

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 13 January 2015 at 1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, C Kay, J Lethbridge, B Moir, R Lumsdon and A Turner (substitute for Councillor S Iveson)

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, D Freeman and S Iveson.

2 Substitute Members

Councillor A Turner substituted for Councillor S Iveson.

3 Minutes

The Minutes of the meetings held on 9 December 2014 were confirmed as correct records and signed by the Chairman.

4 Declarations of Interest

In relation to item 5b Councillor P Conway clarified that, although a member of Belmont Parish Council, he took no part in discussions on planning related business at the Parish Council.

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

a CE/13/00862/OUT – Land at Brackenhill House, Brackenhill Avenue, Shotton Colliery, Durham

The Committee considered a report of the Senior Planning Officer regarding an outline application with all matters reserved except access and layout for residential development of 6 executive dwellings at land at Brackenhill House, Brackenhill Avenue, Shotton Colliery, Durham (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members

of the Committee had visited the site and were familiar with the location and setting. He advised of an additional letter of objection which had been received which raised particular concerns regarding a septic tank at the site and the boundary wall. The Committee were advised that both matters were civil issues.

Councillor E Huntington, local Member, addressed the Committee. She advised that Councillor R Todd, also local Member for the application area, was fully supportive of the objections she was to make in respect of the application.

Councillor Huntington advised that predominantly, the trees on the site were all in remarkable condition and there was a wealth of wildlife in the area which would undoubtedly be affected should the application be approved. She highlighted that the trees were protected by a Tree Preservation Order and furthermore she was aware of a covenant which stipulated that the land should not be sectioned off.

Both the trees and the biodiversity in the area were at risk from the proposed development and the Senior Ecologist had indicated that because of potential issues of shadowing, it may be the case that further trees would need to be removed than the 19 referred to in the application. Shade would make the properties unliveable and poor television reception may be experienced, so again it may be that further trees would be removed in the future.

The loss of ground fauna was a particular concern and Councillor Huntington advised that several officers of the Council were not satisfied with the proposals. Members were advised that the adjacent nature reserve formed part of the woodland corridor which was a valuable heritage.

Councillor Huntington acknowledged that issues relating to the on site septic tank were indeed civil matters, however she highlighted that the outlet pipe ran through the soil for waste to decompose naturally and should the development be approved, the system would be dysfunctional and a health hazard.

In relation to the adjacent highway, Councillor Huntington advised that it was a busy road, used regularly and so she was concerned about the impact additional traffic would have.

The Committee was advised that there had been a lot of new development in Shotton and the area had reached saturation point. She also strongly objected to the destruction of the nature reserve.

Mrs S Tullin, local resident, addressed the Committee. She strongly objected to the application as the proposals would have a significant impact on the surrounding area and in particular, on her property. She would suffer adverse impact from noise, disturbance, loss of trees and loss of privacy. She stated that should the application be approved, a clause should be imposed to ensure that no more than the 6 proposed properties be built at the site for 20 years.

Mrs Hoban, local resident, addressed the Committee to read out a statement from Mr Hall, local resident. Mr Hall's main objections to the application related to the 130 metre boundary he shared with the application site and the brick wall which

was the applicants responsibility. The Committee was advised that the wall was in a dangerous state of neglect and urgently needed repair. As the applicant now intended to divide the current boundary up with 4 new owners, Mr Hall feared that the issue with the wall would not be resolved.

Mr Hall also raised concerns regarding his septic tank water overflow discharge, which had been in place for over 90 years. The Committee was advised that the proposed development would impede the soak away from Mr Hall's septic tanks irrigation trench, which would subsequently cause ground water flooding with a serious health hazard occurring both for himself and all of his neighbours.

Members were advised that Mr Hall had discussed the matter with the applicant in September 2013, as such Mr Hall was confident that the applicant was fully aware of the problems the application would cause. Mr Hall advised that he had taken legal advice as he feared that potentially he and his family could become homeless should the application be approved. Mr Hall highlighted that the applicant had been refused planning permission in 2003 to build only 2 houses in the same location where he now wished to develop 3. Furthermore, Members were advised that the applicant had applied a total of 5 times over the years for various housing planning permission on the site and each time he had been refused. Mr Hall found the application to be vexatious, with a lack of empathy for the countryside, wildlife, other people and neighbouring properties.

Mr Hoban, local resident, addressed the Committee. He advised that he and other residents had been astounded at the last meeting, he felt that vital issues which had been raised within the letters of objection were not mentioned during the meeting.

Mr Hoban stated that issues regarding the lane had not been mentioned, nor had issues raised relating to health and safety concerns regarding the septic tank. He highlighted that various Council officers – the Senior Ecologist, Senior Tree Officer and Senior Landscape Advisor – had all raised objections and concerns to the proposals. Those officers had raised issues regarding the extent of shade to the proposed dwellings which would make them practically unliveable, suggesting that extensive shade may lead to further tree felling requests. Those officers had stated that there were other similar examples around the county where trees with surrounding land had been decimated despite planning conditions which were supposed to protect the trees.

