

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held remotely via Microsoft Teams on **Tuesday 13 April 2021 at 9.30 am**

**Present:**

**Councillor J Clark (Chair)**

**Members of the Committee:**

Councillors D Brown, B Coult, M Davinson, S Iveson, R Manchester, J Robinson and J Shuttleworth

**Also Present:**

Councillors J Blakey and S Dunn

The Chair noted the death of His Royal Highness The Prince Philip, Duke of Edinburgh and, as a mark of respect, led the Committee in a minute's silence.

**1 Apologies for Absence**

Apologies for absence were received from Councillors I Cochrane, K Corrigan, D Freeman, K Hawley, A Laing and P Taylor.

**2 Substitute Members**

No notification of Substitute Members had been received.

**3 Minutes**

The minutes of the meeting held on 9 March 2021 were confirmed as a correct record by the Committee and would be signed by the Chair.

**4 Declarations of Interest**

There were no Declarations of Interest submitted.

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

**a DM/20/03213/FPA - 15 The Avenue, Coxhoe, Durham, DH6 4AD**

The Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for a proposed new residential dwelling and was recommended for approval subject to conditions.

The Planning Officer noted slides relating to the application site location and photographs of various views of the site. Members were asked to note the central location within the village, that the application site was off a back lane and was separate from the terraced properties and yards of The Avenue. It was added that while there was built development along the back lane, there was established garden use for the areas of land to the rear of The Avenue. The Planning Officer referred Committee to photographs showing various views of the site, including the garage to the front of the site and the views of 78 and 69 Petterson Dale from within the application site. Members were asked to note the variation in respect of extensions to the rear of The Avenue and views of The Avenue from within Petterson Dale.

The Planning Officer referred to proposed site layout plans showing the position of the proposed dwelling along with garage and hardstanding area. It was noted the dwelling would be set 12 metres back from the lane, and would have a footprint of 144 square metres, compared to a total site area of 386 square metres. Members were asked to note proposed floorplans, with two bedrooms to the upper floor, with five rooflights, and the remaining bedroom on the ground floor. In reference to the proposed elevations, it was explained that the maximum ridge height from the back lane was 5.3 metres, six metres from the rear garden as land levels changed across the site, and with eave height being three metres.

In relation to consultation, the Planning Officer noted Coxhoe Parish Council had objected to the application, citing concerns relating to highway safety, no need for housing development in the area and overdevelopment of the site. It was added the Highways Section had no objections to the application. Members were asked to note that Environment, Health and Consumer Protection (Contaminated Land) had considered the Phase 1 report submitted with the application to be satisfactory, however, there would be a requirement by condition for further reports.

In respect of public consultation, the Planning Officer noted three letters of objection from the public and Local Member, Councillor S Dunn. She explained the concerns raised were set out within the report and included: parking and highway issues including impact upon the nearby junction; that the approval of the scheme would set a precedent; that there was no requirement for additional housing, with a number of already approved schemes within the area; the impact upon privacy and loss of light for neighbouring properties; and that the proposed dwelling was out of character with the area, being mostly garden land.

The Planning Officer noted the relevant planning considerations relating to the application and explained the proposals represented a sustainable form of development, well located within the village and compatible with surrounding residential uses in accordance with parts of Policy 6 of the County Durham Plan (CDP). She added that, in terms of the character and impact on the character and appearance of the area, there was some conflicts with Policy 6(d) as the proposed dwelling would be larger than surrounding buildings contained within the garden area. She noted that the proposals would result in development being pushed further north within the site. The Planning Officer explained that while there was conflict, it was considered that those impacts would be quite localised, and that in the wider context, and set against two-storey terraced properties, the proposals would not appear excessively intrusive.

She noted the Committee report set out in detail the impact on residential amenity, with suitable distance standards being achievable in respect of those properties with a direct line of sight to the proposed dwelling. She noted 69 Petterson Dale showed a distance of 13.4 metres from the proposed dwelling, however, as the dwelling was offset and at an oblique angle, the issues of direct overlook were not considered to be problematic in this case.

