

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 8 October 2013 at 1.00 pm**

Present:

Councillor P Taylor in the Chair

Members of the Committee:

Councillors A Bell, J Clark, P Conway, M Davinson, K Dearden, D Freeman, B Moir, J Robinson, C Kay and J Maitland (substitute for A Laing)

1 Apologies for Absence

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

2 Substitute Members

Councillor J Maitland substituted for Councillor A Laing.

3 Minutes of the Meeting held on 10 September 2013

Minutes of the meeting held on 10 September 2013 were confirmed as a correct record and signed by the Chairman.

4 Declarations of Interest, if any

There were no declarations of interest.

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

5a 4/13/00079/OUT - Land At Langley Wood House, Sleetburn Lane, Langley Moor, Durham

The Chairman informed the Committee that the application was within his Electoral Division and would only vote if there was a need for a casting vote.

The Committee considered a report of the Senior Planning Officer regarding an outline application for the erection of 9 executive dwellings on land at Langley Wood House, Sleetburn Lane, Langley Moor (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.

Mrs Cowey, objector, addressed the committee. She agreed with the planning officers recommendations to refuse the application as she believed it would destroy an already narrow area of Green Belt. She felt that the applicant had failed to prove any special circumstances and added that the site was identified as unsuitable for housing development in the latest SHLAA report.

Mrs Cowey suggested that the development could not be considered a critical mass as it fell well below 50 plots and she felt that the suggestion that the development would have a prestigious identity was not a reasonable enough argument for approving the application.

The Committee were advised that the development would have an adverse effect on the openness of the greenbelt and could potentially lead to a plethora of similar ribbon developments. Mrs Cowey highlighted that the Planning Authority described the proposals as having only a marginal benefit. She was surprised that the Drainage Officer had no comments to make in respect of the application as she believed that any build would add to the present flooding and standing water issues already experienced in the area.

In relation to the road adjacent to the site, Mrs Cowey advised the development would add to traffic issues in an area where there had been 7 accidents in the last 5 years.

Mrs Cowey concluded by stating that the fundamental aim of greenbelt policy was to prevent urban sprawl and that both national and local policies supported preservation of the greenbelt. She further felt that the applicant had failed to demonstrate special circumstances to justify the development.

Mr S Hesmondhalgh, agent representing the applicants, addressed the Committee. He had become aware of the site 18 months ago and initially found it to be an inappropriate site for development. However having assessed the site further he had found it to be an appropriate infill site and as such, worked closely with the applicants to put forward the best scheme possible. In doing so, he and the applicants closely considered issues of economic benefit, sustainability, drainage and ecology. He now believed that the exceptional economic benefits outweighed any objections, as the project had a value of £10m and £650,000 consumer spend and suggested that the site was of no significant value to the greenbelt.

Councillor M Davinson expressed concerns that while at the site visit he had witnessed motorists exceeding the 30mph speed limit on the road adjacent to the site and on a tight bend. In moving refusal of the application Councillor Davinson stated that he did not believe there to be exceptional circumstances which would

warrant supporting the development and further, did not believe that £650,000 of developers spend would be invested in Langley Moor.

Councillor A Bell acknowledged that though the site was in a reasonably sustainable location, Planning Policy had identified the site as part of the Durham Green Belt. In supporting the motion to refuse the application he suggested that the applicant work with the Planning Policy team to explore whether the site could be removed from the greenbelt.

Councillor D Freeman was not in favour of building on Durham Green Belt and would support officer recommendations.

Upon a vote being taken it was,

Resolved: That the application be **REFUSED**.

5b 4/13/00422/OUT - Land To The North Of Willowtree Avenue, Gilesgate Moor, Durham

The Committee considered a report of the Planning Officer regarding an outline application for residential development of a maximum of 54 units on land to the North of Willowtree Avenue, Gilesgate Moor with all detailed matters reserved except access (for copy see file of minutes).

Councillor Moir left the Chamber before the presentation by the Officer and did not return until after the determination of the application.

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.

The Committee were advised that the Electoral Division referred to within the report should be Belmont rather than Gilesgate.

