

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 9 July 2013 at 1.00pm**

Present:

Councillor P Taylor (Chair)

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, D Freeman, C Kay, A Laing and G Mowbray.

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, S Iveson and J Lethbridge.

2 Substitute Members

Councillor A Turner substituted for Councillor S Iveson.

3 Minutes

The Minutes of the meeting held on 11 June 2013 were confirmed as a correct record and signed by the Chair.

4 Declarations of Interest

There were no declarations of interest.

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

5a 4/12/01048/FPA – Land to the South of Oakfield Crescent, Bowburn, Durham, DH6 5DF

The Committee considered a report of the Senior Planning Officer regarding new vehicular access and erection of 43 dwellings consisting of 2, 3 and 4 bed units including associated boundaries, roads, paths and garages together with change of use of land to private garden for properties 7-15 Oakfield Crescent, at land to the south of Oakfield Crescent, Bowburn, Durham DH6 5DF (for copy see file of Minutes).

The Senior 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. It was reported that since the officers report had been published, a further 3 letters had been received, the majority of points related to issues already received in objection letters and subsequently addressed within the report. Some additional points were raised regarding indemnity insurance regarding flooding, that DCC are under obligation to maintain an existing site boundary and that recent development in Bowburn has not helped with a sense of community within the village. Furthermore, since the publication of the report, the Environment Agency had confirmed that they had no objections to the revised application documents and proposed use of field drain.

The local Parish Council had also responded to the application consultation, querying whether the revised plan was to cater for access for future school redevelopment, whether the access road would adequately protect drainage infrastructure and whether this drainage infrastructure would in itself affect school redevelopment plans.

Mr Reed, local resident, addressed the Committee. He was a resident of Oakfield Crescent and objected to the application for the following reasons:-

- He believed that the access road to the proposed development would prove dangerous as it was to be located on a bend of a main road;
- In relation to flooding issues he felt the current drainage system was inadequate and the introduction of 43 new dwellings would exacerbate the drainage structure of Bowburn;
- Committee were advised that there were no plans to connect the field drain to the Northumbrian Water network. The current system stopped at no.29 Oakfield Crescent and merely held water in the ground at that point;
- The fencing at Oakfield Crescent was the responsibility of the Council and as such the developer would not carry out any repairs or maintenance to the fence. He therefore queried whether the Council would request that any necessary repairs could be carried out;
- Mr Reed advised that several properties would lose their privacy as a result of the development and in quoting the Human Rights Act, he highlighted that 2 storey properties should not be built to the rear of bungalows;
- Mr Reed quoted legislation which set down a persons right to light. If a property had enjoyed a minimum of 20 years of light without interrupt, then that property's right to light became absolute. Members were advised that several properties in Oakfield Crescent had enjoyed that same right to light for 36 years and that the proposed development would threaten that right.

The Senior Planning Officer responded to the points raised as follows:-

- Drainage – The response from Northumbrian Water and Environment Agency to the consultation was reiterated. Specific rates had been stipulated which must be adhered to and Members were advised that the site was within flood risk zone 1 which was applied to areas at the lowest risk of flooding.
- Highways – The Highways Officer advised that the average speed on Crow Trees Lane was 47mph as such a 120metre visibility play would be the minimum requirement. The applicant was going to provide a 150metre

visibility splay which would be suitable for a road with a 50mph average speed.

- In relation to the field drainage Members were advised that this was not originally required by any of the internal or external consultees, however the applicant had voluntarily put forward the field drain plan. Furthermore it was a condition of the application that no development shall take place until details of the field drain were submitted, which must include a means of outlet such as a soakway or borehole tank.
- Boundary issues – A new fence was proposed as part of the application and where requests had been made for remedial work or for the retention of trees, those requests had been granted. Complaints about the state of the existing fence had been passed to Neighbourhood Services to address;
- Privacy and Light – Members were advised that in relation to privacy and light, the test which needed to be considered by the Planning Authority was one of amenity. Taking everything into account the application was deemed to be acceptable. The distance between all properties would be in excess of 20 metres and although some were marginally below the required 21 metres, the difference was considered negligible and not sufficient to recommend refusal of the application. In relation to the issue of light, the Solicitor clarified that the right to light was a matter for private law and was not of relevance to the planning committee. Should any property have acquired rights to light under the prescribed Act, then that was a private legal issue. In respect of the Human Rights issues raised by Mr Reed, the Solicitor clarified that having respect for family and private life was a qualified right and required balanced consideration. Providing that a balancing exercise was undertaken when considering the appropriateness of a planning application, then that decision would be HRA compliant.

