



Area Planning Committee (North)

Date Thursday 28 April 2016
Time 2.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 24 March 2016 (Pages 1 - 8)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/15/03155/FPA - The Volunteer Centre, Clarence Terrace, Chester-le-Street (Pages 9 - 22)
Demolition of volunteer centre and erection of 14no. apartments
6. Appeal Update (Pages 23 - 24)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham
20 April 2016

To: **The Members of the Area Planning Committee (North)**

Councillor C Marshall (Chairman)
Councillor I Jewell (Vice-Chairman)

Councillors B Armstrong, H Bennett, P Brookes, J Cordon,
J Maitland, O Milburn, J Robinson, K Shaw, A Shield, L Taylor,
O Temple, K Thompson, S Wilson and S Zair

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**DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 24 March 2016 at 2.00 pm**

Present:

Councillor C Marshall (Chairman)

Members of the Committee:

Councillors H Bennett, P Brookes, J Cordon, I Jewell (Vice-Chairman), J Maitland, O Milburn, K Shaw, L Taylor, K Thompson and S Wilson

Also Present:

Councillor A Batey

1 Apologies for Absence

Apologies for absence were received from Councillors B Armstrong, A Shield and O Temple.

2 Substitute Members

There were no substitutes.

3 Minutes of the Meeting held on 25 February 2016

The minutes of the meeting held on 25 February 2016 were confirmed as a correct record and signed by the Chairman.

4 Declarations of Interest (if any)

Councillor O Milburn declared an interest in Item 5(b) DM/15/03074/FPA as she was a Non-Executive Director of Derwentside Homes of which Prince Bishop Homes was a subsidiary.

Councillor J Cordon in referencing Item 5(a) advised that he was a local Member although had no prejudicial or pecuniary interest in the application.

5 Applications to be determined by the Area Planning Committee (North Durham)

- a DM/15/03908/FPA - Recreation Land South East of Bradley Close, Urpeth**

The Committee considered a report of the Senior Planning Officer regarding the erection of 47 no. Dwellings with associated Infrastructure and Car Parking at Recreation Land South East of Bradley Close, Urpeth (for copy see file of minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs and a plan of the proposed layout. Members had visited the site on 24 February 2016 and were familiar with the location and setting.

It was further reported that at the time of writing the report 19 objections had been received, however, in the last 36 hours this had risen to over 300. The main concerns raised by residents related to potential flooding issues, the coal mining legacy, access to facilities, scale and density of the development and the disruptive works process.

Regarding the applicants statement, the Senior Planning Officer advised that the developer had delivered 445 leaflets to residents of neighbouring properties and had listened to the concerns of residents. Those concerns and issues raised had been taken on board and the newly proposed application went some way to mitigate and overcome those previous objections, which were mainly relating to the density of the development.

The Senior Planning Officer continued to run through the report highlighting the key areas for consideration.

Councillor A Batey, local divisional Member, addressed the Committee to speak on behalf of the residents.

She advised following the previous application a dialogue had been encouraged with ward members, community and other established groups. She acknowledged that this had largely happened. She further acknowledged that 445 properties had been leafleted although there were 1200 properties on the neighbouring estate.

Although the reduction in proposed properties was better than previous proposals, resident still felt that the number should be closer to 40. HP4 suggests a yield of 42. It was accepted however that this may compromise affordable housing.

A further concern that had been raised by residents related to rights of way, and in particular the use of footpaths through the site, which were regularly used by children to walk to and from school and that, was indeed the reasons why street lighting had been installed.

In addition serious concerns were held regarding drainage and she requested that assurances be given by the developer that Permission will address the issues if a method of containment does not work.

In conclusion she respectively asked the committee that should the development be approved that assurance can be given that local labour would be used where possible.

She further added that play provision to be specific in 106 agreement and in the conditions section and stipulate that any provision is delivered in liaison with Recreation Leisure Services and with full dialogue with local members.

She further requested that Permission Homes be asked to attend Parish meetings during the sites development to ensure that everyone can work together to achieve the best outcomes possible.

In conclusion she asked that a further condition be requested that no activities take place on the site until the sale of land has been completed and the monies transferred to DCC.

Mr Frank Wilkinson, Urpeth Parish Council addressed the Committee to object to the application.

Mr Wilkinson advised that the Parish's main concerns related to the lack of play provision and suggested that these issues should be resolved prior to any approval being given. He added that play provision was extremely important for the well-being of children and urged the committee to take on board his comments.

Mr Peter Faichney, local resident addressed the Committee to also object to the application.

Mr Faichney advised that he strongly objected to the number of dwellings proposed on the site and commented that proposals were contrary to HP9 of the Chester-le-Street saved Local Plan.

He further commented that nature conservation was of significant importance and must be protected.

Regarding housing density he suggested that that the 24 dwellings per hectare proposed was also contrary to policy and led to overcrowding. He added that the site would benefit more from lower density housing providing more character and so that the development was more in keeping with the local area.

With regard to the 2.5 storey homes which were proposed, Mr Faichney added that these properties would in fact be 1.5 stories higher than surrounding residents, and this was strongly objected to.

In the last few days 209 sheets, containing 313 signatures had been submitted and this was indicative of the strength of public feeling and concerns raised.

With regard to consultation Mr Faichney suggested that the low response rate seen from DCC consultation was due to the small area which had been covered and added that the council had been selective in their efforts.

