

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 14 December 2021** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors S Deinali (Vice-Chair), D Brown, L Brown (substitute for E Mavin), J Cosslett, J Elmer, C Hood, J Howey (substitute for L A Holmes), D McKenna, R Manchester, C Marshall, K Shaw, M Stead (substitute for N Jones) and A Surtees

Also Present:

Councillor David Hall

1 Apologies for Absence

Apologies for absence were received from Councillors LA Holmes, N Jones, C Kay and E Mavin.

1 Substitute Members

Councillor J Howey substituted for Councillor LA Holmes, Councillor M Stead substituted for Councillor N Jones and Councillor L Brown substituted for Councillor E Mavin.

1 Minutes

The minutes of the Meeting held on 9 November 2021 and Special Meeting held on 25 November 2021 were confirmed as correct records by the Committee and signed by the Chair.

1 Declarations of Interest

There were no Declarations of Interest.

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

a DM/21/02215/FPA - Land East of 1 to 25, Shinwell Drive, Peterlee

The Senior Planning Officer, Leigh Dalby, 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 residential development for the erection of 59 no. dwellings (C3) with associated infrastructure, landscaping and drainage, and was recommended for approval, subject to conditions and a Section 106 Legal Agreement.

The Chair thanked the Senior Planning Officer and asked Mr Alistair Willis, Agent for the applicant to speak in support of the application.

Mr A Willis thanked the Chair and Committee and noted he had nothing to add to the Officer's presentation and thanked Officers for their work in relation to the application.

The Chair thanked Mr A Willis and asked the Committee for their comments and questions.

Councillor C Marshall noted he felt it was a fairly straightforward application adding he welcomed the Section 106 contributions as outlined. He noted that the development would add to the housing mix in the area and moved that the application be approved as per the recommendation.

Councillor J Elmer asked several questions relating to: 'net gain' in respect of ecology, noting he felt a few bat and bird boxes was not sufficient to compensate for loss of natural nesting sites; eight of the units failing to meet national space standards and asked for evidence in relation to viability; and a lack of detail in terms of meeting County Durham Plan (CDP) Policy 29 in relation to carbon reduction measures. The Senior Planning Officer noted that the recommendations in respect of bat and bird boxes had been requested by the Council's Ecologist and Planners would be led by the Ecologist's expertise in that regard. He added that proposed Condition 15 would require details of a scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero carbon building and that it should be submitted and approved in writing by the Local Planning Authority. He noted that could include elements such as electric vehicle (EV) charging points.

The Principal Planning Officer, Paul Hopper noted, in respect of national space standards and viability of the development, the applicant had submitted a viability assessment with the application and Officers had challenged the applicant on the issue. He noted the Agent for the applicant was in attendance and may be able to offer additional information in that regard. The Chair asked if Mr A Willis would

respond. Mr A Willis explained that the site had viability constraints, being brownfield and with limited grant available. He added that in submitting the viability assessment, it had taken into account the financial contributions to be made through the Section 106 Agreement and explained that any reduction in the number of units would render the scheme undeliverable by the Registered Provider.

Councillor L Brown noted the application was laudable, with affordable properties, bungalows and EV charging points, however, she noted that elements such as gas boilers would soon be obsolete and there was no reference to solar panels. She reminded Members that the Council had declared a climate emergency and CDP Policy 29 sought to minimise greenhouse gas emissions and promote renewable energy. She noted she did not feel the application achieved that.

Councillor K Shaw referred to the Housing Strategy and noted he was more inclined to have houses that met the need of the residents and felt the application would bring long-standing benefits to a derelict site and therefore he fully supported the recommendation and seconded the motion for approval.

Councillor J Elmer explained he agreed to the principle of the scheme and noted there should be praise for the types of housing it would provide. He added that he would wish to optimise the quality of the properties and asked, through the Chair, if the Agent for the applicant could clarify as regards what types of carbon reduction measures the applicant would take in respect of Condition 5. The Chair asked Mr A Willis if he wished to respond. Mr A Willis noted that he did not have all the details, however, 10 percent of the CO₂ would be offset via solar panels or air-source heat pumps, and there would also be the inclusion of EV charging points. Councillor J Elmer noted that his point was that such details could be provided at this stage for Members' consideration. The Chair noted that was a similar point to one made at a meeting of the County Planning Committee, adding Officers would make note for future reports.

Councillor C Marshall noted that the point was valid, however, if Members were unhappy with the green credentials of a policy then it was an issue for Members to take up with the Cabinet Members. He added it was not for the Planning Committee to devise policy, rather to assess an application against the policies in place, and to do otherwise would create uncertainty for developers.