Mr I Prescott, applicant, addressed the Committee. He reiterated to Members that no objections had been made by any of the statutory consultees. As part of the consultation the developer had facilitated a meeting at a local venue which had been well attended by local residents. Members were advised that two key concerns had been raised at that meeting relating to flooding and boundary issues.

In respect of concerns regarding flooding, Mr Prescott advised that as developers, Keepmoat had witnessed Northumbrian Water becoming increasingly defensive in respect of claims made against them and as a result were much more rigorous in their consideration of proposed developments. The developer had therefore held in depth discussions with both Northumbrian Water and the Environment Agency during the course of the consultation.

The Committee were advised that the run off would be no greater than the existing Greenfield run off via the extensive underground storage. Mr Prescott stressed that both Northumbrian Water and the Environment Agency had fully approved the drainage designs and as such the developer had every confidence in the proposals.

In an attempt to allay any concerns regarding run off from new gardens, the developer had included a field drainage system in the application to mitigate any potential issues. Mr Prescott clarified that the field drain would lead to a borehole

tank and was something which the developer had included in the application voluntarily.

In respect of concerns regarding boundaries, Members were advised that some residents had requested additional trees to be planted. Consideration of trees had been done on a plot by plot basis and letters would be sent to all residents to advise on the measures to be taken. The developer would legally transfer land containing trees into existing gardens and would also carry out any necessary maintenance to ensure that the trees would be transferred in good condition.

Councillor J Blakey, local Member, addressed the Committee. Members were advised that the local Members had been disappointed to be told the full extent of the plans only after boring had taken place on the site and that the development could have been determined under delegated powers without Member involvement.

Councillor Blakey advised that the drains were working to capacity with the existing dwellings and would be unable to cope with the proposed development.

In relation to the adjoining road, the local Members had campaigned for some time to have the speed limit reduced in order for street lights to be installed. Once the lights had been placed in situ it had been noted that two additional lights had been erected, Councillor Blakey queried whether they had been installed in anticipation of the access road for the proposed development.

Councillor Blakey suggested that a much greater splay would be required at the access to the development than as set out in the application, in order to match the speed limits.

Photographs were circulated to the Committee highlighting prolific flooding which had occurred in the area and Members were advised that the same area had flooded approximately four times due to the inadequate drainage system. In addition Councillor Blakey advised that new developments at other sites in the area had also had a major impact on the drainage system and had caused flooding issues.

In relation to the school, Councillor Blakey suggested that although there were no current plans to extend the school, the potential to extend must be taken into consideration. In the future, without the option to extend the premises, local children would be forced to go to schools outside of the village.

Councillor Blakey concluded by advising that there was insufficient local infrastructure to support the proposed development.

Councillor M Williams, local Member, addressed the Committee. He reiterated the objections made by Councillor Blakey and advised Members that as local Members they had been trying to resolve the drainage issues in the village since 2006 which had involved meeting with Northumbrian Water on several occasions. He advised that both the development site and the school field were prone to flooding and one consequence was that mud from those flooding incidents was washed into the gardens of neighbouring properties.

In addition Councillor Williams advised that the nearby pumphouse had always been prone to flooding over the years.

In conclusion, Councillor Williams reiterated the concerns put forward by Councillor Blakey in respect of speeding issues and street lighting.

The Senior Planning Officer responded to the points raised as follows:-

- Awareness of the Application – Committee were advised that notice of the application would have been published on the planning weekly list which was issued to all County Councillors;
- Members were advised that the application would not have been determined under officer delegation due to it being in respect of a major development, therefore would always have been brought to the Planning Committee to determine;
- Drainage & Flood Risk issues – although the significant concerns were acknowledged, the Senior Planning Officer reiterated that none of the statutory consultees had any objections to the application;
- Highways – The Highways Officer advised how the size of splays was calculated and he assured the Committee that the Highways Authority were confident and satisfied with the visibility splays as detailed in the application.

Members of the Committee expressed concerns about the application based on the past flood issues which had occurred in the area.

In response to a query from Councillor Conway, the Senior Planning Officer clarified that the Senior Drainage Officer had assessed the field drain plan and the results of the Flood Risk Assessment and had no objections to the application. The Senior Planning Officer also pointed out that Members must concentrate on the application site and development before them and would question weight that could be given to flooding in other areas of the village unless there is a certain link to this site. He further clarified that the 20% affordable housing to be developed as part of the application, met with the required standard.