In conclusion he advised that these facts coupled with the impact that the development would have upon health and well-being could not be ignored.

Mr Adam McVickers, Persimmon Homes addressed the committee to speak in support of the application.

Mr McVickers advised that the concerns surrounding area and play provision had now been addressed following proactive engagement with the community. 445 leaflets had been distributed and an event on 23 November 2015 had been well attended. Response forms were offered and feedback was sought. In addition proactive engagement had been undertaken with the relevant council departments.

With regard to density of development Mr McVickers commented that 24 dwellings per hectare was proposed which was a reduction on that previously proposed following feedback from residents and in response to their concerns. Open space around the site was proposed providing a kick about area for leisure.

The NPPF sought to boost housing in favour of sustainable development and the proposed application met this criteria. He urged Members to support the officer's recommendation.

In response to comments made by the speakers, the Senior Planning officer advised that council consultation had been undertaken in line with best practice models and to an appropriate level for this scale of development. In addition the developer had gone over and above the required standards to engage with the community.

With regard to comments made regarding a 106 agreement, it was noted that this was not proposed as a written condition was included to ensure that any play provision was designed and delivered in consultation with local members. Further to Councillors Batey's comments regarding targeted recruitment and training it was noted that a further condition could be imposed to ensure that this was implemented.

With reference to comments made regarding works traffic the Senior Planning Officer advised that this was a fact of life, however it was important to note that the development would be completed in 1 phase with less than 50 dwellings being built minimising disruption.

With regard to comments made regarding education monies, it was reported that the council could not ask the developer to provide money towards further teaching classrooms at local schools.

The Senior Planning Officer further commented that concerns raised regarding potential flooding had been fully assessed and drainage engineers were satisfied that the use of soakaway/infiltration systems and use of oversized pipes would provide adequate assurance from risk of future flooding.

The Chair at this point asked whether Planning Officers could further consult with the Education Department regarding money generated from pupil premium being used to benefit the schools in the area in which development had taken place.

Councillor Thompson reiterated Councillor Marshall's comments and added that he too would like to see more done to ensure that funds generated from new development be earmarked for schools within the county.

Councillor Wilson queried the size of play spaces to be provided. In response the Senior Planning Officer advised there would fixed play provision along with informal kick about area for multi-functional use within the site.

Councillor Cordon commented that he was delighted that Councillor Batey had represented the community, on this application and was pleased to see that the developers had listened to prior concerns by submitting a revised scheme. He acknowledged that the site had been designated for housing since 2003 and therefore the application should not come as a surprise. He therefore **MOVED** that the application be approved subject to the conditions as listed in the report.

Councillor Milburn asked what the density was of the neighbouring housing estate. In response the Senior Planning Officer advised that it was far denser than that proposed at approx. 40 dwellings per hectare.

Councillor Jewell added his thanks to officers for the site visit and commented that he believed the application to be improved from previous proposals. He further commented that he believed concerns had been mitigated against. He therefore **SECONDED** the proposal.

For clarification, the Senior Planning Officer added that the following conditions be included:

- (i) That recruitment for construction works be targeted locally
- (ii) That delegated authority be given to officers to agree the condition regarding the protection of hedging
- (iii) That local ward members are actively engaged during discussion regarding fixed play provision

Resolved:

That the application be **APPROVED** subject to the condition as detailed in the report and the inclusion of the following additional condition:-

Construction of the first dwelling hereby approved shall not commence as a material development operation until a Targeted Recruitment and Training Method Statement that includes measurable targeted recruitment and training and supply-chain commitments has been submitted to, and approved in writing by the Local Planning Authority. The development must be carried out in full accordance with said Statement, recruitment and commitments, with an up-to-date record maintained of such by the developer, to be made available for inspection by the Local Planning Authority, if required, at no more than five working days' notice.

And –

- (i) That delegated authority be given to officers to agree the condition regarding the protection of hedging
- (ii) That local ward members are actively engaged during discussion regarding fixed play provision

Councillor O Milburn left the meeting and took no part in the discussion or voting of the following item.

b DM/15/03074/FPA - Hamsteels Primary School, Rowley Crescent, Esh Wining, Durham

The Committee considered a report of the Senior Planning Officer regarding the erection of 31 no. 2-bedroom bungalows with access road, walkways and parking at Hamsteels Primary School, Rowley Crescent, Esh Wining, Durham (for copy see file of minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs and a plan of the proposed layout.

Mr S Bell, Prince Bishop Homes addressed the Committee to advise that he was in attendance to answer any technical questions the committee may have.

Councillor Thompson raised a query regarding the sale of land and whether the amount received would be utilised for local leisure infrastructure. In response the Senior Planning officer advised that this would be the case. In noting that the council was the landowner and in effect the 106 agreement would be placed upon the council, he advised that there were a number of mechanisms available to ensure that the £31,000 be ringfenced for leisure provision in the local community.

L Renaudon, Solicitor provided clarity regarding the situation and advised that any monies received would not be released until the committee were satisfied that it was going to the local area. Reference was made to paragraph 70 of the report and recommendations.

Councillor Jewell commented that he noted that there had been very little opposition and although he did have some minor concerns regarding drainage, he was happy that this would be adequately policed. In conclusion he added that it was good to see development of this nature as houses of this type were rarely provided on new sites. He therefore **MOVED** that the application be approved.

