

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in The Witham, 3 Horse Market, Barnard Castle on **Thursday 18 September 2014 at 2.00 pm**

### **Present:**

**Councillor M Dixon (Chairman)**

### **Members of the Committee:**

Councillors H Nicholson (Vice-Chairman), H Bennett, J Buckham, J Clare, S Morrison, A Patterson, G Richardson, L Taylor, R Todd, C Wilson and S Zair

### **Also Present:**

A Caines – Principal Planning Officer  
J Orr – Senior Planning Officer  
S Teasdale – Senior Planning Officer  
D Stewart – Highways Officer  
C Cuskin – Solicitor (Planning and Development)  
T Bennett – Senior Policy Officer  
R Lowe – Senior Tree Officer

### **1 Apologies for Absence**

Apologies for absence were received from Councillors D Bell, D Boyes, K Davidson and E Huntington.

### **2 Substitute Members**

Councillor H Bennett substituted for Councillor D Bell.

### **3 Declarations of Interest**

Councillor G Richardson declared an interest in planning application 6/2014/0005/DM – Land at Green Lane, Barnard Castle as he was on the Barnard Castle School Governing Body. The Member left the meeting during consideration of the application.

### **4 Minutes**

The Minutes of the meeting held on 17 July 2014 were agreed as a correct record and were signed by the Chairman.

## **5 Applications to be determined**

### **5a 6/2014/0005/DM - Land at Green Lane, Barnard Castle**

Consideration was given to the report of the Senior Planning Officer regarding an application for the erection of 62 no. dwellings (for copy see file of Minutes).

J Orr, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site and were familiar with the location and setting.

Councillor Rowlandson, local Member addressed the Committee on behalf of residents. He expressed disappointment that consultation by the developers with local residents had been very poor with no attempt to alleviate fears about the impact of the development.

The proposed entrance to the site was very narrow with a school and residential properties in close proximity. It would be difficult for traffic to enter and exit the site safely and school drop-offs and pick-ups would be extremely dangerous.

Councillor Rowlandson then referred to the proposed layout. He expressed concern about the height of the proposed houses along the boundary which, because of the difference in levels would be overbearing on existing properties. Bungalows would have alleviated this. The Member also considered that the mix of housing was poor and that the proposed affordable housing provision was inadequate.

Councillor Blissett spoke on behalf of Barnard Castle Town Council. The Council considered that the application was contrary to Policies GD1, H12 and H14 of the Teesdale Local Plan, and represented a departure from Policies H3 and ENV 1. The proposals also conflicted with Policies 31 and 34 of the emerging County Durham Plan.

Councillor Blissett reiterated the concerns of Councillor Rowlandson regarding the mix of properties and the inadequate provision of affordable housing. The Town Council considered that 30% of the development should be allocated for affordable housing. The mix did not meet the specific needs of residents, and 2.5 and 3 storey properties were not in keeping with the adjacent residential development.

The Town Council was also concerned about water management. The existing drainage system was inadequate and would put adjacent properties at risk of flooding. He noted that there was no report from Northumbrian Water.

He was not convinced that the highways issues had been addressed. The proposals would have a significant impact on existing residents with road safety reduced. The land was close to the primary school which also had childcare and training facilities on site. During peak periods the road was very well used and the new development was expected to create in excess of 124 extra vehicles. The current traffic system would not be able to cope and he hoped that a traffic survey had been carried out during peak periods.

The Councillor noted that a Section 106 Agreement would secure a sum for the provision/maintenance of open space and recreational facilities in the locality, and he felt that this should be allocated to the Town Council.

He also expressed concern about the proposals for footpaths 8 and 9 and questioned the sustainability of the site. The existing infrastructure would not be able to withstand such an influx of residents, and facilities in the town would not be able to cope.

In conclusion he stated that he was not persuaded that the site was sustainable and if Members were minded to approve the application he urged that the concerns of local people be addressed.

Councillor R Bell, although not a local Member wished to object to the proposed development because of the volume of complaints received from local people. He was concerned about access to the site and that there had been no formal traffic survey carried out. The type of housing proposed would generate a large volume of traffic, with two cars per household.

A better mix of housing including bungalows would have been preferable, in line with Policy 3 of the emerging County Durham Plan. The local AAP had stated the need to reflect the age profile of the town and the developers had refused to do this. He urged Members to reject the application, asking that residents be better consulted in future with any proposed development designed to reflect the needs of Barnard Castle.