The Principal Planning Officer advised of additional conditions to be included to the application as follows:-

- No development works shall be undertaken outside the hours of 7.30am and 6pm Monday to Friday and 8am to 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policies H13 and Q8 of the City of Durham Local Plan 2004.

- Conditions 11 and 12, as detailed on page 35 of the report should be amended to read as follows:

No development shall commence until:

a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and said report has been submitted to and approved by the Local Planning Authority;

b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the Local Planning Authority;

For each part of the development proposal, the "contamination proposals" relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development and completed prior to the occupation of any dwelling.

If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and

After remediation measures are implemented, a final validation statement shall be submitted in accordance with the "contamination proposals" and agreed in writing by the Local Planning Authority prior to the occupation of any dwelling.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised having regards to Policy U11 of the City of Durham Local Plan.

Councillor B Howarth, Chair of the Belmont Parish Council Planning Committee, addressed the meeting. She highlighted that several applications for development on the site had already been refused and nothing had changed to justify approving the current application. The Parish Council had serious concerns over ecological loss, increased traffic and road safety. There was no provision for a play area within the application and Mrs Howarth also expressed concerns as to whether a permanent safety fence would be erected around the electricity pylons which would remain on the site.

The Committee were advised that the area was prone to drainage problems and freezing hazards in winter months. There were also concerns further to the results of an environmental desk top study which had been undertaken by Northumbrian Water, which had assessed old mine workings beneath the site and warned of the potential effects which gases from that area could have on health. In particular, that report had recommended that no food should be consumed on the site, this would need to be considered if any works were to be undertaken.

Mrs Howarth informed the Committee of the outcome of a recent Parish plan survey where the majority of those surveyed said no to further housing, unless there were plans to develop flats or bungalows on the site. She strongly urged refusal of the application but requested that should the application be approved, a strict condition be attached to the permission to ensure the protection of trees.

Mr L Thomson, objector, addressed the Committee. He drew attention to the number of previous applications that had been turned down, some at appeal level. Although applications had been approved on the site, firstly for the grazing of horses and subsequently for the development of stables, Mr Thomson advised that the applicant had never actually used the site in accordance with those approved permissions.

He felt that the scale of the development was too high in density and he referred to the comments of the Design and Conservation Officer who found the proposal to be rather excessive in scale. There was no shortage of housing in the area, a number of houses were up for sale and he objected to the loss of green space. He pointed out that the entry near the junction was very poor and that he himself had been knocked down by a car near Willow Tree Avenue. Any increased traffic would exacerbate the problems in an already extremely high traffic area. He added that in winter residents experience flooding and icy patches.

The Committee were advised that local residents found the style of dwellings proposed were not in keeping with existing properties and there were also concerns that the development would destroy the privacy for those living in the vicinity of the site. He asked that the Committee refuse the application as it would affect residents safety and quality of life.

Ms J Davis, agent for the applicant, addressed the Committee. Members were advised that the layout of the site was only indicative at this stage, purely to allow the Planning Authority to determine whether that scale of development could take place on the site. In referring to paragraph 78 of the report, Ms Davis advised that an ecological phase 1 should have been included and apologised that it hadn't been.

She felt that the application was within development limits of the local plan and had been identified as a suitable infill site in the 2012 SHLAA. The site was further listed as preferred site in the emerging County Durham Plan.

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

- Layout – All matters ie scale of development, were reserved and it was highlighted that the application would be for a maximum of 54 units;
- Flooding – The Drainage Engineer was confident the scheme can be developed;
- Scale of Development – The Principal Planning Officer reiterated that there was no guarantee that apartments would be delivered and the details of the application could change given its speculative nature;
- Rights of Way – Any proposed diversions to public rights of way would be subject to relevant consultation;
- It was reiterated that the application included a contribution towards open space and recreational facilities;
- Although a dense boundary already existed, a landscaping scheme would be introduced in due course;
- Gas monitoring works were picked up in investigations and in conditions
- 20% affordable housing would be delivered;

- Although the application conflicted with the City of Durham Local Plan in part, both the NPPF and the emerging County Durham Plan found the site to be sustainable and thus its proposed allocation as a Housing Site.

Councillor P Conway moved to reject the application after taking into consideration the views of the objectors, agent and planning officers. He found paragraphs 4 and 5 of the officers report to be conflicting in that while the only matter requested for consideration by the Committee was the access to the site, it was also reflected that the application constituted a major development.