Councillor Wilson **SECONDED** the proposal.

Resolved:

That the application be **APPROVED** subject to the conditions as detailed in the report. It was noted that recommendation 2 was showing as incomplete within the report and officers would ensure that this was correct prior to the decision notice being issued.

Councillor O Milburn returned to the meeting.

6 Appeal Update

Consideration was given to the report of the Principal Planning Officer which provided an update on planning appeals received and determined (for copy see file of minutes).

In referencing DM/15/00452/OUT and DM/15/02128/FPA the Principal Planning Officer commented that it had been noted that the Planning Inspectorate had come to different conclusions on two very similar cases and had each applied different weighting, to comparable issues. This was of concern to officers and with such the team would be contacting the Inspectorate to query the contradictory approaches between the two applications.

Resolved:

That the report be received.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/03155/FPA
FULL APPLICATION DESCRIPTION:	Demolition of volunteer centre and erection of 14no. apartments
NAME OF APPLICANT:	Mr Matthew McCarrick – McCarrick Construction
ADDRESS:	The Volunteer Centre Clarence Terrace Chester-le-Street DH3 3DQ
ELECTORAL DIVISION:	Chester-le-Street West Central
CASE OFFICER:	Nick Graham Planning Officer Telephone: 03000 264 970 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is comprised of the former Chester-le-Street Volunteer Centre, which is currently vacant and has been subject to sale by the Council's Assets Department. The site comprises of the building itself and a large car parking area, accessed via Osborne Road public car to the north of the site. The Volunteer Centre itself first appears on historical maps from between 1970-79, and is a single storey flat roof building. The building is generally out of keeping with both the surrounding residential Victorian and Edwardian properties, and the modern residential development at the adjacent Central Exchange to the south.
2. Clarence Terrace lies to the west of the site, with residential properties across the road. To the south of the site lies the converted Central Exchange apartment development. To the north of the site lies Osborne Road public car park and the Osborne Working Men's Club. To the east of the site lies the rear of the properties on Chester-le-Street Front Street. Chester-le-Street town centre falls within 100m of the site and the site falls outside of the parameters of the Chester-le-Street Conservation Area.
3. Topographically, the site itself sits in a natural dip in the landscape, positioned at a slightly lower level than Clarence Terrace to the west, and Central Exchange to the south. The land falls away to the north along Clarence Terrace so the vehicular access to the site via Osborne Road car park is broadly level. A substantial grouping of non-protected mature trees bound the site, particularly along the boundary with Clarence Terrace itself, and between the existing building and Osborne Road car park, the majority of which are outwith the parameters of the application site.

The Proposal

4. Permission is sought to demolish the existing building on the site, and to erect a split-level three / four storey flat roof apartment building. The building is proposed to step up from three stories on the western elevation facing Clarence Terrace, to four stories further in the site. By virtue of the land levels, the proposal would effectively be viewed as 2.5 storey building from Clarence Terrace, stepping up to a 3.5 storey building. Fourteen apartments are proposed, all of which would contain two bedrooms.
5. The proposal would incorporate red brick, with two elements of cladding, in grey and bronze, on sections of different elevations. A grey single ply membrane is proposed to the roof, with grey powder coated aluminium windows and doors. The boundary treatments would broadly remain as existing, with the retention of the northern brick wall, brick piers and wall with an aluminium black gate and 1.8m close boarded fence to the east, the retention of the southern close boarded fence, and the retention of the western brick wall with additional wrought iron railings to create a 1.5m height. The tarmacked car parking area would broadly remain as existing, with a formalisation of fourteen car parking bays, and a designated refuse bay area has been allocated within the curtilage of the site
6. The application is presented to Committee as the proposal comprises of 10 or more dwellings, and is therefore classed as a 'major' application.

PLANNING HISTORY

7. There is no relevant planning history at the site.

PLANNING POLICY

NATIONAL POLICY:

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
10. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
11. The following elements of the NPPF are considered relevant to this proposal;

12. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government’s commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – ‘significant weight’ is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.
13. *NPPF Part 4 – Promoting Sustainable Transport* –notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
14. *NPPF Part 6 – Delivering a wide choice of high quality homes* – housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.
15. *NPPF Part 7 – Requiring Good Design* – the Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
16. *NPPF Part 10 – Meeting the challenge of climate change, flooding and coastal change* – Applicants for energy development need not demonstrate the overall need for renewable or low-carbon energy. Small scale projects provide a valuable contribution to cutting green-house gas emissions. Applications should be approved if the impacts are considered acceptable.
17. *NPPF Part 11 – Conserving and enhancing the natural environment* – The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.

LOCAL PLAN POLICY:

18. *Policy HP6 – Residential within settlement boundaries* – identifies Chester-le-Street as a settlement where residential development will be allowed on non-allocated sites that are previously developed land and meet the criteria of Policy HP9.
19. *Policy HP9 – Residential Design Criteria (General)* – requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.

20. *Policy T15 – Access and Safety provisions in design* – development should have safe access to classified road, should not create high levels of traffic exceeding capacity, have good links to public transport, make provision for cyclists and service vehicles and have effective access for emergency vehicles.
21. *Policy RL5 – Provision in New Developments* – as an alternative to on-site provision for childrens' play and open space for sporting use, where appropriate the developer may make a commute payment to the Council for off-site provision. A planning condition or obligation will be sought where necessary.
22. *Policy BE2 – Public Art* – where development costs total £500,000 or more, there will be an encouragement for developers to devote at least 1% of costs to the provision of works of art in new building and landscaping projects accessible to the general or client public.