Paula Ford, Head Teacher of the Primary School spoke against the application. The facilities at the school were unique and this already put a strain on the road network in the area. The nursery was full and flexible sessions meant that there were pick-ups and drop-offs at all times of the day. The childcare and holiday club had trebled in capacity and was open from 7am until 6pm. The facility was only closed for two weeks in every year. The school site also accommodated a teacher training centre with 41 students plus staff, and was open all year including school holidays.

Mr N Courtley, a local resident referred to a photograph in the Planning Officer's presentation and noted that this had been taken on a day when the school was closed. He was concerned about the safety of children walking to school and it was difficult for vehicles travelling along Green Lane for most of the day but was even worse at peak times. The development would increase the risk of flooding and he had already seen residents put sandbags outside their properties.

The development would not bring employment to the town as he expected the builders to be from outside the area. In conclusion he could not envisage any benefits the proposals would bring to Barnard Castle.

Mr R Buckley of Barnard Castle School, the landowner, addressed Members in support of the application. He stated that this was part of a wider package of improvements to the school. A new 6<sup>th</sup> Form Centre had been approved recently and would be funded by the capital receipt from this land. The school was the second largest employer in Barnard Castle and was an integral part of the guest house and hotel market which were used by families of boarders. It was also a local venue for charitable organisations and sports clubs etc. This was an indispensable resource for Barnard Castle and the investment from the sale of the land would help to provide top class educational facilities.

Having listened to the concerns of objectors in relation to the access, he was of the view that the development should help to alleviate the problems experienced on Green Lane as the additional streets created would assist traffic movement.

Mr Milburn, the Applicant's Agent continued by referring Members to Planning Policy. The proposals complied with the aspirations of the emerging County Durham Plan in ensuring the delivery of an allocated site. The proposals would provide economic growth and employment in Barnard Castle. He had sympathy with the concerns but as could be seen from the report there were no objections from any consultees, including Highways, Northumbrian Water and the Environment Agency, and the application accorded with Planning Policy. There was no evidence to support refusal of the application.

The benefits of the development included the receipt of much needed finance to expand the school, the provision of affordable housing, the creation of jobs, investment in the area with an increase in local spending, and a contribution of £62k towards open space provision/maintenance.

D Stewart, Highways Officer was asked to respond to the issues raised about highway safety. The Officer appreciated the concerns expressed about traffic generation but the situation at Green Lane was not unusual. Residential traffic could be objectively estimated and analysis focused on peak periods where there was maximum impact. However at Green Lane a number of observations had been made at different times and on different days, and this was deemed to be appropriate for the location.

In response to a question from Councillor Zair about the completion of a traffic survey he explained that in view of the contentious nature of the application Officers ensured that more observations had been carried out than usual. A traffic survey was not deemed necessary at Green Lane because in highway terms the development was modest.

With regard to trip generation the assumption was that all households with two vehicles would leave at the same time during peak periods when in reality this was not the case. Peak hour traffic from the development would introduce a new vehicle movement on average of one every two minutes. Section 32 of the NPPF stated that 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'. Observations at Green Lane had shown that much of the day was relatively quiet with busy periods. The additional traffic generated would not make the situation 'severe' within the meaning of the legislation.

In response to a question from Councillor Patterson the Highways Officer advised that the access would be a continuation of the road forward with a right hand spur into the development made up to an adoptable standard.

Councillor Nicholson, having listened to the submissions made, noted that the main concerns related to highways and drainage. Northumbrian Water had offered no objections and paragraphs 43, 45 and 57 in the report should address concerns and alleviate fears about the risk of flooding.

The Chairman noted the comments made with regard to affordable housing but advised that the proposed allocation of 15% was in accordance with the target identified in the emerging County Durham Plan.

Councillor Buckham referred to the NPPF and understood that the presumption of the current Government was that applications should be approved unless there were good planning grounds to refuse. If the application was refused without solid planning reasons, it was likely that the Applicant would appeal to the Planning Inspectorate. This was the legal framework within which the Committee was required to determine planning applications.

Councillor Clare continued that this site was included in the emerging County Durham Plan and careful consideration would have to be given to reasons for reaching a decision which was contrary to this. He appreciated the narrow width of the road and the issues regarding the access but the Highways Officer had explicitly stated that there were insufficient highway grounds to refuse the application. He was therefore of the view that the application could not be refused, given that the critical issue was traffic.