The Planning Officer noted there had been concern raised as regards the upstairs accommodation, however, detail of the upper floor roof lights showed they were set high within the roof, with 1.8 metres from floor level to the bottom of the window, and therefore provided minimum opportunity for outlook and were intended more to provide natural light for the roof space. She added it was felt the proposed dwelling was of a suitable height and would not have an overbearing impact on the nearest residents or result in loss of light.

The Planning Officer noted that there was sufficient parking available on site for both the new property and the existing property, 15 The Avenue, and a condition would require that parking was retained in perpetuity for 15 The Avenue. She reiterated there had been no concerns raised over highway safety, particularly with the junction with The Avenue.

The Planning Officer explained that while there was some conflict with Policy 6 of the CDP, within the wider planning balance it was felt that the proposals were considered acceptable through the provision of a dwelling in a highly sustainable location, with ready and safe highways access, and that would not be detrimental to surrounding residential amenity. She concluded by noting the proposals were recommended for approval subject to the conditions as set out within the Committee report.

The Chair thanked the Planning Officer and asked Clare Llewelyn, Clerk to Coxhoe Parish Council to speak on behalf of the Parish Council in objection to the application.

The Clerk, C Llewelyn thanked the Chair and Committee and noted she was presenting the objections on behalf Coxhoe Parish Council. She explained that the Parish Council had concerns in relation to traffic and highway safety, noting that area of the village could be fairly busy especially with the nearby Post Office on the Front Street. She added that Parish Councillors believed the proposed property would overlook other properties, did not wish to see development at the back of houses in that area, and believed that the proposals would represent overdevelopment in that area of the village.

The Chair thanked the Clerk and asked Councillor S Dunn, Local Member to speak in relation to the application.

Councillor S Dunn thanked the Chair and Committee and explained he was also a Member of the Coxhoe Parish Council, however, while he was present when the Parish had considered the application he did not take part in that consideration and he did not predetermine his ability to comment at Planning Committee.

Councillor S Dunn noted he welcomed the changes made by the applicant in respect of the change from rear windows to roof lights to restrict overlooking. He added that while the provision of two off-street parking spaces for 15 The Avenue sounded very reasonable, he felt there would be no sustainable ability to enforce that those spaces would be available for 15 The Avenue in perpetuity, especially if the existing and new properties were to end up in different ownership. He referred to paragraph eight of the report and noted the precedent the application would set for development in the back street for further additional backland development was not sustainable for the residential environment of the area or for the additional parking the development would generate on the back street and The Avenue itself. Councillor S Dunn noted that conditions on the ground had not changed since 2005, which had led to the previous application being rejected. He added that he felt the current application was still contrary to National Planning Policy Framework (NPPF) Part Two.

With reference to paragraph 38(d) of the report, Councillor S Dunn noted the location for the proposed property was totally inconsistent with the setting and could potentially lead to inappropriate in-fill development all along that particular back street, overdevelopment of the area and impact on the transport infrastructure. He added there therefore in his view it would be inconsistent with County Durham Plan (CDP) Policy 29. He noted that while there were other properties in the back street, they were shed and garages. He noted that Committee Members were aware of how narrow the back street was from the photographs within the Officer's presentation, adding that all of those properties had bins, and needed services and access.

Councillor S Dunn noted Members may have noticed from the plans shown several rectangles at the bottom of the terrace and explained that these were five town houses which had recently been built out from an extant planning application. He noted that the parking from those properties, which had been considered to have acceptable and reasonable parking for that planning application, was overspilling on to The Avenue and the issue was being investigated by the Durham County Council Highways and Durham Constabulary as it was causing an obstruction. He added there was a bus stop located in between those properties and 15 The Avenue. He added there was the Post Office on the opposite site of the road, as mentioned by the Parish Clerk, together with a local shop which all generate parking on the other side, a busy part of The Avenue.

