

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Council Offices, Spennymoor on **Thursday 18 July 2013 at 2.00 pm**

### **Present:**

**Councillor M Dixon (Chairman)**

### **Members of the Committee:**

Councillors J Buckham (Vice-Chairman), J Alvey, D Bell, D Boyes, J Clare, K Davidson, S Morrison, G Mowbray, H Nicholson, G Richardson, L Taylor, R Todd and C Wilson

### **Also Present:**

J Byers – Planning Team Leader (South and West Area)  
A Inch – Principal Planning Officer  
N Carter – Legal Officer  
A Glenwright – Highways Officer

### **1 Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors E Huntington and S Zair.

### **2 Substitute Members**

Councillor J Alvey substituting for Councillor E Huntington.

### **3 Minutes**

The Minutes of the meeting held on 20 June 2013 were agreed as a correct record and were signed by the Chairman.

### **4 Declarations of Interest**

Councillors M Dixon and D Bell declared personal and prejudicial interests in application numbered 7/2013/0026/DM – Land north of South View, Middlestone Moor. Councillor Dixon had attended a housing conference at which he had received hospitality from the applicant company and Councillor Bell was on the Board of Directors of the applicant company.

The Councillors left the meeting during consideration of the application.

### **5 Applications to be determined**

At this point Councillor J Buckham took the Chair.

**5a 7/2013/0026/DM - Land North of South View, Middlestone Moor, Spennymoor**

The Committee considered a report of the Principal Planning Officer regarding an application for 46 dwellings, new access and associated works (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.

In presenting the report the Principal Planning Officer advised that Sport England had sought clarification that the tests in paragraph 74 of the NPPF had been met.

The matter was clarified by the Officer who advised that paragraph 74 set out that playing fields should not be built upon unless an assessment had been undertaken to show that the site was surplus to requirements or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. The application needed only to satisfy one of the tests, not both. The former was clearly satisfied given lack of use and quality, while the latter was satisfied to some degree by forthcoming alternative provision.

The Principal Planning Officer advised that the Playing Pitch Strategy and Playing Pitch Action Plan for Spennymoor had identified that there was an oversupply of senior and mini football pitches but a deficiency in junior pitches, and acknowledged that the former football pitch on the application site was not marked out and had not been used for a number of years. The proposed provision of pitches at Tudhoe Grange Upper School would address this need and compensate for the loss of the pitch at Middlestone Moor.

Councillor K Thompson, local Member addressed the Committee. He considered that the proposals contravened NPPF policies; the development was not sustainable in that it would deprive a future generation of a play area and there was no requirement for extra housing in the southern delivery area, the area already having demonstrated a 5 year housing supply, in accordance with the NPPF. By way of example he referred to other large schemes at Durham Gate, Tudhoe Comprehensive and the former Electrolux sites.

He believed that at some point the piecemeal approach to new developments would have an impact on infrastructure, and he was concerned about proposals for sewerage to be removed by tanker until an upgrade to the existing treatment works at Tudhoe Mill was completed. Councillor Thompson felt that this indicated a desire by the applicant and DCC as partner to have the development completed quickly.

To conclude he stated that the proposed pitches were nearly 3 miles away and whilst the report referred to the development of Whitworth School as a hub site there was no certainty or timescales for this to happen.

Councillor Geldard, local Member addressed the Committee advising that he was also speaking on behalf of local Member Councillor P Lawton. He reiterated the comments of Councillor Thompson, adding that this was the last large green area in Middlestone Moor and every resident he had spoken to was against the proposals. He sympathised with Sport England and whilst he appreciated that the loss of the open space would be compensated by alternative provision at Tudhoe Grange, this was nearly 3 miles away and in a different area.

If this site was closed to public access, Middlestone Moor would lose a massive part of the community for recreational use.

Mr Burtenshaw, local resident advised the Committee that people referred to the land as the old school field and had used it for recreational purposes for many years, a use which continued today.