RELEVANT EMERGING POLICY:

23. *The County Durham Plan* – Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the CDP can no longer carry any weight at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

24. The *Highways Engineer* has noted the site is a town centre location, and the road in front of the property is protected by waiting restrictions and pedestrian crossing zig-zag markings. There is one car parking space proposed per unit but no visitor spaces. However, given the town centre location this level of provision is considered to be acceptable. No objection is made to this proposal from the highways aspect.

INTERNAL CONSULTEE RESPONSES:

25. The *Landscape Officer* has noted the site has no landscape or related designations, and the direct discussions were held with the Project Architect with respect to the trees on Durham County Council owned land. A revised Landscape and Tree Constraints Plan was subsequently submitted by the applicant and the Officer confirmed the acceptability of the changes proposed, noting the requisite tree works would facilitate a new development, while protecting the safe useful life expectancy of trees scheduled for retention both on and around the site. Recommendations were made with respect to extending a shrub bed and fencing at the east end of the proposal, in in the interests of residential privacy.

26. The *Contaminated Land Officer* has not identified the site as a site of potential land contamination. The Phase 1 Contamination report does not identify any potential contaminant linkages. The Officer advises that they have no adverse comments to make and that there is no requirement for a contaminated land condition.
27. The *Sustainability Strategy Officer* has noted the site is adjacent to the town centre and apart from some ecology concerns relating to bat flight lines, there are no issues as to the locational element of the site. No information in the Design & Access Statement stated how sustainability would be embedded within the development and further information was requested by way of condition.
28. The *Ecology Officer* notes that the Bat Risk Assessment reports that the building is low risk for breeding bats and that demolition should take place during the winter months. No proper data search was carried out with a local data source and that the bat survey company was asked not to carry out such a data search. If planning permission is granted then a condition should be imposed limiting demolition to the winter months.
29. The *Drainage & Coastal Protection Officer* has considered the respective data of the Environment Agency and the Durham County Council Strategic Flood Risk Assessment. These indicate there does appear to be a risk of flooding to the development site during heavy rain storm conditions, as the site is on the line of an overland flow route. A Drainage Strategy was submitted during the course of the application which was considered satisfactory and meeting the requirements.
30. It is requested that reference is made to the Durham County Council Sustainable Drainage Systems (SuDS) Adoption Guide 2016, as well as a detailed drainage design demonstrating the required attenuation designed into the proposal meets the agreed discharge rate into the surface water sewer. Additionally, the developer is requested to provide evidence by way of Site Investigation, including permeability tests in accordance with BRE Digest 365 to verify the drainage option.

EXTERNAL CONSULTEE RESPONSES:

31. *Northumbrian Water* has noted the application does not provide sufficient detail with regards to the management of foul and surface water from the site for Northumbrian Water to be able to assess the capacity to treat the flows from the development, and a condition is therefore requested to agree these details, again using the Hierarchy of Preference as outlined in the Building Regulations. If sewer is the only option the developer is advised to contact Northumbrian Water to agree allowable discharge rates and points into the public sewer network.

PUBLIC RESPONSES:

32. Neighbours have been consulted by way of direct notification, a site notice was posted on Clarence Terrace, and a press notice was published in the Northern Echo. Four comments have been received raising the following points:
33. The western brick wall will have wrought iron rails erected on top; motor vehicles exiting Central Exchange cannot see approaching vehicles coming round the bend on the near side of the road. To improve safety a slot has been cut in the Central Exchange fence and this enables exiting motor vehicle drivers to see over the brick wall top, the height of which is sufficiently low to enable oncoming vehicles to be seen. Presumably the new wrought iron top will not impede our vision.

34. We have limited vision access when leaving our properties and turning onto Osborne Road and any higher wall or fence with this new proposal will remove what little vision we have.
35. Houses 1-3 Clarence Terrace have 3 feet of space under the ground floor that always contains water. The water is not stagnant which suggests it flows. My belief is that it crossed the road between Clarence Terrace and the development site, and runs in the small copse of trees in the public car park. This then finds its way into the car park surface drainage system which feeds into dirty waste mains rather than the surface water mains. The copse is regularly underwater. Any new development will block the flow and could exacerbate the flooding, which has not been removed from the area despite repeated attempts. What will be done to ensure the new development does not add to the flooding risk?
36. Drains are unable to cope at Central Exchange when there is heavy rain. To add will increase; what is the solution?
37. There has been ongoing problem with the drainage systems on Osborne Road and our properties and the Volunteer Centre, these have been dealt with several times to no avail. When it rains hard or consistently, the drains flood onto our car park, emitting sewage as well as dirty rain water and into the Volunteer Centre which also floods and blocks. My concern is extra buildings with even more output, in these circumstances, will lead to even worse problems.
38. The provision of balconies means that residents will be sitting and standing on balconies with views directly into bedroom windows in nos. 1, 2 and 3 Clarence Terrace. They will also be looking into bedrooms at Central Exchange. Furthermore, anyone on balconies at Central Exchange will be looking into bedrooms in the new development.