Councillor S Dunn noted the height difference between the proposed property and the properties below on Petterson Dale, adding that made the development inappropriate in his view. He added that in reference to paragraph 38(e) of the Committee report, he did not feel that there was capacity for visitor parking at the properties and he noted that the incremental effect of the proposed development, on top of the town houses and the precedent it sets in terms of parking capacity for the area would lead to a breach of CDP Policy 21 in respect of parking.

Councillor S Dunn referred to paragraph 57 of the report and noted he did not agree with the Officers' assessment that there would be no unacceptable impact on the area by approving the application and therefore it was in conflict with CDP Policy 30. He concluded by noting that, in the circumstances, he would ask Members consider the rejection of the application.

The Chair thanked Councillor S Dunn and asked the Planning Officer and the Highways Development Manager, John Mcgargill to comment on the issues raised.

The Highways Development Manager noted two issues had been raised, one by the Parish Council in relation to highways safety, and one from Councillor S Dunn in relation to parking. He reminded Members that at the development site currently there was space for four vehicles to park, an existing double garage, and a hardstanding area adjacent to the garage where up to four vehicles could park, a total of six vehicles. He added that the new development would accommodate two parking spaces for 15 The Avenue, together with two parking spaces in a double garage and two parking spaces on a forecourt to the garage. The Highways Development Manager noted that on balance there was no increase in demand for parking from the new development and that therefore no increase in vehicular movements, the existing vehicular movements would be replaced by the new vehicular movements. He explained when looking at such developments, Highways carry out a risk assessment and consider whether the risk would be contrary to policy in terms of road safety and the NPPF. He noted risk looked at the likelihood of an event taking place and what the outcome of that would be. He explained that the likelihood of a collision taking place in the area, where there had not been one previously, was extremely low and the outcome, should a low speed collision take place, would be minor. The Highways Development Manager noted that the risk to road safety was negligible and he reiterated that Highways had no concerns in respect of road safety or in terms of any increase in parking demand.

The Planning Officer noted the previous refusal of an application for the site was a decision from 16 years ago, based on the old Local Plan. She added that those refusal reasons were assessed as part of the current application and it was not felt, against the current NPPF, that it would be sustainable to maintain that refusal and therefore the whole application was assessed afresh. She explained that based upon the presumption in favour of sustainable development, it was sufficient to swing the balance towards approval for this particular case. She added that Officers had carefully assessed the height differences in terms of the land and the impacts of the bungalow in that location. She noted that it was felt that it was very unlikely to have any negative visual intrusive impact on the residents at Petterson Dale. The Planning Officer referred to the application plot and noted the access was via a narrow lane and that if every plot was to be converted, she could understand there would be implications, however, that the particular plot because of its specific location and size, a lot wider than the other plots and being located beside the lane with much easier access to the main adopted highway, meant the particular merits of the case were such that it appeared acceptable for the erection of a dwelling on site.

The Planning Officer noted a condition included in the recommendation was for parking for 15 The Avenue to be retained in perpetuity and therefore dealt with the issue in terms of the property being sold, the condition associated with the new dwelling would have to be adhered to.

She added that any change would require a planning application and it was not likely that removal of the parking spaces would be accepted for that particular dwelling.

The Chair thanked the Officers and asked the agent for the applicant, Mr P Baxter to speak in support of the application.

Mr P Baxter thanked the Chair and Committee for the opportunity to speak and noted he was speaking on behalf his client, Mr Ryder, who lived in Coxhoe and had done so for most of his life. He explained that the Officer's report covered all the issues, however, he thought it may be useful to cover some of the concerns raised and let Committee Members know how Mr Ryder had looked to overcome the issues raised by his neighbours. He added that neighbours were rightly concerned as regards issues such as loss of light, privacy and overshadowing of their properties and this was why Mr Ryder had been keen to amend the proposed plans on several occasions to ensure his neighbours would not be adversely uncompromised.

