

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in the **Council Chamber, County Hall, Durham** on **Tuesday 14 June 2022** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors L A Holmes (Vice-Chair), L Brown, J Cosslett, S Deinali, J Elmer, C Hood, C Kay, D McKenna, C Marshall, J Quinn, K Shaw and A Surtees

1 Apologies for Absence

Apologies for absence were received from Councillor I Cochrane.

2 Substitute Members

There were no substitute Members.

3 Minutes

The minutes of the meeting held on 10 May 2022 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

Councillor L Brown noted in respect of Item 5a she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to the application. In respect of Item 5b she noted she was a Member of the City of Durham Parish Council and had been a member of their Planning Committee at the time when they had requested that the application be considered by Committee. Accordingly, she noted she would withdraw from the meeting at that point and take no part in the consideration of that item.

She added that the objections that had been made related to access arrangements, however, if the Parish had been reconsulted on revisions to the access arrangements made in October 2021 then the objections would have been withdrawn and the application may not have needed to be considered by Committee.

The Chair, Councillor D Freeman noted in respect of Item 5b that he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application. He noted he was also a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to the application.

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

a DM/22/01296/PNC - Agricultural Building to the south of High Grange Farm, Shincliffe, DH1 2TD

The Planning Officer, Michelle Penman, 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 the change of use of existing agricultural barn to 1 no. dwelling and was recommended for approval, subject to conditions.

The Planning Officer noted that the application was for prior approval and explained that permitted development rights were available through Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 which allows the change of use of existing agricultural buildings to residential dwellings without the need for an application for planning permission but subject to a prior approval process. She explained that the Order also includes provision for those building operations reasonably necessary to convert the building to the proposed use. She added that in order for the stated permitted development rights to apply the building must meet a number of criteria as set out within the Committee report. The Planning Officer noted that it was felt the application did meet the requisite criteria and therefore was recommended for approval, subject to conditions.

The Chair thanked the Planning Officer and asked Mr R Ormerod, in his capacity as Clerk to Shincliffe Parish Council, to speak in relation to the application.

Mr R Ormerod thanked the Chair and Committee and explained that the Parish Council noted that the application represented development in the south east of the green belt, near to an area of high landscape value (AHLV) and was not screened and therefore highly visible from the A177. He added that the National Planning Policy Framework (NPPF) stated that inappropriate development was by definition harmful to the green belt and should not be granted unless there were special circumstances. He added the Parish Council did not feel there were special circumstances, and that such development was the 'thin end of the wedge' in terms of further development in the green belt and therefore asked that the Committee reject the application.

The Chair thanked Mr R Ormerod and asked Mr A Moss, representing residents in objection to the application, to speak as regards the application.

Mr A Moss thanked the Chair and Committee and noted he was in attendance to speak against the application on behalf of Mr and Mrs Oxenham. He noted a detailed letter of objection had been submitted and was available with the Committee papers. Acknowledging the time available, he noted he would focus on three main areas.

He explained he would firstly respond to paragraphs 31 to 35 within the Committee report. He noted that to be able to benefit from the permitted development rights, the site must have been used solely for the purposes of agriculture. He added that if that was not the case, the permitted development right was not available. Mr A Moss explained that in the case in hand it was not certain that the site had been used solely for the purposes of agriculture. He added in that respect a property letting business was registered at Moor House Farm with the contact being 'SC and LG Seymour', with Mr S Seymour of Moor House Farm being the applicant. He noted that additionally, photographs of domestic paraphernalia being stored in the building were submitted in documentation submitted as part of last year's application. Mr A Moss noted that he was advised by his client that household equipment had been stored around the farm. He noted that was indicative of mixed agricultural / storage use which would mean the permitted development right was not available. He added that last year's application was refused for reasons including that insufficient evidence had been provided to demonstrate that the building had been solely used as part of an established agricultural unit on 20 March 2013. Mr A Moss noted that the onus was on the applicant to provide sufficient information. He added that it was necessary for the issue to be explained by the applicant and considered by the Council, there being no reference to the letting business or domestic paraphernalia storage in the application or the report. He noted that while an Officer visited the site last month, it was possible that the household storage use which was ongoing last year ceased before the current application was submitted and livestock brought in.

Mr A Moss noted a second point was in relation to paragraphs 42 to 45 of the report, noting that in the ruling of *Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council*, the Judge said; *“There will be numerous instances where the starting point (the agricultural building) might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such a magnitude that in practical reality what is being undertaken is a rebuild. In fact a more apt term might be a fresh build...”* He noted the full text was set out in the submitted letter of objection.

