

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Crook on **Thursday 23 January 2014 at 2.00 pm**

Present:

Councillor M Dixon (Chairman)

Members of the Committee:

Councillors J Buckham (Vice-Chairman), D Bell, J Gray, E Huntington, I Jewell, S Morrison, H Nicholson, A Patterson, L Taylor, R Todd and C Wilson

Also Present:

J Byers – Planning Team Leader (South and West Area)
A Caines – Principal Planning Officer
C Cuskin – Legal Officer
D Stewart – Highways Officer

1 Apologies for Absence

Apologies for absence were received from Councillors J Clare, K Davidson, G Richardson and S Zair.

2 Substitute Members

Councillor J Gray substituting for Councillor J Clare and Councillor I Jewell substituting for Councillor K Davidson.

3 Minutes

The Minutes of the meeting held on 12 December 2013 were agreed as a correct record and were signed by the Chairman.

4 Declarations of Interest

There were no declarations of interest.

5 Applications to be determined

5a 3/2013/0304 - Lilac House, South View, Hunwick, Crook

Consideration was given to the report of the Principal Planning Officer regarding an application for the change of use from dwelling house (Use Class 3) to children's home (Use Class C2) (for copy see file of Minutes).

A Caines, Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

In presenting the report the Officer advised that paragraphs 43 and 58 should be amended to state that the fear of crime was a material planning consideration in this case which carried less weight. Members were advised that it was for the Committee to determine how much weight to attach to the fear of crime as a material planning consideration.

Members were also advised that since the report had been circulated a further letter had been received on behalf of objectors to the application. The letter highlighted the need to give greater weight to the fear of crime and suggested that there was evidence which directly linked the proposals to increasing crime and anti-social behaviour.

Children in the 11 to 16 age group were more likely to have convictions or warnings from the judicial system. Department of Education research 'Living in Children's Homes' found that 66% of children in care had been convicted or had received a reprimand or final warning. The study also identified high incidents of children going missing all night and that this was more likely among those who had been placed further from home.

Instances of crime had increased in Cockfield since the children's home had opened in the village. The objectors asked that all these factors be taken into account by Members in their deliberations.

Councillor Gunn addressed the Committee as local Member. She lived in Hunwick but some distance from the children's home, and having sought advice was of the view that she could speak on the application but would leave during Member deliberation and voting.

She informed Members that she had referred the application to Committee because of residents' concerns about traffic and parking in that part of Hunwick. The Highways Authority had offered no objections to the proposals but residents had regularly reported a perception of cars speeding in the village and Councillors had met with Officers in the past to discuss the issues.

Speed rumble strips had been installed and a speed survey carried out had shown that over 5% of vehicles were travelling in excess of 36mph, and recorded 85th percentile vehicle speeds were above the 30mph speed limit.

She continued that as Hunwick was a small village speeds of even 4mph over the limit posed a danger. As well as serving the residents of Hunwick the B6286 was a through road. Off-street parking was problematic and cars parked on both sides of the road. The road was also used by larger vehicles such as horse boxes.

Lilac House was located near to the primary school, the Church and a blind bend, and she was concerned that additional traffic generated by the children's home

would increase the danger residents already faced on a daily basis in this part of the village.

To conclude Councillor Gunn referred to a factual error in the report in paragraph 27. The bus service which operated between Durham and Hunwick had been withdrawn some months ago, and this could cause problems for visitors to the children's home who did not have the use of a car.

Mr S Barker, Planning Consultant addressed the Committee on behalf of residents. He explained that residents had faced previous attempts to develop this site which had met with opposition from the village. The report stated that the application was deemed to be acceptable and that it would not adversely affect village life, however he believed this view to be fundamentally flawed and was not a true reflection. The Police, the local MP and Children and Adult Services had opposed the application.

Lilac House would provide a facility for children with behavioural difficulties and in reality homes such as this presented issues of crime. Eyes UK had no track record in the management of children's homes.

The home would not provide for children within County Durham and he noted that the Secretary of State had recently condemned the practice of decanting. The report had no regard for the impact on Social Services or the Police. Statistics showed that it was more likely that a child in care had already been in trouble with the Police; 66% had either been convicted or cautioned, and 50% of children were known to offend when in care.

The Council had not asked the residents of Cockfield for their views about the children's home located in their village and had been informed by a resident that the Police were often called out to address problems. He therefore suggested that consideration be given to deferring the application to seek the views of local people in Cockfield. He also believed that Planning Officers had not examined available evidence and statistics surrounding children's homes.

He reiterated that the local MP had opposed the application and stated that the Government was looking at ways to ban privately run homes.

Children's homes posed very real threats and there were valid powers to refuse the application in accordance with the NPPF. In conclusion he stated that the Government attached real importance to this issue which was demonstrated by the Department for Education research. He urged Members to refuse the application.

Nicola Allen, the Agent for the applicant addressed the Committee. She commenced by stating her intention to rebut certain submissions made which were without foundation or evidence. Parliament had not tried to ban children's care homes nor was there evidence that they broke up communities. She appealed to Members' planning judgement and expertise.

The application accorded with Local Plan Policy and policies relating to design, highways and conservation. The Highways Authority had visited the site on more than one occasion.