Mr P Baxter noted the size of the bungalow had been reduced significantly and windows had been removed to ensure there would be no overlooking, loss of privacy or overshadowing to neighbouring properties. He noted the concerns of the Parish Council in respect of traffic and highways issues, however, he referred to the response from the Council's Highway Development Manager to Committee and reiterated that Officers were satisfied with the proposals in terms of access and parking and therefore he would urge the Committee to take the comments from Highways into consideration.

Mr P Baxter noted the Planning Officer had responded to the concern raised by Councillor S Dunn in respect of the retention of parking for 15 The Avenue, to be dealt with as a condition and be included on the deeds of the property.

In respect of a precedent being set, Mr P Baxter explained that Mr Ryder wished to move into the bungalow himself, a more accessible property as he grew older, so that he could remain in the village he loved. It was added that Mr Ryder would certainly not be looking to apply for any further development in the area, and if further proposals were submitted, they could be looked at by Committee further down the line. Mr P Baxter asked that the proposals were looked at on their own merit and not what may or may not come in the future.

Mr Baxter noted it was also important to Mr Ryder that the bungalow, if allowed, was a sustainable development with low carbon solutions to help reduce the impact on the environment.

He added that if the Committee were minded to grant permission, Mr Ryder intended to build his bungalow from sustainable materials, and he would invest in energy saving solutions such as solar panels and air-source heat pump systems. Mr P Baxter thanked Members again for allowing him the opportunity to speak in respect of the application and he asked that Committee carefully consider the issues involved, look at the Officer recommendation for approval and he respectfully asked that permission be granted. He asked the Chair to note he would be available to answer any questions as appropriate.

The Chair thanked Mr P Baxter and asked the Committee for their comments and questions.

Councillor J Shuttleworth asked if the slide showing the site layout plan could be shown on screen. He noted that looking at the site plan he felt granting permission would set a precedent, with everyone in that street wanting to do the same. He added that the refusal in 2005 was clearly for that reason and allowing development others in the area would wish to develop their areas similarly. He noted he felt it would detract from the appearance of the whole area, adding that if the application site was in the middle of a field it may not be an issue, however, in the location it was then people would be encouraged to look to develop their land similarly. Councillor J Shuttleworth reiterated that granting permission would set a precedent and that he felt it detract from the appearance of the rear street.

Councillor B Coult noted she felt similarly to Councillor J Shuttleworth in that the proposals would set a precedent, not only in that area, but the village. She noted similar styles of garden in the area and therefore felt if sanctioned the approval would set a precedent. She added she accepted the comments from the Planning Officer that the area of land in question was slightly bigger, however, she noted there was a strong potential for the Council to become inundated with applications for buildings to go on those plots. She added that another concern she had, should the application be approved, was that the narrow lane would present difficulties for large heavy goods vehicles making deliveries and she felt it would have significant impact upon residents, noting such development took a period of time to be completed.

In respect of the issue of precedent, the Solicitor – Planning and Development, Clare Cuskin explained that precedent would not normally be taken as a material planning consideration unless that it was felt it would have additional impacts such as it would lead to an unacceptable impact upon the character and appearance of the area or lead to unacceptable residential amenity standards. She noted that precedent alone would not be a material planning consideration that she would recommend the Committee use as the basis for a reason for refusal.

Councillor M Davinson noted he felt the Committee were in a difficult position and that one could see with some foresight what the situation was and how it could get worse, for example people buying two of the gardens and seeking permission for a dwelling on the larger plot. He added, however, that he was struggling to see how the application could be refused, as many of the worries and concerns raised were on highways grounds and the Highway Development Manager had explained that the replacement of parking provision would mean there would be no greater amount of vehicle movements to and from the back street. Councillor M Davinson noted that, unless the Committee were to say they fundamentally disagreed with the Highway Development Manager and set out reasons why there would be issues in respect of highways, then he would struggle to see how Members could turn down the application. He noted he would reserve judgment and allow other Members of the Committee the opportunity to explore any possible reasons for refusal, adding he could not come up with any.