He felt that although the NPPF provided guidance to Planning Authorities, it was important for all applications to be judged on a case by case basis.

Councillor Conway referred to paragraph 89 of the report which provided a warning regarding reliance on the County Durham Plan, and reiterated that the document was at consultation stage and would not be adopted until the end of 2014. The City of Durham Local Plan was in place and Councillor Conway felt that it was questionable that all considerations raised within the report were in line with that document. In particular, Councillor Conway felt the application contravened Policy E5a – Open Spaces within settlement boundaries; Policy H2 – New Housing Development within Durham City.

In relation to the access to the development, Councillor Conway found the objections raised to be very succinct. Although all previous development in that area had been sustainable, the development of 54 more dwellings would exacerbate traffic issues. The site visit earlier that day had been held at what would be considered a quiet time in terms of traffic, yet the traffic had still been at such a level that problems were encountered by Members trying to cross the highway. Councillor Conway further commented that the estate would predominantly be a commuter estate and as such would contribute nothing to sustainable transport.

He noted that while there were numerous objectors, including the local Parish Council, there appeared to be no support for the scheme. In its current format Councillor Conway could not support the application as it was contrary to the current Local Plan and would not be on previously developed land and harm the appearance of the area. He suggested that should the applicant bring a future application forward, it should be a full application incorporating full details of the scheme.

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

- Consideration was only to be given to the principal of the development. All matters were currently reserved and would not be subject to consideration until a future application was brought forward.
- NPPF - the document accepted that not all the needs of future development would come forward on previously developed sites and that in some instances green field sites would come forward to meet that need subject to sustainability considerations. The NPPF emphasised the need to focus on sustainable development and the presumption in favour of it. The site met that criteria hence its support in the emerging plan, whereas policy H2 of the

2004 Local Plan was no longer considered fully consistent with the NPPF in that it only permitted development on previously developed land.

In response to a query from Councillor M Davinson, the Highways Officer advised that the adjacent highway was a very busy road with a volume of 13,000 vehicles a day. He expected the proposed development to add 35 peak hour two way trips and 24 departures per hour from the junction. Such an increase would not have any significant material impact on the highway.

Councillor D Freeman seconded the motion to refuse the application and upon a vote being taken it was:-

Resolved:

That the application be **REFUSED**.

5c CE/13/00598 - Land at 20 Faraday Court, Neville's Cross, Durham

The Committee considered a report of the Planning Officer regarding an application for the erection of a detached dwelling to the east of 20 Faraday Court, Neville's Cross, 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.

The Principal Planning Officer informed the Committee that 7 mature trees had been removed from the application site and was investigated at the time of removal. No action could be taken over their removal as they were not subject to any control by way of Tree Preservation Order (TPO). A TPO had been served since on the Sheraton Park estate to protect the remaining mature trees.

The Committee were informed of a further letter of objection to the application which had been received since the report had been published. The concerns contained within that letter accorded very much with objections already raised, relating to impact on privacy from elevated windows, the estate was already developed to maximum capacity; the design was not in keeping with other properties; the development would be too close to the remaining trees.

The Highways Officer clarified that there were no issues from a Highway perspective. 2 parking spaces were standard and would be provided. The issue of the shared driveway was not a consideration as it was not a public highway. The applicant could seek to access the area via the right of way to the rear of the properties, which would require an application for a temporary road closure to the Highways Authority and the landowner.

Mr S Lonsdale, local resident, addressed the Committee. Mr Lonsdale advised that he objected to the application on various grounds as follows:-