Members were advised that despite those original concerns from officers, there was no evidence of any mitigations or amendments to the proposals which would have reasonably changed their opinions.

Mr Hoban advised that the sale of Brackenhill House as it currently stood, would bring a substantial profit and he felt that the only reason for the application was to maximise the value of the land. Mr Hoban believed this would be at the expense of the environment, health and safety and also against the concerns of neighbours and Council officers.

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

- Members were reminded that issues regarding the septic tank and the boundary wall, were civil issues;
- Members were advised that in relation to concerns regarding drainage, Northumbrian Water had not raised any concerns;
- From a highways perspective, the 6 dwellings would only generate 1 additional vehicle movement every 10 minutes, based on a national system of traffic generation analysis.
- The road width along Shotton Lane varied, being 8.5 metres wide at the widest point and 4.5 metres wide at the narrowest point. While it was acknowledged that the footway was lost in narrow parts, there was no conflict between vehicles and pedestrians and the Committee were advised that 2 vehicles could safely pass on a road width of 4.1 metres;
- In referring to section 32 of the NPPF, the Committee was reminded that highways grounds could only be raised as reasons for refusal of an application if the cumulative impact was considered to be severe. Members were advised that during the past 5 years there had only been 5 slight accidents in the vicinity of Shotton Lane, only 1 of which had actually been on Shotton Lane itself.

Mr J Wyatt, agent for the applicant, addressed the Committee. He referred to comments he made to the Committee at the meeting held 9 December 2014 and the subsequent decision by Members to defer consideration of the application to allow for a site visits. Mr Wyatt hoped that Members had found the site visit useful, in particular that Members had seen that the access road was suitable for the proposals and that the layout was very much landscape led. Mr Wyatt highlighted that the application, if approved, would contribute to meeting the need for executive housing in the County.

Mr Lancaster Smith, agent for the applicant, addressed the Committee. He advised that there was no reference to a drainage easement or a covenant on the deeds of Brackenhill House. He further advised that the overflow did not comply with environmental standards.

Councillor Moir was mindful of both the ecological and biodiversity concerns which had been raised by Councillor E Huntington. He concurred that it would be impossible to avoid the disturbance of flora and fauna should the application be approved and he was unconvinced that the woodland could be adequately managed.

In response to queries from Councillor Kay, the Senior Planning Officer clarified that the application site was not part of a nature reserve, though there was a nature reserve adjacent to the site. He further clarified that in relation to concerns raised regarding trees, should the application be approved there would need to be a condition attached to ensure that bat boxes be placed on site.

Councillor Lethbridge expressed concerns based on the comprehensive argument put forward by Councillor Huntington and he stated that the area of Shotton was a sensitive and important area of the county.

In response to queries from Councillor Conway, the Senior Planning Officer clarified that a condition would be imposed to require details of a Woodland Management Plan. The Plan would need to be approved by the Planning Authority and would need to include details of who would be responsible for the management of the woodland.

In relation to the grading of the trees on the site, the Senior Planning Officer clarified that trees were categorised by 3 grades – A, B and C – with A being the highest grade. Members were advised that none of the trees which were to be removed were grade A, 15 were grade C and 4 were grade B.

The Solicitor clarified that the Tree Preservation Order which was in place at the site was actually a Woodland Order, so all trees were protected.

Councillor Moir moved refusal of the application for the following reasons:-

- That the application was contrary to District of Easington Local Plan Saved Policies 1, 3, 18 and 35;
- That the application was contrary to Part 11 of the NPPF.

A further reason for refusal was included further to suggestion by Councillor Lumsdon:-

- That the application was contrary to Part 6 of the NPPF regarding the affected area of the woodland.

Councillor Lethbridge seconded the motion for refusal and upon a vote being taken it was;

RESOLVED:- “That the application be refused for the following reasons:-

- That the application was contrary to District of Easington Local Plan Saved Policies 1, 3, 18 and 35 as it would have a detrimental affect on biodiversity and bats;
- That the application was contrary to Part 11 of the NPPF;
- That the application was contrary to Part 6 of the NPPF regarding the disaffected area of the woodland”.

b DM/14/03318/RM – Land to the North of Willowtree Avenue, Gilesgate Moor

The Committee considered a report of the Senior Planning Officer regarding the erection of 42 residential dwellings and associated car parking, landscaping and engineering works (reserved matters) and the discharge of conditions 4, 5, 6, 7, 8, 11, 12 and 14 of outline approval CE/13/01651/OUT at land to the north of Willowtree Avenue, Gilesgate Moor (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members of the Committee had visited the site and were familiar with the location and setting. Members were advised that should the application be approved an additional condition would be added to request a Construction Management Plan.

