

## **DURHAM COUNTY COUNCIL**

### **AREA PLANNING COMMITTEE (CENTRAL AND EAST DURHAM)**

At a Meeting of **Area Planning Committee (Central and East Durham)** held in the Council Chamber, County Hall, Durham on **Tuesday 12 February 2013 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chair)**

**Members of the Committee:**

Councillors A Bell, J Blakey, G Bleasdale, J Brown, P Charlton, S Iveson, A Naylor, R Liddle, J Moran and J Robinson

**1 Apologies for Absence**

Apologies for absence were received from Councillors C Walker, J Bailey, D Freeman and A Laing.

**2 Substitute Members**

Councillor A Naylor substituted for Councillor A Laing.

**3 Minutes**

The Minutes of the meeting held on 15 January 2013 were confirmed as a correct record and signed by the Chair.

**4 Declarations of Interest**

Councillors A Naylor and G Bleasdale advised the Committee that in relation to application PL/5/2012/0411 – Evergreen Caravan Park, Coast Road, Crimdon Dene, they had both been present when the original application had been considered and approved by the former Easington District Council.

The Solicitor advised that this did not constitute a prejudicial interest in the application, and therefore did not prohibit them from participating in that item of business as normal.

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

**4a 4/12/01083/FPA – Land off Potters Bank, Durham**

The Committee considered a report of the Senior Planning Officer regarding the erection of 22 dwellings with associated infrastructure and landscaping at land off Potters Bank, Durham (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting.

Mr B Corrigan, local resident, addressed the Committee. He advised the Committee that, in principle, he did not object to the proposed development, however he drew attention to one aspect of the development which gave him cause for concern, though he believed to be easily resolvable.

Mr Corrigan advised the Committee that the first proposed property on the development would have an overbearing impact on properties within The Orchard, which directly adjoined the development site. Members were advised that the land behind the Orchard rose rapidly. Mr Corrigan advised that rather than step up the developments gradually from existing ground level, the proposal for Plot 1 was to erect a 10 feet high retaining wall. This, he believed, would have an overbearing impact on existing properties, and furthermore was contrary to Policy H13 as it would have an adverse effect on residential amenity.

Mr Corrigan suggested that this issue could be resolved if the developer would agree to develop Plot 1 at existing ground level. He advised that the developer had felt it not possible to do this due to drainage issues, however Mr Corrigan believed that further issues could also be overcome by pumping into the main sewer or installing a septic tank.

As he had no further objections to the development, he called on the Committee to defer consideration of the application to allow the developer to resolve the issue, and then submit an amended application.

Councillor N Martin, local member, addressed the Committee. He advised the Committee that the adjacent development of Dickens Wynd was designed with a hammerhead, which suggested that there would be further nearby development in the future. This application was now before the Committee, and Councillor Martin believed that, contrary to the plans, it would have been desirable to have a footpath egress between the 2 developments which would have added to the connectivity of the area.

Councillor Martin objected to the suggestion within the officers report that the development site was sustainable and convenient for commercial services. He argued that was not the case, the site was not a central location, indeed it occupied a position on the periphery and there were no local shops and other commercial premises nearby.

He further expressed concerns regarding the fund for a play area and artwork to be allocated by the developer and where that money would be spent, he felt it should be allocated to the Nevilles Cross Division.

Councillor Martin concluded by sympathising with the concerns expressed by Mr Corrigan and supported his request to see the matter being deferred to allow the developer to resolve the issues raised.

Councillor Holland, local member, addressed the Committee. He echoed the comments of Councillor Martin, in that he had no objections to the principle of the development, however he did agree with the objection raised by Mr Corrigan. Furthermore he agreed with the objector that the issues were resolvable.

In referring to Condition 9 of the officers report, he queried where the requirement to have at least 10% of the total energy demand of the development to be from renewable sources, had come from.

Councillor Holland further commented that he believed planning policy U14 and U15 blighted the Planning Authority when determining applications.

Councillor Holland noted that Part 11 of the NPPF had been deemed relevant to the proposal, which was to enhance the natural environment, however he suggested that Part 10 would be more appropriately applied.

Mr Jordan, representing the applicant Charles Church Ltd, addressed the Committee. He advised Members that in terms of sustainability, he had been heavily involved in developing executive homes within Durham, and he could not think of a more sustainable location than the proposed development site. It had good links to local transport and was within an already built up area.

Mr Jordan continued that the location was a sensible site for such a development taking into account the natural shape of the site. From the offset, the developer had been keen to ensure minimal impact on existing properties. Whilst he acknowledged the concerns already expressed, he was confident that the current plans posed no adverse effect on neighbouring properties.