Councillor J Elmer noted the need to focus on the material concerns of the application and added he was trying to defend the CDP, specifically Policy 29 in respect of space standards and carbon reduction, and that it would be misleading to suggest he was doing otherwise.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions and Section 106 Legal Agreement as set out within the report.

a DM/21/01278/FPA - Tiana Lane, Pittington Road, Rainton Gate, Houghton-le-Spring

The Principal Planning Officer 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 a resubmission of previously refused application reference: DM/20/02163/FPA - Erection of a single storey dwelling and was recommended for refusal.

The Principal Planning Officer reminded Committee that the application was a resubmission of an application previously refused by the Committee in November 2020, with a subsequent appeal dismissed by the Planning Inspectorate in May 2021. He noted there had been no objections from Northumbrian Water Limited, or the Council's Highways Section in relation to the application. The Principal Planning Officer explained the Council's Spatial Policy Team had noted that inappropriate development in the Green Belt was by definition harmful and should not be approved except in very special circumstances. The Principal Planning Officer added that the development was not considered infill development and therefore was inconsistent with the National Planning Policy Framework. He added that the Landscape Section had noted the application would further erode the character and openness of the Green Belt. He noted the Design and Conservation Team had reiterated their comments relating to the previous application, that the design would result in a new dwelling of simple design with little architectural merit. The Principal Planning Officer explained that the Contaminated Land Section had noted a suggested condition associated with further surveys to be undertaken prior to any works commencing.

He explained there had been no objections from the Nuisance Action Team, Drainage and Ecology Sections, with the Tree Officer noting that the submitted Tree Survey was inadequate and suggested a condition be included requiring the necessary Tree Surveys and a Tree Protection Plan prior to development.

The Principal Planning Officer noted both Local Members had responded, with Councillor D Hall supporting the application and was in attendance to speak to Committee, and with Councillor B Kellett remaining opposed to the development, as the resubmission was similar to the previously refused application. He added a single letter of representation had been received, neither supporting or objection to the application, simply stating the applicant was currently living on the site.

The Committee were referred to the planning history of the site, with previous applications for residential development. The Principal Planning Officer noted a hardstanding that had been created and a static caravan was on site currently which were unauthorised and subject to enforcement action which was being held in abeyance pending the outcome of the application.

Councillor C Hood left the meeting at 10.13am

The Principal Planning Officer noted Paragraphs 137 and 147 of the NPPF referred to Green Belt, and that development should not be approved except in very special

circumstances. He noted that exceptions were set out within Paragraph 149 of the NPPF, and that Officers felt that none of the exceptions applied in respect of the application. He explained the applicant felt the development was infill, however Officer did not consider the proposed development as infill, a position that was consistent with the view of the Inspector at the May Appeal who had noted the proposal: “...would not adjoin another dwelling, only the rear garden of ‘Melrose’, as the house on that plot of land is positioned forward towards the road. With the other boundaries of the site abutting fields, the site does not reasonably constitute a gap between existing built development. With the lack of juxtaposition to other built development apart from on one side, the proposal would not constitute ‘infilling’”.

The Principal Planning Officer noted that the land was not considered as being previously development land, again noting the position was consistent with the previous decision and subsequent appeal.

Councillor C Hood entered the meeting at 10.15am

The Principal Planning Officer explained that it was not felt that the housing need could not be met from the existing housing stock in the area. He reiterated that the proposed development would harm the Green Belt, impacting on the spatial openness of the Green Belt. In respect of development in the countryside, he added it was felt the proposed development would not relate well to the existing bungalow. He noted that, in terms of the impact on residential amenity and sustainability the proposals were acceptable.

The Principal Planning Officer reiterated that it was felt the proposed development was unacceptable as it failed to maintain the openness of the greenbelt and did not meet the exemption for infill development and demonstration of any very special circumstances which would clearly outweigh the greenbelt harm arising from inappropriateness, contrary to CDP Policy 20, NPPF Section 13 and Paragraphs 137, 147 and 148. He concluded that therefore the application was recommended for refusal.

The Chair thanked the Principal Planning Officer and asked Councillor D Hall, Local Member, to speak in relation to the application.