APPLICANTS STATEMENT:

39. Our proposed development of 14 apartments within a secure gated compound will provide quality affordable housing to a location previously lacking from investment within a prosperous town centre location. They will serve both local needs identified within the Chester le Street town plan and also help to promote the town as a residential stronghold serving larger surrounding towns of Durham and Newcastle. The proximity to the local train station further enhances this as an ideal location for apartment type residential accommodation.
40. It is likely that this project will be shortlisted by the Homes & Communities agency to receive government funding given the clearly identified demand for affordable housing in the area.
41. The design proposed, sympathetic to its surrounding area in tone, yet with a modern twist to create a desirable place to live will also provide pleasant vista for the surrounding buildings. The mix of materials has been carefully considered by highly trained local architects who are familiar with the needs of the area and are keen to ensure the building sits well within the established leafy surroundings. Care has been taken to ensure minimal impact to surrounding vegetation while complimenting the established trees with new shrubbery and gardens.
42. It should be noted that there are a number of vacant commercial units within the surrounding Chester-le-Street area, if residential planning permission were not granted for this project then the site may lay dormant for some time to come with the unfortunate social impacts a derelict building can bring to an area; our proposed

development will rejuvenate the site and in turn have a positive impact on the surrounding neighbours.

43. They will be built using all locally employed trades people, by McCarrick Construction, an established living wage employer. McCarrick Construction currently employ 4 local apprentices (2015 intake) and plan to employ 2 additional apprentices / NEETS in conjunction with Durham Education Business Partnership when this development is approved. The properties will then be marketed using the government backed "Help to Buy" scheme in order to further stimulate the local housing market.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at

<http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

44. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact on neighbouring amenity and privacy, design, access and highway safety, landscape and trees, ecology, land contamination, drainage, sustainability and developers contributions.

Principle of development

45. The application site is located within the defined settlement boundary of Chester-le-Street, as designated on the Chester-le-Street District Local Plan Proposals Map. The site is also positioned within the parameters of the Chester-le-Street Town Centre Boundary.
46. The NPPF seeks to boost significantly the supply of housing and requires that housing applications should be considered in the context of the presumption in favour of sustainable development. The Government's key housing objective and one which LPA's are expected to deliver is to increase significantly the delivery of new homes. The NPPF states that everyone should have the opportunity to live in high quality, well designed homes, which they can afford, in a community where they want to live. This means: increasing the supply of housing, delivering a wide choice of high quality homes that people want and need, widening opportunities for home ownership; and creating sustainable, inclusive and mixed communities, based on the needs of different groups within the community, including older people.
47. Additionally, Policy HP6 of the Chester-le-Street District Local Plan outlines support for residential development not allocated in the Local Plan within the defined settlement boundary of Chester-le-Street, providing the site is previously developed land and meets the criteria of Policy HP9 and other relevant policies. It is considered the proposal would meet the requirements of the above policies.
48. The proposal is for residential development within a town centre location, and is previously developed land. The site is within 250 metres of Chester-le-Street railway station, and 150 metres of Chester-le-Street Front Street where numerous regular bus services are available to various towns and cities within the region. The site is therefore considered to be a highly sustainable location and can be supported in principle.

49. The presumption in favour of sustainable development is a prime material consideration 'unless adverse impacts of the development significantly and demonstrably outweigh the benefits'. These detailed issues are examined below.

Impact on neighbouring amenity and privacy

50. Residential properties are located at Central Exchange and Osborne Road, to the south and west of the site respectively. The properties at Central Exchange are similar in scale to the proposed development, being of 3/4 stories and apartments with terraces and balconies.
51. A resident has raised a concern with respect to the privacy of the existing residents bounding the site. As set out in the Chester-le-Street District Local Plan Residential Estate Design Guidance, a minimum 21 metre privacy distance is required between facing habitable room windows on the first floor or above of developments. The proposal meets or exceeds this requirement to both the residential properties on Clarence Terrace to the west, and Central Exchange to the south.
52. Similarly, the Guidance sets out a 12.5 metre minimum privacy distance between a habitable room window and non-habitable room window (including obscurely glazed windows). On the southern elevation of the proposal, by virtue of the building's staggered nature, three windows fall within 15 metres of the Central Exchange development. However as these would be obscurely glazed, again this would exceed the minimum required distance. Therefore, it is considered the proposal would not adversely affect neighbouring privacy as it meets or exceeds all privacy distance requirements as set out within the Local Plan.
53. With regards to residential amenity, it is appreciated the site as a town centre location is constrained in nature. As a result it has not been possible for outdoor amenity space to be incorporated into the proposed development. Although it would be desirable for such an area to be provided for the benefit of residents, it is not possible in this instance. It is appreciated that such an arrangement is commonplace for residential developments located in town centres, whilst it is noted that various green open spaces and recreational facilities fall within walking distance of the site, with Chester-le-Street Cricket Club approximately 400m away and the large Riverside Park and its associated facilities approximately 700m away. A £14,000 contribution (£1,000 per dwelling) towards public open space and play space in lieu of this being provided on site was therefore requested and agreed, details of which further below in the 'Developer Contributions' section.