The Principal Planning Officer responded to all comments made as follows:

- Condition 9 – It was acknowledged that Part 10 of the NPPF should actually have been applied rather than Part 11, this would be amended with immediate effect.
- In response to the query from Councillor Holland regarding the 10% requirement for renewable energies, the Principal Planning Officer advised this requirement came from the Regional Spatial Strategy (RSS).
- It was stressed that currently the Council was experiencing something of a policy shift in relation to planning. There was the forthcoming emergence of the County Durham Plan alongside the decision by Central Government to abolish the Code for Sustainable Homes. An increase in building regulations would going forward largely take up the energy requirements of the Code. Whilst concerns from Councillor Holland were acknowledged, for the current time, the Planning Authority could only insist on what was permitted in accordance with the RSS as the most up to date development plan.
- Play Area – it was confirmed that the allocation would be spent within Nevilles Cross division.
- Dickens Wynd – it is preferred to see permeability throughout development schemes. The Principal Planning Officer did feel that the layout of the scheme would not lend itself to a private fenced off pedestrian link dissecting a private garden. Given the scale of the development, and good pedestrian

links along Pottersbank and bordering public footpath no further link was necessary.

- Sustainability – it was acknowledged that Nevilles Cross was devoid of some essential commercial features, however in the context of the city as a whole, it was a Greenfield site in a relatively dense residential area and was in accordance with the overall principles of sustainable development.
- In responding to the concerns raised by Mr Corrigan, the Principal Planning Officer advised that whilst the proximity to neighbouring properties was an initial concern, a lot of work had been done to improve this relationship. In accordance with saved policy Q8 of the City of Durham Local Plan, there was a required separation distances between properties of 13 metres The plans for the development had been reworked and now demonstrated a 35m separation distance, along with the setting back of the retaining wall and relocation of the garage which was felt to be an acceptable compromise.

Councillor Blakey expressed concerns to the suggestion that a septic tank should be installed on the site, she further expressed concerns about potential flooding. She acknowledged the concerns of the objector, she found the Plot 1 property to have an overbearing effect on the nearest neighbouring property. Councillor Blakey agreed that if Plot 1 were built on lower ground, the issue would be resolved.

Councillor Charlton drew attention to paragraph 89 of the report and requested that the requirement for the developer to submit a surface water drainage scheme to be agreed prior to commencement of development, be ensured.

Councillor Naylor queried why there had not been any objection from Northumbrian Water.

The Principal Planning Officer responded to the Committee as follows:

- In relation to bungalows, and housing for the elderly, this would be picked up within the emerging County Durham Plan and the possibility of a percentage allocation would be stipulated;
- He highlighted that Condition 8 to the application made requirements in relation to the surface water drainage scheme.
- Northumbrian Water were satisfied with the discharge rates and made no objections to the application.

Seconded by Councillor Bleasdale, Councillor A Bell moved that the application be approved with the amendment to Condition 9.

**Resolved:** That the application be approved, subject to the conditions outlined in the report, and with the amendment to Condition 9 of the report to replace Part 11 of the NPPF with Part 10.

#### **4b 4/12/00913 – 81-82 New Elvet, Durham, DH1 3AQ**

The Committee were informed that the application had been withdrawn by the applicant.

#### **4c PL/5/2012/0457 – Blue House Farm, Hesleden Road, Blackhall**

The Committee considered a report of the Planning Officer regarding the development of a dwelling (resubmission) at Blue House Farm, Hesleden Road, Blackhall (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members of the Committee had visited the site earlier in the day and were familiar with the location and setting. He drew attention to paragraphs 47 and 48 of the report and the response received from environmental health. The Principal Planning Officer advised that on a single dwelling scheme, it was not deemed necessary to apply conditions to the application regarding matters such as noise and dust. It was therefore proposed that the conditions suggested by environmental health be added as informatives on the application, in respect of considerate construction and wheel washing. Whilst there was an appreciation that section 215 works could warrant future enforcement action, consideration should be given to staff resources, as such informatives were more appropriate in this matter.

Councillor R Crute, local member, addressed the Committee. He advised the Committee that the previous development of 3 houses at that site took in excess of 5 years to complete and caused inconvenience to nearby neighbours.

Whilst Councillor Crute did not object to the principle of infill on that site, he felt that enforceable conditions were appropriate to the application because of the impact of development. His views were supported by the local Parish Council and residents. As such, he suggested four enforceable conditions be attached to the application regarding a limit on operating hours, an on-site wheel cleansing facility, road cleaning and use of the roads outside of the site.

Members were advised that the roads surrounding the site were currently unadopted, which Councillor Crute advised made the situation for local residents worse. The highways were not wide enough to accommodate lorries parking in the area and such parking would potentially cause damage to pavements. Furthermore, mess would be created on the roads from construction vehicles and debris from the site could have an impact on drains.