Councillor D Hall thanked the Chair and Committee for their time and noted he would trust that Members would have read his e-mail detailing the family's circumstances and he would not wish to duplicate those details within his address. He noted the application from Chantelle and Tommy (Miss C Morrison and Mr T Ward) and their three children was for a small family home on an unobtrusive site, near to the A690, within walking and cycling distance of the nearby villages. He noted there had been no objections from neighbouring residents. He explained that Mr Ward was a successful boxer and volunteered for a number of local charities. He added that they had resided at the nearby Gypsy, Roma, Travellers (GRT) site at West Rainton, however, as a growing family, they needed more space. He explained that due to their income the family's option in terms of securing a permanent home was to build. Councillor D Hall noted that the temporary building on

the site had meant no offense and was simply required as a result of overcrowding.

Councillor D Hall noted following the previously unsuccessful application and appeal, the applicant had sought professional advice which had indicated that development in the Green Belt was allowed under the NPPF, as set out in NPPF Paragraph 149(e), 'limited infill in villages'. He added he felt that was a perfect description of the proposed small home on a site near to an existing dwelling. Councillor D Hall reminded Members that while Officers could advise, it was for the Committee to decide and that their very important duty could have implications that were profound and long-lasting. He added it was the unique role of Elected Members to understand those they represented and use their collective real world experience to help decide upon such matters.

He added his view as a Local Member would be to grant the application, noting the exception at Paragraph 149(e) of the NPPF. He added that should Members be minded to approve the application, they could delegate to the Chair and Vice-Chair and Head of Planning as regards any conditions required. He added he hoped that Members would agree the proposals represented infill development, move and second approval, and allow the family to get on for themselves and their children. Councillor D Hall respectfully asked that the Committee grant approval of the application.

The Chair thanked Councillor D Hall and asked Mr Mark Ketley, Agent for the applicant, and Miss Chantelle Morrison, the applicant, to speak in support of their application.

Mr M Ketley thanked Members for the opportunity to speak in support of the application and noted he represented Chantelle and Tommy in respect of their application. He reiterated that they were a local family with three children, with Chantelle being a care worker within the NHS and Tommy being a successful boxer, ranked eight in the world at Featherweight and a genuine title contender.

Mr M Ketley noted that development in the Green Belt was normally inappropriate, however, he disagreed with the Officers' view in respect of the exception as set out in NPPF Paragraph 149(e) which did allow for limited infill. He noted that Officers had accepted that the development was limited in scale and as regards village boundaries, and therefore the only issue was whether the development constituted infill. He explained that it was his view that it did and while there was not a gap in terms of the infill of a frontage, there were properties to the north and east, with a mature hedge to the south and trees to the west. He added the site was virtually contained and the development did not encroach on the Green Belt and he felt the proposals were acceptable and there were very special circumstances in terms of the applicant's housing need.

Miss C Morrison noted her family had lived at the GRT site at West Rainton and the application had been made as there was no room or availability at the site and they were not a priority for housing. She noted that two of her children attended the local primary school at West Rainton where they thrived. She noted that due to her partner's career as a boxer they had not been able to secure a mortgage and noted that it was more cost effective for her family to build a property. She added that if they were unable to build, they would have to revert to their traveller roots with an impact upon her children and the family. She noted the strong trust that had been established with the local Doctor and school, having obtained additional support for her daughter. Ms C Morrison noted the charity volunteer work undertaken by her partner and added that all neighbours were supportive of their application. She concluded by explained that they were not removing any trees and that only half of the site would in fact be developed.

The Chair thanked Mr M Ketley and Miss C Morrison and asked the Principal Planning Officer to comment on the representations.

The Principal Planning Officer referred to the comments from Mr M Ketley in respect of the views of Officers. He noted that Officers did agree the development was limited in nature. However, he noted that Rainton Gate was within the settlement survey, however, this did not set settlement limits and therefore the area was considered outside of the settlement and not considered as infill development. He again noted that position was consistent with the appeal decision.

The Chair noted that Councillor C Hood had left for a brief moment and asked the Solicitor – Planning and Development, Neil Carter for advice. The Solicitor – Planning and Development noted it was for a very short period and asked Councillor C Hood if he felt he had heard enough of the Officer's presentation in order to consider the application. Councillor C Hood explained he had heard enough to be able to consider the application.

The Chair asked the Committee for their comments and questions on the application.

Councillor L Brown noted she recalled the previous application in November 2020 and that it had been seen as a test of Policy 20, a test which the CDP had passed. She noted that subsequently the appeal of that decision was dismissed by Inspector Hendley as the application was contrary to CDP Policy 20 and Paragraphs 137 and 147 of the NPPF as it represented an unacceptable encroachment on the Green Belt with no very special circumstances. She added that the Green Belt helped to protect the World Heritage Sites and Durham and did not see any reason why the family's need could not be met by other housing. Councillor L Brown noted that the

report referred to the comparisons Councillor D Hall had made to a recent application at Fernhill, she noted that application had been refused. She concluded by stating she supported the Officer's recommendation and moved the application be refused as per the report.