Design

54. The proposal has been designed to accommodate the privacy distance requirements to nearby residential properties, whilst also complimenting the surrounding buildings in terms of scale. Prior to the submission of the application, extensive discussions were held between the applicant / agent and Officers, and it was considered that a contemporary design would enhance and compliment the setting of the immediate area. The scale of the building was also amended to allow a 'stepping up' on the elevation facing Clarence Terrace and reduce the dominance of the building on this elevation.
55. The materials selected both reflect the historic nature of the terraced properties and the working men's club with the use of red brick, whilst the introduction of grey cladding and small elements of bronze cladding adds a contemporary flavour to the scheme, in keeping with the Central Exchange development.

Highway safety and access

56. Two residents have raised queries with respect to the proposed boundary treatments at the west of the site, and any implications this may have on vehicular access for residents of Central Exchange in terms of visibility when entering or exiting the site. The existing railings at the entrance to Central Exchange will be unaffected as they fall outwith the site boundary, whilst the only change to the wall on the western elevation would be wrought iron railings erected on top of the existing brick wall and would broadly be at a similar height to those at the entrance to Central Exchange. Additionally, the Highways Engineer has not raised any objection with respect to this matter and it is therefore not considered this alteration to the western boundary would cause a highway safety concern or impair the visibility or residents entering or exiting Central Exchange by car.
57. The site plan indicates 14 car parking spaces proposed within the curtilage of the site, one space per proposed dwelling. A separate 14 space cycle parking area is also proposed within the curtilage of the site. The Highways Engineer has noted that although the required number of visitor car parking spaces has not been met, as the site is within the town centre close to public transport, and there are various road restrictions bounding the site, no objection is made to the proposal from the highways aspect.

Landscaping and trees

58. The site is bounded by mature trees to its northern, western and eastern elevations, the majority of which are outwith the parameters of the application site. Prior to the submission of the application, discussions were held between the Architect and the Landscape Officer with respect to the trees positioned on the Council land to the north of the site, and an amended Tree Assessment was requested by the Landscape Officer. This was subsequently submitted by the applicant and the revisions were considered acceptable by the Landscape Officer.
59. The Landscape Officer's recommendations with respect to extending the shrub bed, close to the car parking area, northwards and the erection of fencing for the privacy of the occupant of the ground floor flat closest to the car parking area, were relayed to the applicant. However, this was not considered a necessity given the central, balanced position of the shrub bed within this natural "courtyard-style" opening in the scheme, which would act as the primary point of arrival for residents and visitors by car. It is also acknowledged that paving would bound the perimeter of all ground floor properties to the northern and western elevations in any case, particularly for those utilising the pedestrian access from Clarence Terrace.
60. The Landscape Officer noted the requisite tree works would protect the trees scheduled for retention to the boundaries of the site whilst allowing the development to be implemented without affecting such trees, and therefore no objections are raised from the landscape or arboricultural aspect.

Ecology

61. A Bat Risk Assessment Report and Site Appraisal was submitted as part of the application, noting although there was no physical evidence at the site to show that bats use the existing building for roosting purposes, bats are known more generally to roost within the vicinity of the site. It was noted that common bird species could potentially nest within the building, and there was no evidence of other protected species found during the survey of the site or its surround.

62. The Ecology Officer has noted the findings of the report and considers that a condition should be attached to any approval granted prohibiting demolition works outside of the winter months (October-April).

Land contamination

63. A Contaminated Land Risk Assessment Phase 1 Desktop Study was submitted as part of the application, noting there were no significant risks at the site with regards to human health, controlled waters, ecology, and buildings services.
64. The Contaminated Land Officer has noted the findings of the report and given the contents of the Study, does not consider any further detail with respect to contaminated land.

Drainage

65. The submitted site plans indicate the site levels and the positions of the drains on, and within the vicinity of, the site. Several residents have commented on the nature of the drains and historically how the site has flooded, with worries that such a development could and would exacerbate the situation further. It is acknowledged the site falls on an 'overland flow route' whereby a piped drainage system is unable or unavailable to cope with bursts of particularly intense rainfall. The water then flows on the surface, taking a natural downhill course, in this case from west to east.
66. Although it is appreciated that there are concerns with respect to drainage at the site, such overland flows are considered to be a natural occurrence within urban areas, and as such can be managed and engineered across private property. It is noted in the design of the scheme that an opening will remain from Clarence Terrace itself, with grassed areas within the curtilage of the site to allow infiltration and a paved area around the edge of the building which would direct any excess surface flow within the curtilage of the site itself. Further details were submitted by the applicant at the request of Officers, including a more detailed Drainage Strategy document.
67. The Council's Drainage Officer has not objected to the application but has requested additional information with regards to referencing the Durham County Council SuDS Adoption Guide, a detailed drainage design with respect to attenuation levels meeting the agreed discharge rate into the surface water sewer, and site investigations including permeability options to verify the intended drainage option. This would be to ensure any flooding issues at the site would not be exacerbated. Given the concerns from local residents and historical flooding it is considered appropriate to condition such details are provided and approved prior to the commencement of works as part of any approval granted, in line with Part 10 of the NPPF.
68. Northumbrian Water have also responded with no objection, but are requesting details regarding the proposed management of foul and surface water from the development to be conditioned as part of any approval granted, in order to ascertain the capacity for Northumbrian Water to treat the flows from the development. This is also considered appropriate in line with Part 10 of the NPPF.
69. Given the above, and considering no objections have been received from the Council's Drainage Officer or Northumbrian Water with respect to the matter, it is therefore considered that schemes for both surface and foul water drainage can be adequately incorporated within the design of the site in order to alleviate any potential issues with respect to flooding, subject to the conditions noted above.