She acknowledged that the fear of crime had been a material planning consideration since 1997 but that the weight attached to it was a matter for the Committee's planning judgement. Fear of crime was a perception and should only carry weight if it was likely to occur. For example it was held to be a material consideration in connection with a bail hostel as it would accommodate criminals. However a fear of crime was not material when the incidents could not be attributed to the land use. She referred to case law relating to a traveller site where the judge had ruled that there was no direct link between the site and criminality. A direct link to crime had to be demonstrated.

N Allen continued by making reference to the letter from the Chief Inspector of the Architectural Liaison Partnerships Branch which stated that some children's homes had a high number of instances but that it was the individual child that was key, not the home. Key comments made by the Chief Inspector were that 'some' children would 'occasionally' make demands on the Police if only to return them when they're missing.

The Police were safeguarding vulnerable children and it would be wrong to make the link between that and crime.

To conclude she stated that Eyes UK were not venture capitalists. They were two local men who between them had 20 years experience in working in the financial charities sector and 12 years in social care.

Following a request for clarification from the Chairman and Vice-Chairman of the Committee, N Allen confirmed that children would come from within a 25 mile radius and that there was no legal definition of 'occasionally'.

Councillor Patterson asked if the children would travel to their own individual schools each day. The Member was advised that it would depend upon the child's individual needs.

At this point Councillor Gunn left the meeting.

D Stewart, Highways Officer referred to Councillor Gunn's comments about the speed survey. The results were not untypical of classified roads through small settlements in other parts of the County and the figures provided by the Assistant Area Traffic Engineer showed relatively good compliance with the speed limit.

The proposals were modest in highway terms and although vehicle movement would be larger than usual for a single dwelling it was not considered that it would lead to a severe cumulative residual impact on highway safety.

Members discussed the application at length.

Councillor Dixon, Chairman stated that the Committee needed to take into account only those comments and representations that were material planning considerations and determine what weight should be attached to the fear of crime.

He expressed concern about the sustainability of the development given that the children would travel to and from the home from a distance of up to 25 miles. In addition he considered that the proposals may have an impact on the County's schools and services which would have a detrimental effect on the local economy.

He continued that the Department for Education had drafted new Regulations to reform children's care homes which were expected to be implemented in the near future. Children's homes would be required to undertake a risk assessment to consider the sustainability of a child placement and to meet the full range of individual children's needs. Department for Education Statutory Guidance also attempted to mitigate the risk of a child running away; evidence suggested that distance from home was a key factor. On balance he felt that he could not support the application.

The Vice-Chairman, Councillor Buckham agreed with Councillor Dixon that determination of the application was about balance, based on relevant planning legislation and the information presented at the meeting.

The report stated that Lilac House would not be a home for criminals or persons with mental disorders. He was aware that many children were in care because they had been abused or neglected, and may suffer mental health problems when moved to a safe environment.

Councillor Buckham also made reference to the impact on local amenity due to increased demands on services in County Durham that were already stretched to breaking point.

He considered, on balance, that the application should be refused primarily because of the fear of crime which was a very real issue. In considering the significance of the fear of crime he looked to the submissions of the Police who had objected to the application.

At this point Councillor Patterson raised a number of matters. She appreciated that there were concerns expressed about the application which were not material planning considerations. The report stated that the proposals were in accordance with the Wear Valley Local Plan, however this document had been written a number of years ago and she understood that more weight should be given to the emerging County Durham Plan. She also concurred with the Chairman's comments about the economic impact and sustainability of the proposals.

Councillor Patterson expressed concern about the potential impact on residents caused by traffic at shift changeovers, travel to schools and by visitors. The Highways Officer advised that this had been considered and the respective highway consultants had each concluded that the likely maximum number of vehicles parked at any one time was five. The Highways Authority had visited the sites of some comparable children's homes but had not observed parking problems attributable to the operation of the premises. On the basis of this the proposed parking provision was deemed to be adequate.

The Member continued that there were high statistics of children going missing from homes during the night and this could result in noise disturbance in the surrounding area. The Member also observed that a key material planning consideration was the fear of crime and sought more information about the concerns raised by the Police in this regard.

The Principal Planning Officer responded that the Police considered that in view of the number of objections and representations received there was a high strength of feeling which increased the fear of crime and could affect community cohesion. The Police did not refer to a link between care homes and an increase in crime.

With regard to comments made by Members about sustainability and the impact on local services the Principal Planning Officer reminded the Committee that the application should be determined in terms of the sustainability of the site, in accordance with provisions in the NPPF. The Committee, in considering the impact on services, should also take into account the scale of the development which was a home for only four children, and that there was no evidence to support that existing services in County Durham were at breaking point.

Following lengthy discussion it was **Resolved:**

That the application be refused for the following reason:-

The proposed use would be an unsustainable form of development contrary to the locational aims of the NPPF that by its nature is likely to give rise to an increased fear of crime that would undermine the quality of life and community cohesion in the local area contrary to paragraphs 58 and 69 of the NPPF.

6 Proposed Changes to Constitution - Code of Practice for Members and Officers Dealing with Planning Matters

Consideration was given to the report of the Head of Legal and Democratic Services regarding proposed changes to paragraphs 1.6, 3.2, 10 and 11 of the current Code of Practice to reflect updated guidance published by the Local Government Association relating to probity in planning (for copy see file of Minutes).

Resolved:

That the proposed changes to the Code of Practice for Members and Officers Dealing with Planning Matters be noted.