Councillor Zair remarked that consultation should have taken place by the developers with the school about the matter of road safety, and was also concerned that there were no bungalows included in the scheme. Mr Milburn advised that bungalows were difficult to sell and outlined the reasons for this.

Following discussion it was **Resolved:**

That the application be approved subject to the conditions outlined in the report, and to the completion of a Section 106 Legal Agreement to secure the provision of 9 affordable dwellings, £62,000 towards the provision/maintenance of open space and recreation facilities in the locality, and a management scheme for the tree belt along the southern site boundary.

**5b DM/14/01322/FPA - Land to the West of Marwood Terrace, Cotherstone, Barnard Castle**

Consideration was given to the report of the Principal Planning Officer regarding an application for the erection of 8 no. dwellings (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 and were familiar with the location and setting.

In presenting the report the Officer proposed an additional condition requiring the dedication of the proposed footpath link as a Public Right of Way to ensure that it was retained.

Councillor R Bell, local Member addressed the Committee and commenced by expressing the view that there appeared to be an inconsistent approach to the application of planning policy.

He noted that there had been some modification to the position of the houses within the site but he objected to the proposals because they were contrary to policies in the Local Plan. In his opinion the whole point of these policies were that they were local. This field was a valuable green space which had been used for agricultural purposes and grazing, although had been neglected more recently, giving it the image of a brownfield site. There was a play area to the north of the site.

Policy ENV1 referred to protection of countryside in a Conservation Area. This site was clearly greenfield land and was outside the village boundary.

Councillor Hunter, the Chairman of Cotherstone Parish Council spoke against the application, outlining the grounds on which their objections were based. The proposed development was outside the building line defined in the Local Plan and encroached onto agricultural land. Policies in the Teesdale Local Plan should be applied as the County Durham Plan was still in draft form.

Development of the site would have an impact on the character of the Conservation Area and would create an 'estate' type development on green space. The land was grazed until recently and the site had been untouched since this activity ceased, so this was a valuable green space.

If approved the scheme would represent over-development. This site and another recent development in the village would equate to 10% of the total number of houses in the village, all located in the east end of Cotherstone.

A significant number of residents were against the development which was demonstrated by a petition of 180 names and a further 74 household objections.

There was no real demand for the development as the village currently had a number of properties for sale, including the Post Office and shop and in view of this the Parish Council questioned the sustainability of the proposals.

In conclusion the Parish Council also had major concerns about the capabilities of the service infrastructure in the village, predominantly of the gas and sewerage network. Cotherstone was at the end of the gas main and problems had been experienced in previous winters. He was concerned that any further developments in the village would eventually have an impact on the existing networks.

Mr N Pennock, a resident spoke on behalf of local people against the application. He considered that too much emphasis had been placed on the emerging County Durham Plan and that detailed Local Plan Policy should be applied. Paragraph 8 in the report set out that the NPPF did not change the statutory status of the Development Plan as the starting point for decision-making. Proposed developments that accorded with up to date Local Plans should be approved and refused when they did not.

Officers relied on other material considerations, including the emerging Plan. The report stated that decision-takers may give weight to relevant policies but this depended upon the progress of the Plan, the extent to which there were unresolved objections to relevant policies and the degree of consistency of the policies in the emerging Plan to the policies in the NPPF. Planning Practice Guidance stated that permission could be refused on prematurity grounds. He was of the view that the emerging Plan was not advanced and policies with unresolved objections could not be taken into account at this stage. For these reasons he believed that no weight should be attached to policies in the County Durham Plan. He suggested that the developers could re-submit an application when the Plan became final.

However, if Members were minded to attach weight to the emerging Plan the key judgements for new housing proposals on the edge of settlements were sustainability, settlement form and scale. These proposals constituted a significant alteration to existing settlement form. Cotherstone was a chocolate box village and if approved the development would also have a detrimental impact on a nearby historic asset, the Church.

Mr R Hepplewhite, the Applicant's Agent, stated that the proposals were a result of close dialogue with Planning Officers and the developers had produced a high quality development which respected the character and amenities of Cotherstone. Revised drawings had been submitted and he believed that the proposals would make a significant improvement to the surrounding area. The land was previously occupied by sheds and a stripped car, and was currently used as a dog toilet.

The land was surrounded on three sides by housing with a play area on the fourth. This was an ideal location for infill development and was similar to the new housing scheme to the south east of the site.