Councillor Crute concluded by advising that he would be happy to support the development subject to his suggested enforceable conditions being attached to the application.

Mr Olaman, applicant, addressed the Committee. He advised the Committee that he had owned Blue House Farm for almost 30 years, having bought the property from the County Council. The site had been in a derelict state at that time, with a pig sty and several barns also on the site. Originally, Mr Olaman had demolished and removed most of the non functional buildings from the land.

Members were advised that a nine acre field next to the farm was rented from the Council by Mr Olaman each year and in the late nineties, he sold the field to a

developer. The developer was to go on to build 70 houses on that land, however the only way the development could commence was for drains to be run through Mr Olaman's existing land. Mr Olaman had agreed and in return the developer deviated from the original plans allowing him to maintain his existing access to the farm.

Mr Olaman advised that in 2002 he applied for planning permission to develop 5 properties. 2 were completed in a timely manner and sold within 12 months, though he made no profit. He then advertised the further 3 plots, and subsequently sold Plots 1 and 3, with a clause attached to Plot 1 to retain vehicular right over it but for the roadway to be constructed by the buyer.

Plot 2 was retained by Mr Olaman and he subsequently entered into a contract with the buyer of Plot 1 to build him a property at the same time as the other 2 plots. Mr Olaman advised that the development commenced in 2008 however in 2010 the developer went into liquidation, it therefore took a further two and a half years for his property to be completed. He advised that he had a road and a drive outside of his property which he used daily and at no inconvenience.

The Principal Planning Officer responded to all comments made as follows:

- In response to Councillor Crute's comments regarding the enforceable conditions, the Principal Planning Officer maintained that because of the size and nature of the site, informatives would be more appropriate than enforceable conditions. In respect of a wheel cleaning facility, Members were advised that would be more commonplace on a larger site.
- Unadopted highways – Members were advised that notification had been received earlier that day that a change had taken place in relation to the adoption of the drains, which meant that the roads could soon be adopted.
- In relation to the parking of wagons near the site, Members were advised that the Planning Authority could not condition because at the current time the roads were unadopted, therefore that matter would have to be subject to private legal action.

The Principal Development Management Engineer addressed the Committee. He advised that there had been a long delay in the adoption of the roads on Whindyke estate due to an issue with the adoption of the sewers. Members were advised that that issue had now been resolved, the bond had been called in which would allow minor works at Whindyke to be completed, following which the roads could then be adopted by the Highways Authority. This was anticipated to be completed by August 2013.

Having viewed the area at the site visit earlier that day, Councillor Charlton felt that the site did require attention and moved approval of the application, though felt that the enforceable conditions suggested by Councillor Crute, should be applied. The motion was seconded by Councillor Blakey.

Councillor A Bell referred to the entrance to the site which was currently in a poor condition. Having received confirmation from the Principal Planning Officer that the adoption of highways would not include that area, Councillor Bell enquired as to whether a further condition could be applied requiring the entrance to be up to the

adopted highway be brought up to an acceptable standard before anyone took up residence in the property.

The Principal Planning Officer advised that there were ongoing ownership issues and as such there would be a reluctance to apply any such condition. The first section of the road outside of the properties was not in the applicants ownership, and while the applicant could volunteer to develop and maintain the area of the entrance, it was uncertain as to what the legal rights over that area would be.

The Solicitor advised that the Committee could not insist that the works were necessary as part of the development, which was the primary test which should be applied. It was unlikely therefore, that such a condition could be imposed, and though the applicant might wish to give an assurance that the works would be done, he reiterated that it was unclear as to what his legal rights would be.

The Chair brought in Mr Olaman to address the issue. Mr Olaman produced an original document which set out that the owner of Plot 1 would create the road and driveway outside the 3 properties and then proportionally and collectively, the owners of Plots 1, 2 and 3 would contribute to the maintenance. All 3 would be proportionally liable with varying degrees of responsibility, but the construction was the responsibility of the owner of Plot 1.

The Solicitor therefore advised the Committee that while Mr Olaman had a right of access, he had no responsibility to develop and, as produced by the applicant, there were legal covenants which covered future maintenance. The applicant had no control and as such could not undertake upgrade works, Members were as such advised that it was not legally possible for any such conditions to be imposed.

Councillor Bell acknowledged that the entrance road was not part of the application, however felt that the Committee now had an opportunity, having seen the area, to address that problem. The Solicitor clarified that the area was a private shared driveway and the document produced by the applicant detailed the covenants in connection with the sale of the land.

In response to a query from the Committee, the Principal Planning Officer clarified that the land contamination issue was addressed at Condition 5 within the report. The condition required that the applicant address the land contamination issues and then submit evidence to the Council that an assessment had been done. Members were advised that this would normally be done in conjunction with officers from Environmental Health.

