3 Minutes of the Meeting held on 10 December 2013**

The Minutes of the meeting held on 10 December 2013 were confirmed as a correct record and signed by the Chairman.

**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 4/13/00461/FPA & 4/13/00542/CAC - 51 The Avenue, Durham, DH1 4EB**

The Committee considered a report of the Planning Officer regarding applications for two dormer windows to the rear, carparking area to the front and demolition of front boundary wall (retrospective) at 51 The Avenue, Durham, DH1 4EB (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. The Principal Planning Officer advised that should the Committee be minded to approve the application, then an additional condition would need to be imposed, requiring that all materials for the boundary wall would need to be approved by the Planning Officer.

Mr R Cornwell, local resident, addressed the Committee, speaking in objection to the application both as a local resident and on behalf of the local residents association.

Mr Cornwell believed that the property was to be converted to accommodate students, hence the proposal to create two dormer windows to the rear of the property.

However his main concerns related to the frontage and the demolition of the boundary wall and hedging. Mr Cornwell suggested that the applicant had deliberately planned a retrospective application, knowing that had the application been submitted when it should have, it might not have been approved.

Members were advised that an estate agents had previously advertised the property and highlighted that the garden was a major asset not least because it had been secluded.

Mr Cornwell understood that planning policies encouraged that conservation areas should be improved and enhanced and he believed that the original frontage had done just that. However what was now proposed – much lower walls and hedging than was there previously – did nothing to improve the area.

Members were aware that there was a nearby property in the street, no.53, which already had a similar layout to the frontage, indeed they had taken note of that property on the site visit. However Mr Cornwell stressed that no.53 was misrepresentative as the works done there had not required permission. As such no earlier precedent had been set and there was no need for additional parking in the street. The expectation was that parking bays should not exceed 1.5 per dwelling, but this would exceed that.

Mr Cornwell highlighted that in the emerging County Durham Plan there was a significant emphasis on executive housing which this property had previously been.

The Committee were advised that although the Highway Authority had stated the wall must be retained should the front be used for parking, they had not recommended that it was to become a parking area.

Mr Cornwell stated that instant hedging had been recommended. This came in various heights and so the hedging could be installed at 2m as it had been previously.

He believed the current design proposals to be incompatible with the area and stated that should Members be minded to grant approval, they would be sending the wrong message out regarding retrospective applications and setting a precedent for off street parking.

Councillor G Holland, local Member, addressed the Committee to speak about the principle of the retrospective application.

Members were advised that when the property had come up for sale it was marketed as an executive family dwelling which had been in the ownership of the same family for many years. Councillor Holland advised that the reason it did not end up being sold to a family was due to the area being inundated with student accommodation, as such no family would wish to move to the area.

The new owners had held no regard for the fact the property was located in a conservation area and as such had destroyed the original frontage and then applied for retrospective permission. Councillor Holland found both developers and students to be uncaring towards the area and this was a situation which repeatedly occurred. He did not believe that officers would have recommended the application for approval had it been submitted at the correct time. As such he believed that the developer should be required to restore the frontage to its original design and that the application should be refused.

Councillor N Martin, local Member, addressed the Committee. He identified two key issues with the application, one being the development of HMO's (Houses of Multiple Occupancy), the other being the effect the application would have on the pavement to highway crossing.

In respect of HMO's, Councillor Martin advised that the property was already being let to students and the inclusion of additional dormer windows was purely to accommodate more. He believed the intention of the developer was clearly to create a HMO.

The Committee were advised that if permission for the HMO was refused then there would be no need for the additional parking area. Should Members be minded to approve the application, he believed they would be setting a precedent for future retrospective applications.

In respect of the highways issues, Councillor Martin highlighted that should there be a need for additional parking to the front of the property, then a traffic order would be required. He queried what reassurance there would be that the developer would apply for the appropriate order.

He therefore suggested that should Members allow the permission, but that in the future the application for a traffic order be unsuccessful, then it would be reasonable to stipulate that in such an instance the additional parking area should be removed.

Councillor Martin stated that both issues were integral to one another – the HMO needed the parking and the parking was only necessary if the HMO were approved. He queried what element should come first.