Sustainability

70. The Sustainability Officer has noted that although there are no issues to the locational element of the site, details pertinent to sustainability matters should be conditioned as part of any approval granted, with an expectation that the scheme improves upon the Part L 2013 regulations. The details should include a scheme to embed sustainability and minimise carbon from construction and in-use emissions. It is therefore considered appropriate to condition such a requirement in line with Part 10 of the NPPF.

Developer contributions

71. Policy RL5 of the Chester-le-Street District Local Plan typically requires applicants to provide a commuted payment for children's play and open space for open space, in lieu of amenity space being provided on site. In accordance with Policy RL5, the applicant has offered to provide a £14,000 contribution for the provision or implementation of public open space and recreational facilities within the electoral division. The applicant has requested this on the provision that they can choose where the contribution would be allocated. This would deviate from the usual protocol of the monies being allocated by the Section 106 Agreement Working Group, in consultation with divisional members and the AAP.

72. Although under the protocol it is not possible for the applicant themselves to decide where the monies should be allocated, it is considered possible to include a clause within the Section 106 agreement stipulating that the applicant is entitled to put forward schemes or proposals for consideration by the Working Group. The Working Group would then be able to consider the merits of the schemes put forward in accordance with the Section 106 protocol, along with other schemes. The applicant has agreed to this approach, and on balance, this is considered an acceptable compromise, whilst continuing to meet the remit of the Council's Section 106 protocol.

73. A public art contribution is ordinarily requested as part of the requirements of Policy BE2 of the Local Plan, however it is not considered this Policy is NPPF-compliant and therefore such a contribution is not requested.

74. The site falls under the affordable housing threshold and therefore there is no requirement for affordable housing as part of the development.

CONCLUSION

75. The site, by virtue of its location, is considered highly sustainable and noted as being previously developed land. This is considered to meet the requirements of the Chester-le-Street District Local Plan and the NPPF.

76. The proposal would meet the requirements with respects to neighbouring privacy and amenity, highway safety and access, and land contamination issues. No objections have been raised from statutory, internal, or external consultees, and it is considered that foul and surface water drainage, sustainability, and ecological matters can be dealt with by way of condition.

77. No other issues have been raised, and it is on the above basis that the application is recommended favourably subject to a Section 106 agreement

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 agreement or a resolution from the Assets Department providing for:

- A ring-fenced sum of £14,000 to be provided for Public Open Space / Play Provision in the surrounding electoral division.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Location Plan	12 October 2015
Landscape Proposals and Tree Constraints Plan 939/PA/02	1 December 2015
Proposed Elevations / Roof Plan 8404/04C	12 October 2015
Proposed Floor Plans 8404/03B	12 October 2015
Proposed Site Plan / Refuse Bay / Means of Enclosure Details 8404/02	12 October 2015

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies HP6, HP9 and T15 of the saved policies of the Chester-le-Street District Local Plan, 2009.

3. Development shall not commence until a scheme to embed sustainability and minimise carbon from construction and in-use emissions, has been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the approved scheme and retained while the building is in existence.

Reason: In the interests of sustainability and climate change, and to comply with Part 10 of the NPPF.

4. Development shall not commence until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent the increased risk of flooding from any sources in accordance with Part 10 of the NPPF.

5. Development shall not commence until details of all surface water drainage proposals, including reference to the Durham County Council SuDS Adoption Guide, a detailed drainage design with respect to attenuation levels meeting the agreed discharge rate into the surface water sewer, and Site Investigations including permeability options to verify the drainage option have been submitted to, and approved in writing by, the Local Planning Authority. The works shall be undertaken in accordance with the approved plans.

Reason: In the interests of surface water drainage and flooding, and to comply with Part 10 of the NPPF.

6. Prior to the occupation of each dwelling, a designated car parking space within the car park shown on the plan hereby approved shall be brought into operation. Thereafter, the car parking spaces shall be used and maintained in such a manner as to ensure their availability at all times for the parking of private vehicles.

Reason: In the interests of highway safety and to comply with Policy T15 of the Chester-le-Street Local Plan.

6. All planting in the approved details of the Landscape Proposals and Tree Constraints Plan (ref. 939-PA-02) shall be carried out in the first available planting season following the practical completion of the development.

Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of the Chester-le-Street District Local Plan.

7. The tree works hereby approved within the Tree Constraints Plan (ref. 939-PA-01) shall be carried out in accordance with BS 3998: Recommendations for Tree Work and the European Tree Pruning Guide (European Arboricultural Council)

Reason: In the interests of the visual amenity fo the area and to comply with Policy HP9 of the Chester-le-Street District Local Plan.