He disagreed with Planning Officers' views that this was a poor quality site and was of the view that this was Green Belt; as such the Planning Authority should plan positively to maintain and protect it. The development of housing would be harmful to this Green Belt. The houses were surplus to requirements and with over 1600 new properties planned in the area it was vitally important to maintain this space for sport and recreation, in accordance with Policy L5 of Sedgefield Borough Local Plan. Mr Burtenshaw also referred to a petition with 150 signatures from local residents against the proposals.

Mr Leightell, a resident of Middlestone Moor informed Members that his concerns related to the availability of school places and obesity in children. School places in the area were over-subscribed and the additional housing proposed in Middlestone Moor and elsewhere would exacerbate the problem. Children were encouraged to walk or cycle to school but in reality they travelled by car and this would cause extra problems on the highway network and schoolgate parking.

With regard to obesity among children, he was of the view that the area needed more playing fields, not less and the casual user would be unlikely to travel to Tudhoe Grange for exercise.

The Chair invited local resident Mr McKenna, to address the Committee. Mr McKenna commenced by informing Members that he lived close to the north eastern boundary of the site and had purchased his property to be close to a safe, secure and peaceful open space for his children. If the application was approved this would represent a loss of 70% open space amenity in the village.

He reiterated the concerns expressed by other residents in relation to the distance to Tudhoe Grange and outlined the difficulties parents and children would experience to access the facilities.

The 1600 new homes proposed would increase traffic congestion and he did not believe that the existing infrastructure would be able to cope.

The report made no mention of re-investment in the village and he was concerned that there had been zero engagement with local residents by the Planning Authority. He also considered that the notice given of the meeting was not enough.

He agreed that there was a need for affordable housing but that this should be in sustainable locations and urged the Committee to take into account the views of Sport England, residents' human rights and the high amenity value of this land.

Mr Prescott on behalf of the applicant addressed the Committee advising that he understood that residents had been able to access this land but reminded them that this was a former school, not an open space facility for local people.

He had listened to the concerns by Sport England and the views of local football clubs, and understood that the main issues were around the provision of quality facilities. DCC's Sports and Leisure Team had ambitious plans to improve local facilities and, as the Council would receive a profit share in addition to the capital receipt which could feed into this provision, then if approved, this scheme could help bring about those improvements.

Councillor Clare objected to the implication that the Committee's decision would be influenced by the capital receipt from the land. The Chair, Councillor Buckham advised that the Planning Committee was quasi-judicial, governed by strict rules. Whilst DCC was landowner and in partnership with the applicant, these were not material planning considerations and would not be taken into account in the determination of the application.

The Principal Planning Officer responded to the comments made by local Members, residents and the applicant.

He explained that the site was not designated Green Belt. He acknowledged that the NPPF required Local Planning Authorities to demonstrate a 5 year supply, but that this did not prevent consideration of developments even where a 5 year supply of deliverable sites could be demonstrated.

With regard to the housing developments planned, the majority of these were in Spennymoor itself, and a number of the schemes with planning permission were in outline form only, some with little prospect of coming forward given the current economic climate.

In terms of highway safety, he explained that the Highways Authority had offered no objections. The vehicular access from South View was deemed to be acceptable, with the number of additional vehicles safely accommodated by the existing network.

Members discussed the application at length.

Councillor Boyes made reference to the concerns expressed in relation to the distance to the facilities at Tudhoe Grange, and to the preparatory work undertaken on site.

The Principal Planning Officer responded that the proposed facilities at Tudhoe Grange accorded with NPPF aims in that the existing site was surplus to requirements and its loss would be compensated for by the forthcoming availability of pitches for public use at Tudhoe Grange. The activities at Tudhoe Grange would be co-ordinated and people would travel from across the whole of the Spennymoor area to access the facilities. With regard to the preparatory work undertaken, he advised that site investigations were not unusual but appreciated the impression this may have given to residents.

Councillor Davidson advised that he was concerned about the loss of open space but was re-assured on the site visit that the site clearly hadn't been used as a playing field since 2010 because of the poor quality of the pitch. Whilst the proposal would remove an area of amenity space there was a large play area close to the site with playground equipment and a grassed area for children to exercise.

In reiterating the comments made in relation to the distance to the facilities at Tudhoe Grange, Councillor Richardson also expressed concern regarding the density and size of the properties, and sought an assurance that parking provision was adequate.