Councillor Bleasdale advised of a similar development which had been built in the Seaham area where, over time, numerous issues started to occur in relation to water rising in the gardens and patios of the properties. The residents in that area were only able to go to the developer to assist with the issues and Councillor Bleasdale was concerned that similar issues could be experienced should the current application be approved. As such, Councillor Bleasdale moved that the application be refused.

In supporting the motion to refuse the application, Councillor Kay expressed concerns regarding the speed of vehicles travelling along the highway adjacent to the development site where the access to the development would be sited. He further expressed concerns regarding the radius of the bend on that highway and whether the diameter of visibility splay could actually be achieved.

Councillor Kay also expressed concerns regarding the separation distance between properties. He stated that the recommended separation distance of 21metres should be adhered to at all times.

In response to the concerns raised regarding separation distances, the Senior Planning Officer advised that Policy Q8 provided only a guideline. The difference was not be significant the Planning Authority would need to demonstrate why the minor difference in distance was deemed to be materially harmful.

Councillors Bleasdale and Kay clarified that the reasons for refusal were that the application contravened Local Plan Policies T1, Q8 and U10 and NPPF 10 on grounds of on site and offsite flooding, reduced separation distances and the unsuitability of the access onto Tail-upon-End Lane through oncoming vehicle speeds and visibility.

Resolved: That the application be refused.

5b 4/13/00308 – Land adjacent to 67 Front Street, Pity Me, Durham DH1 5DE

The Committee considered a report of the Planning Officer regarding the development of 5 no. new dwellings at land adjacent to 67 Front Street, Pity Me, Durham DH1 5DE (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.

It was reported that since the officers report had been published comments had been received from local Members, Councillor A Hopgood and Councillor M Simmons.

Councillor Hopgood was against the development based on the density of the development on a small area, and that she felt the garden sizes for 5 bedroom dwellings, would be insufficient.

Councillor Simmons also objected to the application for the following reasons:-

- There is not enough space on the site for the proposed screen or to allow trees to grow
- Mature tree planting to the north of the site is covered by a Tree Preservation Order. Construction work would necessitate the roots of these trees being damaged, otherwise the roots of the trees would be under the proposed dwellings.
- The development site is very small for 5 dwellings – cannot see how they will have much or any garden area.
- As family houses they are not on large enough plots of land.

- The proposed development is too dense on such a small site.
- The design of the proposed dwellings is out of keeping with the surrounding area – the proposed development is on a prominent site with old style terraced housing next to it.
- The proposed development is too close to a very busy road network, with the nearby Arnison Centre also generating a lot of traffic.

Councillor Wilkes, local Member, addressed the Committee. Members were advised that he was also opposed to the application.

Councillor Wilkes clarified that residents and local Members were not objecting to any development on the site, the objections were simply in relation to the scale of the proposed development and its impact on the surrounding area and future users. He suggested that 3 or possibly even 4 terraces on the site may have been appropriate, however it was felt that 23 bedrooms worth of family dwellings on an area the size of some gardens, was inappropriate.

In respect of landscaping, Councillor Wilkes stated that the original application from 2011 which determined that the land could be developed, was for the erection of one dwelling house. That application had been approved by Committee with an applicant statement that landscaping was integral to the application, as confirmed by officers.

Councillor Wilkes advised that Policy Q5 of the Durham City Local Plan 2004 stated that all new development which would have an impact on the visual amenity of the area in which it was located, would be required to incorporate a high standard of landscaping in its overall design and layout.

Members were advised that the current application provided completely insufficient landscaping and reference was made to the concerns raised by the Landscaping Officer. Councillor Wilkes advised that those concerns should be acknowledged and the area should be considered in the context that it was formerly an area of veteran woodland right on the boundary of the greenbelt.

Councillor Wilkes advised that the application had been due to be considered at the previous meeting of the Committee however was withdrawn due to concerns he had raised about the lack of proper information in relation to the issue of impact upon trees adjacent to the site which were covered by preservation orders.

In that withdrawn report, Councillor Wilkes highlighted that the Landscaping Officer had stated the number of dwellings should be reduced to avoid pressure on the preserved trees and to allow for a comprehensive landscape scheme to be undertaken.

Councillor Wilkes suggested that view could not have changed as there was no comprehensive landscaping scheme.

As such, his first reason for refusing the application was that it was in breach of Policy Q5 in that it did not incorporate a high standard of landscaping in its overall design and layout and also was in breach of Policies E14, E15 and E16 in relation to the protection of preserved trees, nature conservation and landscaping.