Councillor Martin concluded by stating that he could not accept the application unless a condition was imposed requiring the appropriate Traffic Order from the Highway Authority. If that Order could not be granted, then the additional parking should be removed.

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

- Precedent for off street parking – The Committee were advised that notwithstanding no.53 The Avenue, there were also further instances of off street parking in that area, albeit in different styles from that at no.51 and no.53.
- Reinstating the entire boundary – Members were advised that it would be feasible to require the applicant to reinstate the entire boundary wall back to its original design should the Committee believe it to be appropriate. However the applicant and officers had worked to create a compromise design in this instance. The Principal Planning Officer also clarified that the removal of hedging was not a contravention of planning legislation. Therefore to require the applicant to restore the front boundary hedging was not necessarily feasible.
- Traffic Regulation Order – conditions were suggested within the report regarding timescales (16 weeks). Members were advised that should that time period lapse without the appropriate order, then officers would need to revisit the permission.
- In response to Councillor Martins concerns, the Principal Planning Officer acknowledged that both applications were intrinsically linked and that was why both had been brought together for consideration, but the matter of change of use to HMO was being investigated separately and was not for consideration as part of these current proposals.

Councillor Kay agreed with the concerns raised by Councillor Holland in respect of the retrospective nature of the application and was therefore minded to refuse permission. He queried on what grounds refusal could be made.

Councillor Bleasdale agreed with Councillor Kay and for the benefit of the Committee, the Chair and the Principal Planning Officer gave an overview of the possible implications should the application be refused.

Councillor Robinson queried whether the tree which had been removed from the front area would need to be replaced should permission be refused. He further queried the 16 week timescale for the Traffic Regulation Order and whether that deadline could be tightened further.

The Highways Officer clarified the process involved in applying for a TRO and why a 16 week deadline was imposed.

Councillor Moir voiced concerns about the detrimental affect certain aspects of the applications would have on the environment though he acknowledged they were not material planning considerations. He also expressed concerns about the potential future appearance of The Avenue, and that it was at risk of becoming a completely paved area.

He queried whether the Committee could consider deferring the application in order to consult with the applicant on restoring the wall to its original height and design. The Principal Planning Officer clarified that deferral could be an option should officers be required to negotiate further with the applicant. However he highlighted that the application had been submitted back in May 2013 and that officers did believe the proposals to be an acceptable option.

In response to a query from Councillor Conway the Principal Planning Officer clarified that should the Committee be minded to refuse the application, then saved policies E6 and E22 would be feasible grounds on which to refuse.

The Solicitor reminded Members that there were two separate applications for the Committee to consider and so separate decisions must be made. Should the Committee be minded to refuse one, they would still be permitted to approve the other should they so wish. Members were reminded that many of the issues raised such as the Traffic Regulation Order and HMO's, were not relevant to the current applications.

Councillor Freeman concurred with earlier suggestions that had the application come before officers when it should have, it was unlikely to have been recommended for approval. The works which the applicant had undertaken had not served to either enhance or preserve the conservation area. The applicant would have to restore the frontage to its original design should Members opt to refuse the application.

Seconded by Councillor Laing, Councillor Conway moved that application 4/13/00542/CAC be refused on the grounds that it contravened saved policies E6 and E22.

Seconded by Councillor Bleasdale, Councillor Moir moved that application 4/13/00461/FPA be approved subject to variation of the conditions detailed within the report to take account of refusal of the boundary proposals.

**Resolved:**

- (i) That application 4/13/00542/CAC be refused;
- (ii) That application 4/13/00461/FPA be approved, subject to variation of the conditions detailed within the report to take account of refusal of the boundary proposals.

**5b CE/13/00792 - Ruth First House, Claypath, Durham, DH1 1QS**

The Committee considered a report of the Senior Planning Officer regarding an application for the construction of new extensions to the north and east sides of building to provide additional student accommodation at Ruth First House, Claypath, 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.

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

**Resolved:**

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

**5c CE/13/00918/FPA - Former ITEC site, Neville Road, Peterlee**

The Committee considered a report of the Planning Officer regarding an application to erect 58 dwellings with associated infrastructure and landscaping at the former ITEC site, Neville Road, Peterlee (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.