Members were advised of a late letter which had been received from a local resident which raised issues relating to the temporary access to the development, the planting plan, the footpath link and the removal of trees, all issues which were dealt with within the officers report.

Councillor B Howarth, Belmont Parish Council, addressed the Committee to speak in objection to the application. She advised that the Parish Council acknowledged that outline permission for up to 49 units had been agreed. However the Parish Council felt that this was contrary to a statement from the Planning Inspectorate of February 2014 which stated that any development on that site should be refused as it would do material harm to the character and appearance of the local area.

Councillor Howarth advised that if the development was destined to go ahead even in view of that statement, then the Parish Council would wish to see a design that would have the least detrimental effect on the surrounding neighbourhood. She therefore raised the following concerns in relation to the application:-

3 Storey Apartments and Property Mix – The Parish Council considered one of the most controversial features to be the inclusion of a 3 storey apartment block with 9 flats. While it was acknowledged that the apartment block would fulfil the affordable homes requirement, the Parish Council felt that local residents would benefit from more small, affordable houses or bungalows with access for all. The Parish Council therefore considered the scheme and neighbourhood would benefit from a wider mix of properties than the proposed 3 or 4 bedroom houses and a contrasting inappropriate apartment block.

Design and Layout – Councillor Howarth advised that the proposed layout was compact and the Parish Council was particularly concerned about the close proximity of proposed houses to the Willowtree Avenue border, which had comparatively short gardens. There would inevitably be issues with overlooking and so the Parish Council felt that the provision of a substantial hedge along that boundary was essential to neighbourhood privacy and amenity.

Drainage – Councillor Howarth stated that the development site was higher than the surrounding area and the Parish Council was concerned about the history of surface water runoff, particularly in freezing conditions. The Committee was advised that a public sewer ran across the site and the Parish Council called for a condition requiring Regulation Hierarchy of soakaway, water course and sewer and also immediate attention to be given should any later problems arise.

Planting and Landscaping – The Parish Council noted that there was very comprehensive information in the revised Landscape and Planting schemes, particularly in relation to tree planting. It was further noted that there was some neighbourhood concern about the removal of trees in some places and replacement

with close-board fencing. The Parish Council hoped that recommendations would be implemented to preserve environmental aspects of the development and in particular the Parish Council sought an assurance that there would be adequate gapping up of retained boundary trees and hedging and protection of retained species during the construction period.

The Parish Council also asked for a requirement to be included that the grasslands be cut annually and be the responsibility of the applicant once the development was completed.

Traffic Noise – The Parish Council requested that a strict condition be attached to any permission requiring that the recommendations in the final Noise Assessment regarding acoustic barrier fencing, heavy weight glazing and ventilation, be implemented.

Public Right Of Way – Councillor Howarth advised that public footpath no.5 abutted the west and north site boundary and it seemed that the applicant intended for the path to be retained in its definitive route and linked into the proposed footways on site. Members were advised that the path was actually a Parish Path and was maintained by the Parish Council. Councillor Howarth advised that the Parish Council requested that the entire length of the public right of way should be brought up to adoptable standard and adopted by the County Council. It was felt that a safe and accessible route was necessary and it was further requested that an adopted path along the northern edge of the development be created to link with the footpath at the Broomside Lane entrance, for the safety and convenience of residents.

Traffic issues – The Parish Council had concerns regarding off street parking of contract vehicles during construction and while it was recognised that this was not a planning matter, Councillor Howarth requested the imposition of a traffic order for single yellow lines with appropriate time limits, from the Willowtree Avenue to Broomside Lane junctions.

Mr M Pears, local resident, addressed the Committee to speak in objection to the application. Mr Pears stated that less than 10 months earlier the Planning Inspectorate found that any development of the site would go against the core principles of the NPPF and also go against Policy E5a of the saved Local Plan. As such, Mr Pears advised that local residents were extremely disappointed that the proposed scheme was now being considered.

The Committee was advised that there was much local concern regarding loss of privacy. Mr Pears felt that instead of being sensitive to this, the developers had instead chosen to site 4 of the tallest buildings in their scheme immediately behind the boundary fence of existing houses. Local residents were convinced that the proposed 2.5 storey buildings would loom up and overshadow existing houses in an entirely unacceptable manner.

Mr Pears advised that all of the existing Willowtree Avenue properties which backed onto the application site, were 2 storey dwellings. He felt that if the new scheme was to truly integrate into the existing character of the area in a sympathetic

manner, then it would make sense for all proposed buildings towards the southern edge of the site to also be no more than 2 storeys. Mr Pears stated that if the developers were to insist on including buildings taller than 2 storeys, then local residents hoped that they would be sited on the northern edge of the site, away from all existing houses.