Councillor C Marshall asked if there had been any material change since the previous application, given a formal consultant was now representing the applicant. He noted that the application before Committee made more of a case in terms of the housing need, the specific needs that were met in that community in terms of the school, education and healthcare. He asked, in terms of planning policy, at what level that specific and special need would need to be at, and what evidence would be needed.

The Principal Planning Officer noted that additional information had been presented to the Inspector at Appeal in terms of personal circumstances, those as mentioned within Councillor D Hall's representations. The Principal Planning Officer referred Members to the Ministerial Statement set out within the report which noted that, in relation to development within the Green Belt *'personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'* and that a very high bar was set in terms of protection of the Green Belt and in resisting encroachment. The Principal Planning Officer noted that Officers did not feel that the personal circumstances amounted to very special circumstances. He added there was a similar brick and mortar housing offer in the area and reiterated that Officers did not feel the very special circumstances test was met.

Councillor D Brown asked if the photograph of the site could be shown again and asked as regards the hardstanding. The Principal Planning Officer noted the hardstanding and proposed development covered around half of the site. Councillor D Brown noted the discussion as regards the Green Belt and openness and asked how hardstanding qualified as Green Belt. The Principal Planning Officer reiterated that the present situation, with a static caravan and hardstanding, represented unauthorised development and was subject to enforcement action, held in abeyance until the determination of the current application, though those elements did not form part of the current application.

Councillor C Marshall noted it was a difficult decision and explained he understood why Officers had taken the view in terms of very special circumstances. He noted, however, there had been no objections from local residents, the Local Member supported the application, and there were the specific circumstances of the family. He explained he did not feel the application would be detrimental to the Green Belt or that a precedent would be set. He proposed that the application be approved, due to the very special circumstances as outlined by the family. Councillor D Brown seconded the proposal.

Councillor L Brown noted she had proposed refusal of the application. The Solicitor – Planning and development noted a proposal for approval had been made and seconded.

Councillor J Elmer noted that the application was extremely difficult and added that the Committee needed to ensure that applications were determined via the policies, noting the same argument was now detracting from policy. He agreed it was hard not to bring emotion into the process, however, he felt it was the role of the Committee to make decisions on policy and therefore he seconded Councillor L Brown's motion to refuse the application.

The Solicitor – Planning and Development noted it was essentially binary in terms of the proposals, however, Councillor C Marshall's motion had been seconded first. He noted that prior to moving to a vote on the motion, he would wish for clarity in respect of the proposal. The Solicitor – Planning and Development noted, as he understood, Councillor C Marshall felt the family's personal circumstances, and low level of harm to the Green Belt, represented very special circumstances, sufficient to outweigh the harm by reason of inappropriateness. He noted that should Members be minded to approve the application, a suite of conditions would be required to be agreed under delegated powers by Officers, as usual.

Councillor A Surtees agreed that it was a complex case and asked if the area within the Green Belt was classified as previously developed land. The Principal Planning Officer noted that the Inspector, within his decision dismissing the appeal, had not considered the area to be previously developed land. He reiterated that the current hardstanding and caravan were unauthorised and therefore the land was not considered as being previously developed land.

Councillor M Stead noted that Councillor C Marshall had asked as regards the bar for very special circumstances, with the Officer's response being "quite high". He asked as regards the level of that bar and what types of very special circumstances would be required. The Principal Planning Officer noted the very special circumstances would usually be in terms of some wider public benefit.

The Chair noted no further comments or questions from Members. He reminded the Committee of the previous refusal, and dismissal at appeal, but noted it was for Members to decide in terms of the merits in relation to very special circumstances.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to a suite of conditions to be agreed under delegated authority by Officers.

a DM/21/03430/FPA - 67 Kepier Crescent, Gilesgate Moor

The Principal Planning Officer 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 for change of use from C3 to C4 and was recommended for approval, subject to the conditions set out within the report.

The Principal Planning Officer noted there were no external works or extension proposed. He explained that within the report Highways had erroneously referred to the property being within a controlled parking zone, however, that was not the case. However, Highways had noted no objections in respect of the application. It was noted that Belmont Parish Council had objected to the application, with issues raised including; noise and disturbance; additional coming and going, especially at unsociable hours; crime and the fear of crime; lack of space; and concerns it would lead to other similar conversions.