In response to a query from the Committee the Principal Planning Officer confirmed that the wall surrounding the site would be reduced in height as part of the highway improvement works. The Principal Development Management Engineer clarified this would be done to allow for the development of 2 parking bays on the site, the wall would be reduced to allow good visibility of the road from those bays.

The Solicitor clarified the conditions which were to be applied to the application. Two conditions would be applied relating to the operating hours on site during development, and the provision of a wheel cleaning facility on site.

The Principal Planning Officer advised that whilst the site may not be of sufficient size to accommodate a trough style cleaning facility, a hand jet wash may prove more appropriate.

In response to a query from Councillor A Bell, the Principal Development Management Engineer clarified that the site plans illustrated a widened entrance to the site with the existing wall to be completely removed at the point of entrance.

**Resolved:** That the application be approved subject to conditions detailed within the report and additional conditions considered necessary by the Committee (including specific conditions on operating hours and wheel cleaning facilities), with responsibility for the wording of the additional conditions delegated to the Principal Planning Officer.

**4d PL/5/2012/0411 – Evergreen Caravan Park, Coast Road, Crimdon Dene, TS27 4BW**

The Committee considered a report of the Planning Officer regarding the development of a dwelling (resubmission) at Blue House Farm, Hesleden Road, Blackhall (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site.

Mr Drummond, applicant, addressed the Committee. He began by advising that when the application had originally been considered and approved by the planning committee of the former Easington District Council, no restrictions had been applied in relation to the occupation of the property. The only consideration for the applicant when he made an application for the relocation of the dwelling in 2008, was for personal reasons and that application was subsequently withdrawn, though it was not a new application.

Mr Drummond pointed out that the caravan site was a retirement park as opposed to a seasonal holiday site, and as such the site did not require a managers dwelling, and he argued that while he was a company shareholder, his house was a separate entity which was removed from the site as a business.

Members were advised that when the application to relocate was under consideration in 2008, it was deemed to be contrary to PP17. Mr Drummond stated that in fact the only grounds for justification were exceptional circumstances and at that time there was no mention of tied occupancy.

When the original application had been approved, Mr Drummond acknowledged that there was a discussion and that ultimately he did agree to the proposed tie between the dwelling and the business, though he had not had an opportunity to seek legal advice.

Mr Drummond further advised that for as long as the planning permission was tied to the business, he was unable to obtain an approximate £15,000 VAT rebate paid



on the self build of the dwelling. He was also concerned about the future, as should he resort to selling the property, he felt his son would be unable to take the property on.

The Principal Planning Officer advised the Committee that the bungalow had originally occupied a more central location and was inextricably linked to the operation of the park, while the current site was much more isolated. Members were advised that when considering the application, regard must be given to current planning policy context and there was no information to allow for a dwelling outside of the site, without tying it in to occupancy.

The Principal Planning Officer did acknowledge that difficulties for the future, as set out by Mr Drummond, however the condition did allow for the future of the park.

Members were advised that the dwelling was inextricably linked to the park, it was the managers property and it should continue to be tied in to the business as managers accommodation. Furthermore, Members were advised that the condition satisfied and accorded with, planning policy.

Councillor A Bell felt that the issue was a difficult one to determine, especially as the Committee were not considering a new application. He agreed with the applicant that the site was more of an estate rather than a caravan park, and appeared to be more of a residential built up area. Councillor A Bell moved to support and approve the application. This motion was seconded by Councillor Bleasdale.

Councillor Bell clarified that the reasons for moving approval were that the site was a sustainable location and it was within an already built up area.

In response to a query from the Committee, the Principal Planning Officer clarified that in 2004 the property was not built and was relocated later to the outskirts of the site.

The Principal Planning Officer further clarified that should the current occupant retire, they would be allowed to remain in the property as the last employed person on the site. The property was seen as a family home, but also as a managers home.

Councillor Moran queried whether the request to remove the condition was for financial reasons. The Applicant responded advised that was not reason for the application and reiterated his earlier statement.

Councillor Iveson queried what would happen with the property should the caravan park be put up for sale. The Principal Planning Officer advised that the condition did allow for the manager to stay on in residence.

Seconded by Councillor Liddle, Councillor Moran moved approval of the officers recommendation.

Upon a vote being taken upon each motion, it was

**Resolved:**

That the application be approved.

**4e 4/12/01139/FPA – 12 Coronation Avenue, Carville, Durham**

The Committee considered a report of the Assistant Planning Officer regarding the erection of a single storey pitched roof extension to the side and rear, and a bay window to the front of the existing dwelling, at 12 Coronation Avenue, Carville, Durham.

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site.

Seconded by Councillor Charlton, Councillor Blakey moved that the application be approved.

**Resolved:** That the application be approved, subject to the conditions outlined in the report.