- There were already disputes regarding car parking on Faraday Court, which would only be exacerbated further should the application be approved;
- Although it was acknowledged that the scale of development had been amended, Mr Lonsdale found those reductions in size to be insufficient;
- It was highlighted that the Landscape Architect had objected to the original application as she had considered the proposal to be overdevelopment of the site – Mr Lonsdale queried whether that officer had made any comments since the plans had been amended;
- In terms of parking, Mr Lonsdale advised that any vehicles to be parked on the drive of the new dwelling would need to reverse some 100ft, which was felt to be extremely dangerous;
- The Committee were advised that one of the letters supporting the application was from a person who did not actually live on the estate, while another supporter was biased towards the application;
- Although it was acknowledged that there was an existing planted row of young trees to the east of the site, it was felt that contrary to the officers report, the growth of those trees would do little to soften the development;
- Concerns were raised that light pollution from the proposed development would have a detrimental affect on the surrounding conservation area;
- Mr Lonsdale suggested that paragraph 57 of the officers report was incorrect as there would be windows on both elevations of the property;
- It was felt that the application contravened the NPPF which stated that the natural environment was essential to wellbeing. Mr Lonsdale suggested that sustainable development should be about change for the better however the proposed development neither improved or restored the wellbeing of the estate;
- The trees which had previously been removed from the site had been an asset to the estate and the application offered no means of enhancement to the surrounding area;
- Mr Lonsdale suggested that the application contravened Saved Policy E14, Policy Q5 and Policy T1.

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

- Landscape Architect Comments – The Planning Authority took the view that irrespective of the concerns raised, in planning terms the scheme was acceptable;
- Light Pollution – In terms of light pollution from the development affecting the conservation area, it was reiterated that the Conservation Officer was satisfied with the scheme.

Dr P MacLaurin, applicant, addressed the Committee. He felt that the earlier site visit was not an accurate reflection. He stated that a neighbour had staged obstructions by parking 4 cars in the street and he reminded the committee that Highways Officers had reviewed the application and had no objections. He claimed there had been a campaign against development and he had been intimidated by neighbours since having trees removed from the site. Dr MacLaurin advised that house building was a priority in the area and he had spent a considerable amount

of time with the architect on amending the original design to significantly reduce the footprint to be more in keeping with the street.

In referring to the letters of objection which had been received by the Planning Authority, Dr MacLaurin advised that although 8 letters had been received, they were sent from only 5 sources.

The Committee were advised that the trees had been professionally removed, as had other trees on the estate, though the only concerns raised had been in respect of the trees Dr MacLaurin removed. Furthermore the proposed dwelling was fully clear of any root protection zones and had the approval of the Planning Authority.

Councillor N Martin, local member, addressed the Committee. He clarified that the street referred to in paragraph 57 of the report should be Westhouse Avenue and not Westcott Drive. Councillor Martin drew attention to the 300 houses already approved at Mount Oswald and 250 approved near Merryoaks, and suggested that the applicants argument of much needed housing in the area, was not correct.

Members were advised that the original plans for the estate were designed to create a building line that should not be allowed to be extended. The direction of the footpath adjacent to the site was deliberate in that it provided a building line which should not be broken.

Councillor Martin advised that vehicle manoeuvrability was a major problem on an evening and weekend within Faraday Court. He also expressed concerns on the issue of 'garden grabbing', informing Members that the Government deliberately changed the designation of garden land from brownfield to Greenfield, in a bid to prevent garden grabbing applications.

The Committee were advised that the development was out of character with the surrounding dwellings and was concerned that lanes to the rear of the development would be used for building access, as the area was very well used by pedestrians.

Councillor Martin concluded by commenting that should the application be approved it could potentially exacerbate the disputes between neighbours regarding land ownership, parking and manoeuvrability.

Councillor B Moir was persuaded by the objections which had been raised, particularly in relation to the access issue. He was also concerned about the detrimental impact on the visual amenity on the border of the Conservation line and moved that the application be refused.

The Solicitor advised the committee that ownership of a shared drive was a private law matter between the applicant and their neighbour and could not be put forward as a reasonable reason for refusal.

Councillor C Kay did not believe that the argument of garden grabbing was sufficient grounds for refusing an application, noting that the NPPF encouraged development in sustainable locations. However he agreed that it appeared the

layout of the path was such that the original intention had been for it to act as a building line.

Councillor A Bell felt that the removal of the trees by the applicant had been deliberate and queried whether the site could now be protected. The Principal Planning Officer clarified that protection could only be applied to land within a Conservation area or with a Tree Preservation Order, neither of which applied to this particular site.