Mr A Moss noted that applying that to the case in hand, after preparatory works had been undertaken, all that would remain of the building would be its floors, its steel frame and possibly 1.6 metre high block work walls on the side elevations and limited parts of the front and rear elevations either side of the doors. He added there would therefore be very little left of the building and the amount of remaining block work would further be reduced through the insertion of 11 new openings in the side elevations to accommodate windows. He noted that the Addendum Structural Report found that: the concrete floor slab was suitable to provide support to partitions; and the additional loads that would accrue on the main steel superstructure and the existing foundations were acceptable. Mr A Moss noted that report did not comment on the blockwork walls, and he noted that if a floor and steel frame could be reused, that did not make a building capable of conversion. He added that was what the Hibbitt case was about. Mr A Moss explained he disagreed with the Council’s Structural Engineer that the building was suitable for conversion. He added that the floor and frame of the existing building may be capable of re-use, however, that was not the point, it would be skeletal and minimalist to use the words of the Judge in the Hibbitt case which found that the permitted development right was not available acknowledging the scale of the proposed works. Mr A Moss continued, noting it was his view that the proposed works go a very long way beyond what might sensibly or reasonably be described as a conversion.

Mr A Moss explained the development was in all practical terms starting afresh with only a modest amount of help from the existing building of which only the floor, steel frame and possibly a small amount of block work wall would remain. He added that acknowledging the scale of the works required the proposal was in breach of criterion (i) and was not permitted development. He noted he had submitted a copy of an appeal decision which supported that assessment on a similar building with his letter of objection.

Thirdly, Mr A Moss referred to paragraphs 62 to 67 and noted he agreed with the statement in paragraph 66 that the building is in a prominent location and would be highly visible from Strawberry Lane that passes 100 metres to the west.

He added he also agreed with the statement in paragraph 67 that the dwelling would be a prominent feature in the field and that there would be visual effects. He noted it was his view that the proposed dwelling would, amongst other things, appear out of character and highly intrusive in its setting and the wider landscape to the detriment of issues of acknowledged importance. He noted the proposed development was therefore undesirable in that location.

Mr A Moss noted therefore he would be request that the Council:

1. find the proposal is not permitted development for the reasons of it not having been demonstrated that the building has been for sole agricultural use, and acknowledging the scale of works it is not a conversion and it does not consist of building operations reasonably necessary to convert the building to residential use.
2. that due to its location and associated impacts the development is undesirable for the building to change of use from agricultural use to a dwelling house.

Mr A Moss concluded by noting that in the alternative he would ask that the Committee defer consideration to enable a Committee site visit to be undertaken such that Members could, in particular, review the works that would be necessary to provide a dwelling in the location.

The Chair thanked Mr A Moss and asked Mr R Wood, Agent for the applicant to speak in support of the application.

Mr R Wood thanked the Chair and noted he would focus on the points raised by the objectors. He noted the Parish Council objected as the application was in the green belt, however the site is not in the green belt and green belt policy is not a consideration in this case and therefore the application was not required to demonstrate special circumstances nor were they required to be considered.

Mr R Wood referred to Mr A Moss's claims in terms of the use of the building. Mr R Wood noted that the sole use had been agricultural use, with the information provided by the applicant showing a tractor and farming paraphernalia. He added there was a letter from WA Clarke and Sons noting the use for managing livestock, as recent as last year. In respect of claims of alternative use for household storage, he noted that the S Seymour referred to by Mr A Moss was Mr Steven Seymour, not the applicant Mr Stuart Seymour. He reiterated the building was not used for a household storage business, rather the applicant may have stored a few of their broken chairs in their building. He noted the application had demonstrated the use was agricultural.

Mr R Wood noted Mr A Moss had referred to the Hibbett case and explained that case had been in reference to a mono-pitched barn / lean-to with only one wall. He added that the application before Members had a structural survey that included calculations and a scope of works that articulated how the conversion would be achieved and make reuse of the materials and walls. He added that legislation allowed for insulation, replacement, windows, walls, drainage and so on and that was what the scheme before Members exactly did. Mr R Wood reiterated that the Council's Structural Engineer had stated the building was capable of conversion.

In reference to visual impact, Mr R Wood noted that as a prior notification landscaping was not included in the legislation. He noted it would be consistent as would the character, looking like agricultural buildings. He concluded by noted it was felt that the application met all of the relevant criteria.

The Chair thanked Mr R Wood and asked Officers to respond to the points raised.

The Principal Planning Officer, Paul Hopper reiterated the comments of the Planning Officer, noting the type of application, permitted development rights and the prior notification procedure. He added that planning permission was not required, however the Local Planning Authority could apply conditions. He added that Mr R Wood was correct in stating that green belt policy did not apply in this case. The Principal Planning Officer noted that in determining the application, it was felt by Officers that the development was permitted development in terms of Class Q, having been assessed. He added that Officers assessed the points against the seven criteria and noted that the Authority was satisfied that the building was in agricultural use at the time, with a number of pieces of evidence having been submitted including an agricultural holding reference number, grants provided, the use of the land by a local farmer, and photographic evidence of pens sub-dividing the space. The Principal Planning Officer noted that the proposed works would retain the existing block walls, with a slight extension, and added that timber would be salvaged and cleaned and replaced as necessary. He noted the likely replacement of the roof, should it be found to contain asbestos and reiterated that Officers had confirmed the permitted development and therefore had put forward a positive recommendation to Members.