Mr Race, local resident, addressed the Committee. He was speaking collectively on behalf of residents of Stainton Way which was directly opposite the development site.

He objected to the application as he had concerns regarding how the development would directly affect his responsibilities with the main sewer. As he had a contract with Northumbrian Water for the sewage main, he expressed concerns regarding the impact which construction could have on that pipe.

Mr Race added that there would be an increase in traffic accessing Neville Road and Burnhope Way which was already difficult especially during peak times. He suggested that the developer consider opening the cul-de-sac to the roundabout at the south of the site which would ease the volume of traffic on Neville Road.

Mr Wolfe, local resident, addressed the Committee. He referred to Plot 24 and raised concerns over 'right to light' and privacy issues.

He highlighted that the distance of the proposed property from his main lounge was 9 metres which contravened Planning Regulations, with the recommended separation distance being no less than 10 metres.

Mr Wolfe stated that both his 'Right to Light' and his privacy would be affected by the development and he took the opportunity to clarify that his patio door did not serve any light to within his property.

Mr Wolfe also had concerns regarding flooding issues and pointed out that the previous application for 52 dwellings had been restricted, he therefore believed those restrictions should apply to the current application. He further advised that the removal of boundary bushes would exacerbate any flooding problems. He queried whether there were plans to remove a weeping willow tree which would ultimately encompass his drive and requested a meeting to discuss his issues further.

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

- 'Right to light' – Members were advised that the impact on the neighbour's amenities including loss of light was addressed within the report and it was not considered sufficient to warrant refusal, while 'right to light' was a separate legal matter
- Flooding – a Flood Risk Assessment had been undertaken which did not predict any problems associated with the development, indeed both the Environment Agency and Northumbrian Water were satisfied with the proposals.

In addition the planning case officer responded to some points which had been raised, as follows:-

- Separation Distance – The Committee were advised that a site visit had been carried out, measurements had been taken and clarification had been sought from Mr Wolfe as to which windows served which rooms within his property. Officers believed that Mr Wolfe's study conversion had not been developed as such all windows served the lounge only. Mr Wolfe responded to advise that indeed the conversion had been done and as such re-emphasised that only 2 windows served his lounge.
- Willow Tree – the planning case officer advised that protective fencing measures would be required for the tree.

The Highways Officer responded to the points raised as follows:-

- Regarding Mr Race's concerns over increased traffic, he advised that similar developments had been surveyed and based on 2 cars per household the average would be an additional 35 two way movements per hour, not all of which would be heading in the same direction. As such it was determined that the increase was not a material concern;
- Access – opening the cul-de-sac onto the roundabout would cause disruption to the B1320 which was the main route in and out of Peterlee.

The Legal Officer confirmed that the 'right to light' matter was a separate legal issue and therefore should not be given any weight by the committee.

Councillor Laing referred to paragraph 48 of the report regarding the reduced number of visitor car parking spaces within the development. The Planning Officer clarified that 23 visitor spaces were available within the development and each dwelling would have 1.5 parking spaces.

Councillor Laing expressed concern regarding possible damage to grass verges during any building works, the Highways Officer clarified that the contractor would be responsible for repairing any damage.

Councillor Alvey, local member, informed the committee that he would also be monitoring any damage caused to grass verges. He further advised that the traffic was already exceptionally busy in that area and as such he was concerned about any additional traffic.

Councillor Jewel felt that possible damage to the main drain was a real concern and sought clarification as he would not want Mr Race to incur any costs associated with the development. Councillor Laing advised that the drain was in close proximity to a grass verge and that any damage should be covered by the developers.

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

**Resolved:**

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

**6 CE/13/01300/FPA - Land at Dalton Park, Murton, SR7 9HU**

The Committee considered a report of the Senior Planning Officer regarding an application for groundworks and associated landscaping at land at Dalton Park, Murton (for copy see file of minutes).

The Senior Planning Officer gave a detailed presentation on the application which included photographs of the site. He informed the Committee that the submitted landscaping scheme had now been agreed with officers, which would no longer be a requirement under condition 3 which relates to the submission of a further landscaping scheme.

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

**Resolved:**

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