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

- Garden Grabbing – The change of designation of garden land by the Government had particular relevance in the south of the country where there had been a mass of over developed land. In this area, the issue of garden grabbing was less relevant and so an assessment had to be made as to the harm a development would have, and in the case of the current application, no such harm was identified;
- There were no relevant planning grounds to prevent the build and refuse the application.
- Building Lines – Although a building line was perceived to be present on the estate that did not mean that development could not take place beyond that line.
- All key issues such as principle of development, highways issues and residential amenity had been thoroughly addressed within the report.

The Solicitor advised that the NPPF had revoked the document which referred to garden grabbing.

Councillor Freeman believed the site would be over developed and felt that the original development of the site set out a clear line of development. The proposed build would be a barrier between Clay Lane and would damage the character and appearance of the area.

Councillor Conway suggested the parking issue could lead to neighbour disputes and may also prohibit access for emergency vehicles. He added that the applicant statement in paragraph 43 of the report stated the reason for the build was to address changes to domestic circumstances. However the application was not for an extension of the present home but a separate detached building at the end of a terrace. He felt that a terraced dwelling would be more in keeping with the immediate area.

The Principal Planning Officer was unconvinced that the concept of a building alignment applied in this instance. There was no visual obstruction or loss of privacy and the relationship between the proposed development and neighbouring properties was acceptable on planning grounds.

The Applicant pointed out that there was a detached property to the north of the application site which was itself at the end of a terrace. He clarified that the reason for developing a detached property was to allow access on foot to the rear of both properties which could not easily be achieved with a terraced design.

In response to a query from Mr S Lonsdale, objector, the Principal Planning Officer clarified that there was adequate land on which a condition could be imposed on the permission to stipulate the inclusion of landscaping.

Seconded by Councillor Freeman, Councillor Moir moved refusal of the application on the grounds that the application contravened Policy H13 – Residential Areas and Policy Q8 – Layout and Design.

Upon a vote being taken it was,

Resolved:

That the application be **REFUSED**.

5d CE/13/00786/FPA - 47 Beech Close, Brasside, Durham DH1 5YB

The Committee considered a report of the Planning Officer regarding a single storey rear extension and single storey side extension to 47 Beech Close, Brasside, 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.

Dr E Jones addressed the Committee speaking in objection to the application on behalf of a resident who lived adjacent to the applicant. The objector was uncertain as to how the extension would connect to her property but believed that connecting boundary walls would increase the risk of dampness from the flat roof. Issues regarding damp were already being experienced due to poor workmanship on the guttering of the property. Dr Jones referred to the Party Wall Act which gave guidance on the thickness of cement and felting which must be used between properties.

Dr Jones advised that the objector was concerned that the connection would change the status of the property from detached to terraced and according to an estate agent would devalue the property by £10,000. She was also concerned that the applicant may decide to develop a first floor extension in the future.

The applicant had made no provision for bin storage which the objector believed would end up being left on the street. The objector had requested that should the application be approved, a condition be imposed to restrict the hours of building works to 9am - 5pm Monday to Friday. Furthermore it was requested that a further condition be imposed requiring bin storage to be included at the property.

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

- The standard of workmanship on the roof of the property was not a material planning consideration, nor was the potential devaluation of the objectors property;

- The imposition of a condition restricting the hours of works was not usual for applications of this scale, however Members could require such a condition if it was felt necessary;
- Should the applicant wish to extend on the garage in the future, that application would have to be considered on own merits;
- An informative could be applied to the application for the applicant to consider the provision of bin storage, though a condition would not be usual practice.

The Solicitor added that the issues relating to the Party Wall Act were private legal matters and not relevant to the Committee's consideration of the application.

Councillor A Bell acknowledged that private matters are out of the hands of the Committee and indicated that he would approve the application with the addition of conditions limiting the times for building works and addressing the storage for bins.

Councillor M Davinson stated that he observed 2 sets of bins on the street during the earlier site visit. He had since contacted the relevant service to have wardens inspect and ensure the street remained clear.

Councillor K Dearden felt that it would be unfair to prevent the application as a neighbouring property had been granted the same permission previously.

Upon a vote being taken it was,

Resolved:

That the application be **APPROVED**, subject to the conditions outlined in the report and an additional condition considered necessary by the Committee relating to working hours, together with an informative relating to bin storage, with responsibility for the wording of the additional condition delegated to the Principal Planning Officer.