A Glenwright, Highways Officer responded that there would be 76 spaces representing 1.63 spaces per unit and at 164% provision, was in excess of the 150% maximum contained in PPG.

Councillor Clare was concerned at the loss of open space from the centre of any settlement stating that within a community green spaces were essential to its character, however there were no valid planning grounds to refuse the application. The site was not protected open space, permission having been required from the landowner to use it. He was assured by Officers that the proposals would bring about improved alternative formal sports provision at Tudhoe Grange.

The NPPF did not prevent windfall sites such as this coming forward over and above the 5 year supply already demonstrated, and the sewerage issues had been addressed.

N Carter, Legal Officer clarified the process for final determination of the application if Members were minded to approve it, given the need for referral to the Secretary of State.

Following discussion it was **Resolved:**

That the Committee be **MINDED TO APPROVE** the application subject to referral of the application to the Secretary of State through the National Planning Casework Unit: and, in the event that the application is not called in for determination by the Secretary of State, the application be **APPROVED** subject to the completion of a Section 106 Obligation to secure the provision of 7 affordable houses and to the conditions outlined in the report.

Councillors Dixon and Bell returned to the meeting.

Councillor Dixon returned to the Chair.

**6 6/2013/0135/DM/VP - The Laurels, 16 High Green, Gainford, Darlington**

The Committee considered a report of the Principal Planning Officer regarding an application to vary condition 3 of 6/2005/0327/DM to allow external seating on the east side of the front courtyard (for copy see file of Minutes).

J Byers, Planning Team Leader (South and West Area) 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.

In presenting the report the Officer referred to a proposed amendment to condition 3 to remove the requirement that the chairs should only be removed from the patio for winter storage, repair or disposal.

Councillor J Rowlandson local Member spoke in favour of the application, advising that he had called the application to Committee in view of the previous planning history. Times had changed and the NPPF now favoured economic growth. Small businesses in Teesdale should be supported and the Parish Council had offered no objections. The business would be an asset to the area in terms of tourism and would enhance Gainford village for its residents and visitors.

J Leversuch, local resident spoke against the application. She advised that she had lived above the coffee shop since 2005 and her objection related to the potential for further noise pollution in the surrounding environment. Currently she could hear people outside the premises talking at any time of year, and this would be exacerbated if the application was granted. The hours requested for seating outside would affect her quality of life as she did not work regular 9am to 5pm hours.

J Glendenning reiterated the concerns of J Leversuch and expressed concern that a key objector had not been notified of the meeting. In making his representations Mr Glendenning referred to key aims in the NPPF. No reference had been made by Officers to a key NPPF principle regarding noise and sustainable development. The report stated that the proposals would help maintain the vitality of Gainford yet the NPPF referred to 'ensuring the vitality of town centres'; Gainford was a village in a rural location.

The NPPF also stated that Planning Authorities should protect areas of tranquillity. This was echoed in community based consultation and the Neighbourhood Plan stressed the importance of protecting the village green.

He commented that the Inspector's decision to dismiss the appeal had not been quoted in the report, and that condition 3 should not be varied, as the negative impact of outside seating would not be mitigated.

He understood that on the site visit a table and chair had been set up to illustrate the noise created by moving the seating, however in reality there would be 20 chairs moved about all day every day.

In conclusion he understood that it would be difficult for Planning Officers to restrict the seating to one side of the patio.

Mr Liddle, the agent spoke on behalf of the applicant informing Members that the business employed local people and its re-opening after a year of closure had been welcomed locally. Much of the coffee shop's trade was at lunchtime and early afternoon. Given this, the type of clientele who visited the coffee shop, and the limitations of the weather it was difficult to understand the level of disturbance objectors felt would be caused by the seating.

Mr Liddle also noted that another business in the immediate vicinity regularly placed tables outside.

The Planning Team Leader responded to comments made by the objectors. He advised that condition 3 clearly stated where the seating should be placed and the permitted hours. This would ensure that enforcement action could be taken if either of these provisions were contravened. Whilst the patio could seat 20 it was unlikely that the area would be at full capacity at any one time. In relation to the Appeal the Inspectors' decision to dismiss the Appeal was referred to in the report and was also concerned with evening usage of the premises up to 20.00 hours. The hours of use of the patio were being reduced from those previously proposed which was deemed to be acceptable.