The proposals would bring the land back into use, was sensitively designed and was sustainable in form and location. The application complied with policies in the Teesdale Local Plan and the emerging County Durham Plan.

By way of clarification he informed Members that the spring/watercourse referred to was an old water pipe that leaked from time to time, and would be addressed by condition 11 in the report.

In conclusion the County Durham Plan was at an advanced stage and should be given significant weight.

In response to a request for clarification, C Cuskin, Solicitor (Planning and Development), advised that Members had heard arguments from both the Applicant's Agent and Mr Pennock about the weight to be attached to Local Plan Policies and the emerging County Durham Plan. It was for Members to decide, in the exercise of their planning judgement, what weight to attach to each material planning consideration.

The Principal Planning Officer responded to the matters raised. The report set out the material planning considerations and the weight to be attached to each. Settlement form, sustainability and a contribution to the provision of off-site affordable housing were material planning considerations that accorded with Local and National Planning Policy and the emerging County Durham Plan. The weight to be attached to these outweighed the conflict with the Teesdale Local Plan and the proposals constituted an acceptable departure. Weight could be attached to the emerging County Durham Plan given its advanced status.

The Chairman referred to the Post Office, shop and bus service and asked if this development would help the long-term sustainability of these facilities.

Mr Hepplewhite advised that in his experience of new developments in other villages, residents tended to commute to services.

Councillor Wilson referred to the representations made about the potential impact on bats and other wildlife, and was advised by the Chairman that this was considered in paragraphs 55 and 56 of the report. The Council's Ecologist was satisfied that the likely risk of impact on protected and priority species and habitats was low.

Councillor Richardson stated that Cotherstone already had a new housing scheme in the east end of the village, and if approved these proposals would constitute over-development. He did not believe that there would be a demand for these new properties. The site was outside the boundary line in a Conservation Area, and the development would have a detrimental visual impact on the Church. For these reasons he could not support the application.

Referring to Planning Policy, Councillor Buckham commented that there were reasons within the saved policies in the existing Local Plan to refuse the application, but this was balanced against reasons to support the application contained in the NPPF. However, given the proximity of the Church and the comments made by the Parish Council regarding the size of the development in proportion to the total number of properties in Cotherstone, he could not support the application.



Councillor Clare noted that the site had been included in the SHLAA, and the NPPF, which superseded all previous PPS and PPG documents, stated that housing applications should be considered in the context of the presumption in favour of sustainable development. The quality of housing proposed was very high and he considered that if the application was refused any future proposals that may come forward in accordance with the County Durham Plan may not be as desirable.

Having said that the site was in a Conservation Area and clearly conflicted with BENV 4 of the Teesdale Local Plan. Mr Pennock talked about sustainability and settlement form. The issue of sustainability was irrelevant but in terms of settlement form, Cotherstone was mainly linear except at this point of the village, which clustered around a green. The site also looked across towards the Church.

There was a need to consider whether the arguments for the development were strong enough to allow a departure from the Local Plan. The report stated that the proposal would not result in substantial harm to the character of the Conservation Area, however he was of the view that no greater harm could be caused than covering a grassed area with houses.

Sufficient grounds had not been argued to justify such a large change in the character of this part of the village. In conclusion, the application did not accord with BENV4 and the damage which would be caused to an area that was protected would be so great that departure from Local Plan Policy should not be allowed.

The Principal Planning Officer responded to Members' comments and stated that the Conservation Area designation aimed to ensure that the overall character was not significantly harmed, not to prevent development. This site was not widely visible or significant to the rest of the village. Cotherstone would benefit from a high quality development that would not cause harm to the Conservation Area and that did not impact on the setting of the village.

**Resolved:**

That the application be refused for the following reasons:-

The proposed housing development would detract from the existing form and character of the settlement of Cotherstone, and together with the change of character of the site from a greenfield site to a developed site and the resultant impact on southerly views of St Cuthbert's Church it would fail to preserve or enhance the character and appearance of the Cotherstone Conservation Area. This is contrary to Teesdale Local Plan Policies GD1(A, Bb, Bd) and BENV4(A, D), as well as conflicting with NPPF Part 12 in relation to the conservation and protection of a designated heritage asset.

**5c 6/2014/0033/DM - Jobs Lodge Farm, Woodland, Bishop Auckland**

Consideration was given to the report of the Senior Planning Officer regarding an application for the erection of a wind turbine with a maximum tip height of 19.9 metres with associated infrastructure comprising concrete foundation and underground cable (location 50 metres north west of previously approved turbine (Ref 6/2013/0317/DM) (for copy see file of Minutes).