The Principal Planning Officer noted no objections from internal consultees, including Spatial Policy who noted the percentage of houses in multiple occupation (HMOs), as defined as properties that were Council Tax exempt was currently 3.8 percent, which would increase to 5.1 percent if another development nearby were to go ahead. The Principal Planning Officer noted objections from Local Members in terms of the increase in student properties and they had asked whether there was a need for such properties, given a number of purpose-built student accommodations (PBSAs) in the area. He added there had been 12 letters of objection, including those from the Parish Council and Local Members, with the concerns summarised within the report.

The Committee were reminded as regards CDP Policy 16 which stated change of use from C3 to C4 would not be permitted if more than 10 percent of properties within a 100 metre radius were Council Tax exempt. The Principal Planning Officer reiterated that the current level was 3.8 percent and would be 5.1 percent if the other property referred to had a change of use. He noted that including that other property, the application would increase the percentage from 5.1 to 8.3 percent, still within the 10 percent threshold of Policy 16.

The Principal Planning Officer reiterated that internal consultees had no objections to the application, and while the objections set out by the Local Members, Parish Council and objection letters had included crime and the

fear of crime, without material evidence as regards issues limited weight could be afforded to those issues. He noted that a condition would require details as regards bin and cycle storage to be submitted to the Local Planning Authority, and the provision to be in place prior to property being occupied. The Principal Planning Officer concluded by noting that the application was felt to be acceptable in respect of CDP Policy 16 and, with Officers noting there would be no impacts in terms of residential amenity or highways safety, the application was recommended for approval, subject to the conditions set out within the report.

The Chair thanked the Principal Planning Officer and asked Parish Councillor Patrick Conway, representing Belmont Parish Council, to speak in relation to the application.

Parish Councillor P Conway noted the Parish Council had received a lot of representations from local residents, principally from those living at Keiper Crescent. He added a number of phone calls had also been received from the wider area with concerns as regards the development of HMOs in the area.

In reference to the NPPF, Parish Councillor P Conway noted that he did not feel the change of use represented development within a mature, residential area. He noted Part 5 of the NPPF referred to the sufficient supply of homes, and a change of use would not support that in a residential area that had existed for generations. He added that there was a need for family homes in the city and therefore the property should remain as a family home, noting that, as a Trustee of a Housing Association, he would not wish to see further erosion of the housing stock.

Parish Councillor P Conway reiterated that there was no need for student houses, with the PBSA within a quarter of a mile of the property having spare capacity. He noted residents were concerned that competition in respect of student rent levels could lead to properties being maintained to a lower standard. He added residents were concerned as regards impact upon the estate roads and shared access.

Parish Councillor P Conway noted CDP Policy 16 referred to a 10 percent threshold, and while this was useful in the cases where it was exceeded, in areas where it was not it appeared to be considered a target to reach, adding there were a further four applications for change of use from C3 to C4 in the area. He appreciated the methodology used by the Council in terms of the 10 percent threshold and Council Tax exempt properties, however, he noted that anecdotally many properties were being used as HMOs, with the Council Tax simply being paid. He reiterated that residents were concerned that the HMOs would creep to the threshold of 10 percent.

Parish Councillor P Conway noted the Officer's report and presentation was very fair, however, there was a judgement to be made in terms of HMOs. He explained the Parish Council believed the 10 percent threshold within a 100 metre radius was a blunt instrument that could in fact be used to justify more HMOs. He noted that the Parish Council would strongly ask that the Committee refuse the application, noting the application had been before the Local Authority in 2018, only to be withdrawn by the applicant.

The Chair thanked Parish Councillor P Conway and asked the Principal Planning Officer to respond to the points raised.

The Principal Planning Officer noted that a change of use was development as defined by the Town and Country Planning Act 1990. He added that Policy 16 did refer to the 10 percent threshold in relation to HMOs, however, other policy elements were required to be met in addition. He reminded Members that Policy 16 had been found to be sound at the Examination in Public of the CDP.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor J Elmer noted that the application hinged upon Policy 16 as set out in the CDP. He added it had taken 10 years for the Council to reach the point where the CDP was in place and adopted. He noted that it had been attempted within the earlier CDP proposals and explained that there was huge demand for rented accommodation in Durham, primarily for students. He reiterated as regards the efforts to get Policy 16 in place, with the arguments made at the Examination in Public as regards a 10 percent threshold. Councillor J Elmer noted that the Committee had to comply with the policy, adding that if Members abandoned it then developers would see that. He noted that therefore the line must be defended, and policy should be applied consistently so that where applications did not comply with Policy 16, they could be defended against in future. He proposed that the Committee accept the Officer's recommendation and approve the application. He was seconded by Councillor M Stead.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions set out within the report.