Councillor Richardson, who was also a local Member advised that he had received a lot of local representation about this application, including from residents of the lower side of the village. He was fully aware of the planning history of the premises and there had been a number of unsuccessful attempts to have the condition removed to allow outdoor seating. The same concerns expressed previously relating to noise were unchanged. He advised that he would abstain from voting on the application.

Councillor Davidson considered that condition 3 of permission 6/2005/0327/DM was restrictive and had noted on the site visit that a public house nearby had seating outside which could potentially be used until late at night. He was of the view that the proposal would be a boost to the local economy.

This view was shared by Councillor Boyes who added that the coffee shop had been closed for a year due to concerns about the ongoing viability of the business and this emphasised the need to support local businesses. He was therefore inclined to move that the condition be amended from 11am to 9am.

The Planning Team Leader referred Members to the previous Planning Inspectorate decision and said that the 11am start had been chosen in the light of this.

Councillor Mowbray concurred with the views put forward, adding that it would be unfair to refuse the application for 5 tables; there had been no noise when the chair, which had been placed on the patio for the site visit, had been moved because it had padded feet, and there was a theatre next door which generated noise. There

was a presumption that there would be 20 people outside all the time but this would be unlikely, particularly in the winter months.

Councillor Clare stated that in his opinion the aim of the coffee shop was to become a bustling and thriving business, and therefore it should be accepted that 20 people could sit outside and generate noise at any one time. The issue was whether it would be to such an extent to warrant refusal of the application. In any locality, particularly during the summer months people spent more time outside and in their own gardens creating general noise during acceptable hours, which in his neighbourhood was between 7am and 11pm. People had to put up with some noise. The NPPF had established a presumption in favour of sustainable development and on balance he felt that the proposals were acceptable.

Councillor Dixon also pointed out that in terms of the noise issue, customers could already stand and congregate in the patio area during opening hours.

In determining the application Members gave consideration to the proposed hours and concluded that as the coffee shop was open from 8.30am it would be reasonable to allow seating outside from 9.00am Monday to Saturday. Members also considered that condition 3 should be amended to give discretion to the applicant regarding the removal of the chairs from the patio.

Following discussion it was **Resolved:**

That condition 3 of permission 6/2005/0327/DM be varied to allow outdoor seating on the east patio between the hours of 09.00 to 17.00 Monday to Saturday and 11.00 to 16.00 on Sundays, and subject to the original remaining conditions covering use of the premises as a whole, with the following amendment to condition 3:-

‘3. External tables and seating shall only be placed within the eastern side of the front patio, as shown on the plans hereby approved, and notwithstanding the provisions of condition 1, the use of these external tables and chairs, including setting up or taking down, shall not be permitted other than between the hours of 9.00-17.00 Monday to Saturday and 11.00-16.00 on Sundays. The tables and chairs shall not have metal feet’.

## **7 3/2013/0199 - Dellside House, Willington, Crook**

The Committee considered a report of the Principal Planning Officer regarding an application for the construction of 14 dwellings (for copy see file of Minutes).

J Byers – Planning Team Leader (South and West Area) gave a detailed presentation on the application which included photographs of the site.

Councillor Dixon welcomed the proposals stating that the innovative ‘Rent to Buy’ Scheme would help young people onto the property ladder.



Councillor Buckham advised that he was also local Member, but indicated that he had an open mind and would reach a view on the application following debate by the Committee. His feeling about local opinion was that Dellside House had been a blot on the landscape for some time Residents had been engaging positively with the developer on the proposals and the listed property adjacent to Dellside House was also in favour of the development.

In reiterating the comments made, Councillor Mowbray noted that there had been no objections to the application, and that residents welcomed the development.

**Resolved:**

That the application be approved subject to the conditions outlined in the report and to the completion of a Section 106 legal agreement to secure the payment of a commuted sum of £14,000 in lieu of on-site open space provision.