S Teasdale, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site and were familiar with the location.

Councillors, in discussing the application noted that permission had already been granted for a similar turbine 50m from the proposed site, and considered that two turbines would not represent cumulative impact, given their small scale and setting against the landscape of the North Pennines. It was also pleasing to note that, as seen in the photo montages, the proposed colour scheme would improve the overall appearance and impact of the turbines.

**Resolved:**

That the application be approved subject to the conditions outlined in the report.

**5d 3/2013/0413 - Former Homelands Hospital, Holy Well Lane, Helmington Row, Crook**

Consideration was given to the report of the Principal Planning Officer regarding an application to demolish existing buildings and the erection of 49 dwellings (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 and were familiar with the location and setting.

Mr E Alder of Gleeson Homes, the Applicant addressed the Committee. He provided background to the company which predominantly developed on brownfield sites in difficult locations and provided low-cost accommodation. The company also offered employment opportunities and apprenticeships to local people.

The developer had worked with Planning Officers for over 18 months and had revised the scheme considerably in response to comments. It would be unviable to make any further amendments.

Despite the poor market conditions in the area and that the site had been identified as unsuitable for housing within the SHLAA, he understood that a proposal for executive homes would be preferred by the Local Planning Authority. This was in direct conflict with the aims of Gleeson Homes. The developer had come forward with a scheme that it felt would succeed in the current market.

The landowner, the Homes and Communities Agency had invested heavily in funding affordable housing in Durham. The receipt from the sale of the land could be put into further funding for affordable homes in the County. The site currently cost the HCA £30k per year to maintain.

In terms of sustainability, the site was a one minute walk from the A690 where a bus service operated every 20 minutes. Refurbishment of existing buildings was not practical as the cost of asbestos removal would make this unviable.

Concern had been expressed about the proximity of houses to the trees around the site perimeter. Mr Alder advised that properties would be separated from the trees by the rear gardens and concerns that construction may cause damage to roots could be overcome.

In terms of design, the dwellings would be constructed using red brick, in line with existing buildings. The development would be less visually intrusive from the main road than the former hospital.

Only four letters of objection had been received and the Highways Authority had offered no objections.

In conclusion, Mr Alder urged Members to approve this application on a brownfield site and referred to the offer of a S106 Agreement for the provision/maintenance of open space in the locality. The Principal Planning Officer informed Members that no reference had been made to such an obligation in the scheme submitted by the developer.

Members felt that the inclusion of a Section 106 Agreement was integral to their determination of the application. C Cuskin, Solicitor (Planning and Development), advised that, if Members were minded to approve the application, this could be subject to the completion of a Section 106 Agreement to secure the provision/maintenance of open space in the locality.

Members proceeded to determine the application. Councillor Patterson stated that as local Member an application to develop a suitable scheme on this site would be welcomed as it had stood undeveloped for years. Having listened to the submissions made by the developer and having taken into account the views and concerns of Planning Officers and consultees, she agreed with the recommendation that the application should be refused, for the reasons detailed in the report. The scheme was not in keeping with the design and character of the site's surroundings.

R Lowe, Senior Tree Officer was asked to respond to the comments made about the trees. He advised that the applicant had spoken about the character of the site, yet all that would remain following the demolition of the buildings were the trees. The current buildings were predominantly located in the middle of the site but the scheme proposed the erection of dwellings around the perimeter. He questioned whether potential purchasers would wish to live in such close proximity to mature trees which were protected.

Councillor Buckham expressed concern about the lack of affordable housing provision although noted that the developer offered schemes to enable people to purchase their homes. He was also concerned about the absence of a Section 106 Agreement.

Councillor Clare stated that whilst he appreciated the submissions made by the applicant in his presentation, he was convinced by the reasons for refusal of the application.

**Resolved:**

That the application be refused for the reasons outlined in the report.

At this point the Chairman left the meeting and the Vice-Chairman, Councillor H Nicholson took the chair.

**5e DM/14/01524/VOC - Land to the Rear of 17 North End, Sedgefield**

Consideration was given to the report of the Principal Planning Officer regarding an application for the variation of condition 2 of planning approval 7/2013/0522 (for the erection of a dwelling) to allow for a minor material amendment to provide bin/log store, shed and enclosure (for copy see file of Minutes).

**Resolved:**

That the application be approved subject to the conditions outlined in the report.