The Committee were advised that a report by the Council's Tree Officer referred to British Standard 5837-2012. It indicated that the roots of the main preserved tree adjacent to the site would have to be cut to carry out the proposed development. However, further to that, the report contained no detail as to how the soil system would be enhanced to take into account the likely damage to the root system, as was a requirement under BS 5837 5.3b.

In addition to that, Councillor Wilkes advised there was an inference that the proportion of the root protection system which would be impacted was not sufficient to warrant concern about damage to the tree. However he felt that failed to take into account the following:

1. In order to build a house foundations were required which would extend out further than the final visible area. In effect more of the tree root system would have to be dug out otherwise the house and steps could not be built;
2. There was no guarantee that the tree root system did not extend further than that of a normal tree. This was because almost all the tree roots must grow into the site and to the south and west as the north easterly side of the site was a cliff face. Tree roots would grow out to where they could and it was therefore probable that more of the roots would be destroyed by the development;
3. In stating that only a small proportion of the roots were affected, Councillor Wilkes felt the reports completely overlooked the fact that the roots which collected water for the tree were at the outer edge of the tree root protection area. It was therefore highly possible that up to half of the water gathering roots could be destroyed by the development.

Members were advised that the same British Standard referred to by the Tree Officer referred to the constraints posed by existing trees. Section 5.2.1 stated that above ground constraints could arise from the current height and spread of a tree, as well as characteristics such as branch drop, honeydew drip, density of foliage. Such attributes according to 5.2.2 could "significantly affect potential land use or living conditions, including the effect of the tree on daylight and sunlight."

Councillor Wilkes felt it was clear that such impacts would occur in relation to the proximity of that tree to the proposed development, yet that was not explained in either the Council or the private company's report, nor was it mentioned in the planning report.

He believed that the likely impact upon the occupants of that property would be detrimental to their amenity in terms of branch drop, honeydew drip, shading, moss, algae and other such issues. He also queried whether the occupants would be able to secure sufficient insurance cover.

Councillor Wilkes stated that all those points raised made the development in breach of Policies E10 and Q8.

Councillor Wilkes raised concerns about 5 bedroom dwellings being developed without any garden space. A small back yard, he felt, did not demonstrate that the properties would have the amenity value required for a 5 bedroom dwelling. He felt this to be a prudent point given that the children living in the dwellings would need somewhere to play given the proximity to the A167, the Pity Me roundabout and Front street with numerous cars travelling on it every day.

Policy Q8 stated that the development should be appropriate in scale, form, density and materials to the character of its surroundings. The proposed development consisted of four and five bed properties whereas the terrace properties along Front Street were all 2 and 3 bedroom. As such the proposed dwellings could not be considered to be in character to the surroundings in their scale.

Councillor Wilkes advised that the density on the site was in excess of 53 dwellings per hectare. When considering the number of bedrooms and the likely number of residents, he suggested that was significantly higher than adjacent properties.

He pointed out that the County Durham Plan, in policy 35, recommended densities on the periphery of villages of 30-50 dwellings per hectare. The proposed development clearly exceeded the top end of that recommendation.

In summary, Councillor Wilkes requested that the Committee refuse the application on the basis of the following points:-

1. That the proposed development of 3 x 5 bed and 2 x 4 bed houses on the restrictive site represented an overdevelopment of the site as the proposal failed to provide adequate private garden areas and was inappropriate in terms of scale, density and character, contrary to Policies Q8 and E10 of the City of Durham Local Plan 2004. Furthermore that it was in breach of Policy Q1 in failing to take into account the layout and design requirements of users.
2. That in relation to the overdevelopment of the site, the development was in breach of Policy Q5 in failing to incorporate a high standard of landscaping in its overall design and layout and would have a detrimental impact on the visual amenity of both the area and the users. Furthermore that the proposals were in breach of Policy H14 in failing to improve and create more attractive residential areas and to improve the environment of existing residential areas.
3. That the impact of development upon the preserved trees was too great and was in breach of Policy E14 in its effect on existing trees, in breach of Policy E16 in failing to protect and enhance nature conservation and failed in its ability to provide sufficient new trees and landscaping due to its overdevelopment as encouraged in Policy E15.