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

Councillor L Brown noted she was not a structural engineer, however, she noted the points raised by Mr A Moss and added that a site visit may be beneficial to see if the application was in line with policies.

She noted that the Principal Planning Officer had noted there were no grounds, however, she found it strange a 2015 Order superseded the NPPF and Policies 10 and 20 of the County Durham Plan (CDP).

Councillor J Quinn asked, through the Chair, as regards the provision of solar panels, and insulation that would be provided in the scheme. The Chair noted he would allow the Agent for the applicant to respond. Mr R Wood noted that renewables would be used as far as possible and would be looked at, though were not included in the scheme, noting the need to be mindful in terms of the visual aspect of the scheme. In reference to materials, Mr R Wood noted that insulation that met building regulations would be provided, with the steel material to be used having an insulating backing layer such to meet efficiency standards. Councillor J Quinn thanked Mr Wood and noted he agreed with Councillor L Brown in terms of visiting the site. The Chair noted that in order to accommodate a site visit the application would need to be deferred. The Principal Planning Officer noted that in terms of timescales for determination there was no scope for a deferral, rather for Members to approval or refuse the application.

Councillor K Shaw noted he understood the concerns raised, however, he felt a site visit would not make Committee Members any more expert on structural engineering and therefore he would move the application be approved as per the recommendations and conditions set out within the report. Councillor S Deinali seconded the motion for approval.

Councillor J Elmer thanked Officers for the clarification as regards the rules relating to the application, it being for prior notification and not the usual type of application Members considered at Committee. He noted the 2015 Order referred to permitted development not being intended for new structural elements. He noted that he felt there were new elements and, while the building was capable of conversion, there was significant new building works required. He added that should the roof contain asbestos and that too would then require replacement, even more significant structural work. He asked why a survey had not been done prior to the application in terms of asbestos in the roof as he felt should it need to be replaced that would represent significant structural works. He also asked as regards the potential for replacement walls, noting there appeared to be a lot of unknown quantities Members were required to consider.

The Principal Planning Officer noted that the Local Planning Authority was satisfied that replacement of the roof would form part of conversion and in terms of the structural report, the Council's Structural Engineer had been satisfied. He reiterated the style of the building was agricultural and that the proposals were considered to be reasonable. Councillor J Elmer noted it seemed to him they were in conflict with the permitted development rights as in the Order.

The Principal Planning Officer noted from the survey, the building, the concrete pad and steel were capable of conversion, and that existing block and timber work would be cleaned and replaced as required, and the roof would be replaced if asbestos was found, and that was within the scope of the General Permitted Development Order.

The Lawyer (Planning and Highways), Neil Carter noted that an expert structural report had been provided, and as it was understood the Committee were not necessarily experts on structural engineering, it was reasonable for Members to rely upon the structural report. He noted that the potential replacement of the roof was specifically within the scope of Class Q and Officers had noted that such replacement would not take the application outside of the Class Q permitted development regime.

Councillor C Kay noted that while he was an engineer, he was not a structural engineer. He added that he respected the opinions of fellow engineers and therefore he felt the grounds for conversion of the building were sound. In terms of whether the development was permitted development, he noted Officers had stated that it was permitted development and therefore he would be supporting the motion for approval.

Upon a vote being taken it was:

RESOLVED

That prior approval be required for the matters listed in the report and **APPROVED** subject to the conditions set out within the report.

Councillor L Brown left the meeting at 10.17am

b DM/21/00669/FPA - 115 Gilesgate, Durham, DH1 1QG

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 for the conversion of vacant dwelling to provide 4no. 2 bedroom residential apartments (C3), single storey extension to side, various external alterations, associated dual vehicle access points, off-street parking and landscaping and was recommended for approval, subject to conditions.

The Senior Planning Officer noted that following updates, the City of Durham Parish Council no longer objected to the application, however, further objections had been received referring to matters including the highway configuration, no areas for delivery/refuse vehicles, and no electric vehicle charging points. The Senior Planning Officer noted, if Members were minded to approved the application, that Officers would ask that an additional condition be made relating to renewable energy and carbon reduction.

The Chair thanked the Senior Planning Officer and noted there were no registered speakers. He asked the Committee for their comments and questions.

Councillor J Elmer noted he was pleased to see the change in terms of access arrangements and asked as regards cycle storage and renewable technologies, such air-source heat pumps and improved insulation. The Senior Planning Officer noted that cycle parking was covered under Condition 12 relating to the management strategy scheme for the development and that renewable energy technologies would be covered within the additional proposed condition.

Councillor J Elmer moved that the application be approved, he was seconded by Councillor J Quinn.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions set out within the report and an additional condition relating to renewable energy and carbon reduction.

6 Special Meeting - July

The Chair noted that a special meeting of the Committee would be scheduled for Monday, 18 July 2022 at 9.30am, that being in addition to the scheduled meeting to be held Tuesday, 12 July 2022 at 9.30am.