Councillor J Shuttleworth referred to the details of the 2005 application and asked if it was not prudent to defer the application in order to allow Members to have sight of that report. The Chair noted she did not agree with Councillor J Shuttleworth in respect of deferral, as it had already been mentioned by the Planning Officer that there had been changes in policy since that time and asked if Officers could give a further explanation.

The Planning Officer noted the decision was made in 2005 and the details of the refusal related to highways issues that Officers no longer felt stood in the current circumstance, with sufficient parking available and no concerns as regards access. She added that reference was made within the refusal to backland development, however, as Officers felt that there was safe and ready access with sufficient parking, and access was not via another garden or property, then it would be difficult to argue on that basis. She noted Officers felt that the proposal sufficiently met residential amenity standards. The Planning Officer explained that 2005 application had been an outline application, only relating to the layout on site and means of access, with no details on the appearance of the dwelling and one of the refusal reasons had suggested that it would impact negatively upon the design of the dwelling to try and fit it within the site and meet residential standards. She noted the current application indicated that a house could be located on the site, was of a suitable height, would not have an overbearing impact or create loss of light, and was capable of meeting privacy standards. She noted the 2005 refusal decision was available to view and the issues considered were set out within the Committee report adding that a fresh assessment had been taken, based on the current planning framework and, on that basis, consider the current application could be supported.

In respect of the issues raised regarding the 2005 refusal, the Solicitor – Planning and Development noted that the Committee had an application before them today which the Authority was required by law to determine in accordance with the development plan as it stands, together with any material planning considerations. She added that the 2005 application had been determined under a completely different planning regime, with the CDP and NPPF now being in place. She explained that Planning Officer had assessed the current application in accordance with the most up-to-date version of the development plan and any other material considerations and therefore she felt she would struggle to get to the position where she could advise Members that the 2005 decision was in any way relevant to the determination of the current application.

Councillor M Davinson noted the proposals were for a property to be built between other properties, along a back street and explained he did not see any details relating to a construction management plan (CMP) within the proposed conditions. He asked why there had not been inclusion of such details and added that, in locations similar to that proposed, he felt that there was a need for less working hours than the standard hours, so that residents close by were not disturbed by works commencing at 7.30am. The Chair asked if Councillor M Davinson would wish to see a CMP added as a condition and amended to have a later construction start time than the standard times included by the Council. Councillor M Davinson noted for that for development in a back lane in such a built up area he felt a start time of 8.00am was preferable to a 7.30am start.

The Planning Officer noted it was perfectly reasonable to include a condition within any permission to look for details of a CMP and to restrict the working hours. She added Officers could work with Environmental Health as regards their views in terms of acceptability and therefore if Members were minded to approve the application a condition could be included.

Councillor M Davinson moved that the application be approved, subject to a condition requiring a CMP. He added he did not feel it would be a perfect scheme for residents, and Councillor S Dunn may be in attendance at future Committees in objection to similar applications, however, he did not think the Committee had been able to find any way to refuse the application.

Councillor B Coult seconded the proposal for approval, noting she still had some of the concerns she had raised, however Members had not been able to find a way to refuse the application.

The Chair noted that any future application would be considered as robustly as the Committee had considered the application today.

The Solicitor – Planning and Development, noted she would take a vote by roll call, a motion having been proposed by Councillor M Davinson and seconded by Councillor B Coult for the approval of the application subject to an additional condition relating to the hours of working and construction management.

Upon a vote being taken it was:

**RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report and additional conditions requiring submission of Construction Management Plan and construction hours (amended to 8.00am start time).