The Principal Planning Officer responded to the points raised as follows:-

- Whilst acknowledging that the dwellings were large, Committee were advised that physically the design was acceptable;

- Density – the proposed dwellings were terraced and so by their very nature, would be compact. In terms of footprint the density did not differ to the adjacent properties;
- Garden Space – the proposed garden space was approximately 12m deep, although would be partly on a slope. However the design of the gardens was not untypical and was deemed to be adequate;
- County Durham Plan – The Committee were advised that the County Durham Plan was not in force at this time;
- Multiple Occupation – The requirements of the NPPF were that some changes of use had to be applied for by way of an application to the Planning Authority. Should the Committee wish to restrict the C3 use class from being amended to a C4 use class in the future, a condition could be attached to the permission not to change the use class without referral back to the Council;
- Trees – The Planning Authority was satisfied that the Tree Officer had no objections to the proposed development, though it was acknowledged that the report had been previously deferred due to there being outstanding arboriculture issues which had since been clarified.

The Council's Landscape Architect addressed the Committee. She confirmed that there had been initial concerns relating to the damage to the Ash tree currently on the site. Several reports had since been done in relation to that tree and assessments had been carried out on the root protection area. It had been concluded that there would be some slight damage.

Members were advised that there would be a 10.54m root protection zone which lay in natural ground, and that zone did not actually reach the neighbouring road.

It was unlikely that the tree would have a symmetrical root flow, but the authority had to adhere to the root protection area based on diameter of the tree at breast height. Members were advised that the canopy of the tree did not overhang the roof of the end property at the current time.

In relation to the soil, the Committee were advised that it was completely natural ground so taking any action may prove detrimental.

In response to a query from a Member regarding the enforcement of a condition restricting change of use, the Principal Planning Officer advised that should a condition be attached and in the future that should be ignored by the developer, it would be up to the Planning Authority becoming aware of the situation and then taking appropriate enforcement action. Alternatively the developer could apply to the Planning Authority to have the condition lifted.

Councillor Kay queried whether the parking arrangements for the dwellings adhered to relevant guidelines. The Highways Officer clarified that currently the Highways Authority had a maximum standard of 1.5 parking bays per property. However Cabinet were due to consider a report which recommended a minimum standard of 2 parking bays per property. The proposed development included 11 parking bays for 5 dwellings so was within both the current and the proposed standards.

Councillor Freeman found the application to be overdevelopment of the site and out of character with the surrounding area. Furthermore he felt there was insufficient garden space for family homes.

Seconded by Councillor A Laing, Councillor G Bleasdale moved that the application be granted. Upon a vote being taken in was:-

Resolved: That the application be approved subject to the conditions detailed within the report.

5c 4/12/00997/FPA – Land at Rowan Court and The Oaks, Esh Winning, Durham

The Committee considered a report of the Senior Planning Officer regarding the demolition of remaining dwellings on site and redevelopment with the erection of 78 no. dwellings on land at Rowan Court and The Oaks, Esh Winning, 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 were advised that since the report had been published all matters relating to the design/layout of areas proposed for shared surfacing had been clarified, as such the last sentence of paragraph 45 of the report could be disregarded.

The Committee were advised that currently, house prices within Esh Winning were at an absolute low, as such the applicant had come forward to advise that they would struggle to deliver the affordable housing requirement. Overall, the predicted values which the properties could be sold for once developed, would be approximately £250,000 less than initially estimated. As such, taking into consideration market values and other key factors, the site was now deemed to be unviable at the current time. However, by bringing the application forward for consideration at this time, would allow the applicant to obtain an EPS license from Natural England because the development proposal would result in the complete loss of 2 bat roosts and disturbance to the small number of bats identified as living in 2 of the properties identified for demolition.

Members were advised therefore that should the application be approved, the site would not be developed immediately.

Seconded by Councillor A Laing, Councillor G Bleasdale moved approval of the application.

Resolved:

That the application be approved subject to the conditions detailed within the report.

5d PL/5/2013/0145 – Dalton Park, Murton SR7 9HU

The Committee considered a report of the Senior Planning Officer regarding the erection of a retail building (A1 use class) at Dalton Park, Murton SR7 9HU (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 were advised that the report should actually reflect that the application sought full planning consent for 1590sqm of non food retail unit, as opposed to the printed 1589sqm.

Furthermore Condition no. 2 of the application should refer to AL(D)102 as opposed to Floor Plan: Non Food Area AS(D)102.

Seconded by Councillor G Bleasdale, Councillor A Laing moved that the application be granted.

Resolved:

That the application be approved subject to the conditions detailed within the report.

5e PL/5/2013/0194 – Hulam Farm, Hutton Henry TS27 4SA

The Committee considered a report of the Planning Officer regarding the erection of an agricultural building at Hulam Farm, Hutton Henry TS27 4SA (for copy see file of Minutes).

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

Seconded by Councillor Laing, Councillor Mowbray moved approval of the application.

Resolved: That the application be approved subject to the conditions detailed within the report.