8. Demolition work shall not take place outside of the months inclusive of October and April.

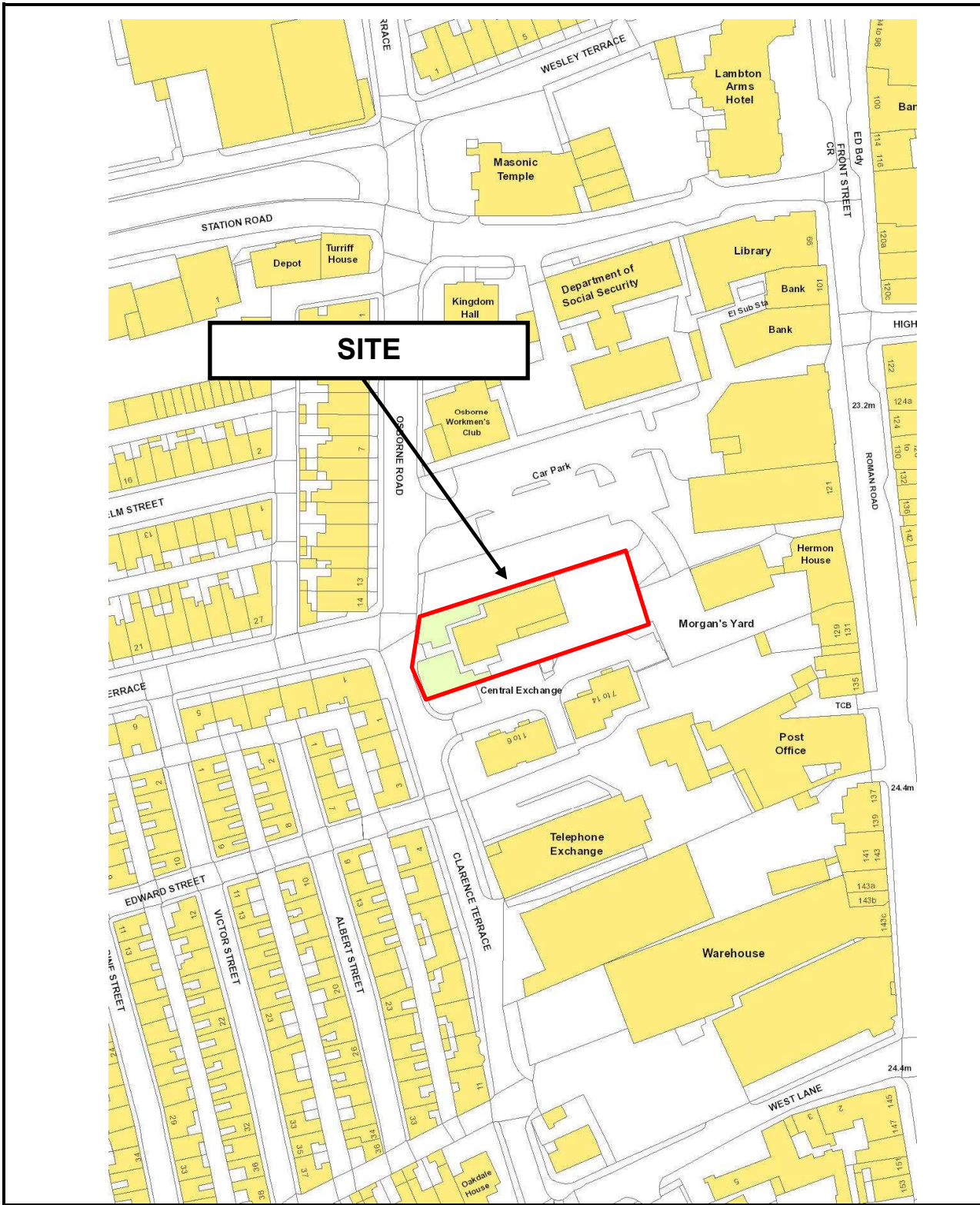
Reason: In the interests of the biodiversity of the site, and to comply with Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Chester-le-Street District Local Plan (saved Policies 2009)
- Statutory, internal, and public consultation responses



SITE



Planning Services

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The Volunteer Centre, Clarence Terrace,
Chester-le-Street, DH3 3DQ

Application Number DM/15/03155/FPA

Comments

Date 28th April 2016

Scale 1:1250



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against the refusal to grant a certificate of lawful development for a car sales office and workshop building. (DM/15/002893/CLU) at Valley View, Hilltop, Esh, Durham.

An appeal against the refusal to grant a Lawful development Certificate for the above development was received on 27th July 2015. The application was refused under delegated powers for the following reasons:

“The evidence submitted with the application and the Council’s own evidence is not sufficiently clear and unambiguous to demonstrate that, on the balance of probabilities, the use of the building for a car sales office and workshop is immune from enforcement action with the use not having commenced more than 10 years ago. The application is therefore contrary to part VIII Section 171B(3) of the Town and Country Planning Act 1990 (as amended).”

The appeal was dealt with by way of written representations and site visit held on the 16 February 2016.

Based on the evidence submitted the Inspector considered that the erection or refurbishment of the appeal building and the change of use of the land occurred more than four years ago but less than ten years ago.

As the Appellants’ own evidence stated that the current use in the building has only subsisted since 2009 the Inspector concluded that the use has not acquired immunity from enforcement action through the passage of time and is therefore unlawful.

The Inspector made reference to case law that demonstrated that although the construction of a building as operational development may be immune from enforcement action four years after its substantial completion, its use does not gain immunity over the same period therefore concluding that it is possible to have an immune, lawful, building that has no lawful use.

The Inspector concluded that the Council was right to take the view that the ten year enforcement period applies to the use of the appeal building as a car sales office and workshop and dismissed the appeal.

RECOMMENDATION

That the report be noted.

Reports prepared by Louisa Ollivere (Planning Officer).