The Committee was advised that local residents were also concerned that the overall density of the buildings within the scheme was completely out of keeping with the character of the existing area.

Mr Pears called for the Committee to reject the application on the basis that it did not accord with policies Q8 and H13 of the saved Local Plan.

Mr J Nicholson, local resident, addressed the Committee to speak in objection to the application.

The Committee was advised that there had originally been a construction plan and then construction plan detail drawings which contradicted each other. Mr Nicholson questioned whether Northern Grid would grant permission to use the area adjacent the overhead lines as a "temporary access to build". He also questioned how it was possible to build a 4 bedroom detached property adjacent to the proposed flats when it was required for the temporary access to build.

Mr Nicholson felt that the parking arrangements for vehicles during the construction stage was inadequate and only available for some phases of development. Furthermore he highlighted that parking on the highway by construction related vehicles must be avoided as the highway was an important bus route.

The Committee was advised that the geotechnical report indicated that areas of the site could cause risk to human health and the whole area would require removal of considerable volumes of waste material.

Mr Nicholson questioned how mud was going to be prevented from being transported onto the highway and he raised a particular concern as the downward gradient was towards Broomside Lane and if the carriageway was greasy then vehicles would not be able to stop in time.

In relation to the public right of way, Mr Nicholson questioned how it would be constructed and maintained during the construction of the properties and associated drainage and sewerage works.

In relation to safety, the Committee was advised that the development access was hidden and safe sight distances were inadequate. They were less than 30m, but should be 40m for a 30mph speed limit. Mr Nicholson further advised that when leaving the development, vision to both sides would be obscured by the 1.8m high close board fencing.

In relation to density, Mr Nicholson advised that planning guidance stated that development boundaries should not be fenced as they produced a collection of buildings with poor townscape and no character or sense of wellbeing. Furthermore

the Committee was advised that planning guidance also stated that for security purposes, parking should be to the front of any flats and not to the rear. Mr Nicholson also highlighted that the development had no communal space and failed to meet any key objectives.

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

- 3 Storey apartment block – there had been lengthy negotiations in relation to the 3 storey proposed dwellings. It was highlighted that the density of development had reduced from original plans for 54 dwellings and the Planning Authority now felt that there was a satisfactory mix of house types proposed for the site. Furthermore the Affordable Housing officers were satisfied with the proposals.
- Proximity to adjacent houses – the layout did achieve the required privacy standards of minimum 21m separation distance;
- Drainage – the Planning Authority had liaised closely with Northumbrian Water in relation to the application and Northumbrian Water was now satisfied with the proposals;
- Landscaping – should the application be approved the Planning Authority would expect a comprehensive landscaping plan from the developers which would include plans for replanting on the site;
- Powerlines – the land under the powerlines could end up being managed by an appointed Management Company;
- Public Right of Way / Parish Path – Though the Rights Of Way Officer was satisfied with the proposals, concerns raised during the meeting would be brought to their attention;
- Yellow Lines – It was reiterated that the Highways Authority was satisfied with the proposals;
- Appeal Decision – In October 2013 an application for 54 dwellings had been refused and subsequently an appeal had been lodged. Before determination of the appeal the committee had resolved to approve a new application for 49 dwellings. As such that application superseded any decision from the Planning Inspectorate on the original application.
- Proximity of Overhead Cables – this was not a planning issue;
- Parking for construction operatives – this was a matter that the agent present may wish to address;
- Mud on the highway – any issues with mud on the highway could be subject to action by the Highways Team if highways were not kept clean;
- Design and lack of fencing off – the Planning Authority was satisfied with the design proposals.

Mr D Brocklehurst, agent for the applicant, addressed the Committee. He advised that the application was granted in outline and the applicant had been involved in detailed dialogue with many relevant officers. The applicant was keen to resolve all concerns relating to the application and Mr Brocklehurst made the following points:-

- 3 Storey dwellings – it was clarified that none of the proposed dwellings were strictly 3 storey, there were 6 x 2.5 storey properties proposed on the site. It

was highlighted that there were already 3 storey properties in the immediate area;

- Construction Parking – The applicant was more than willing to produce a management plan. It was highlighted that 20 spaces were proposed for construction parking which was double the usual expectation and the applicant would strive to avoid parking on the highway;
- Landscaping – The Committee were advised that any trees removed during the construction of the site would be replaced;
- Affordable homes – The Committee was advised that market research suggested that 1 bedroom flats were in demand in the area;
- Noise – 2 noise assessments had been conducted and no concerns had been raised;
- Land under the powerlines – Northern Power Grid were satisfied with the proposals and the land in that area would be managed by the applicant or a Management Company.

Councillor Moir raised concerns regarding the lack of consultation from the developer with local residents. He further raised concerns about the site layout. Councillor Moir was appalled that 2.5 storey properties were to be built behind 66-80 Willowtree Avenue. The Committee was advised that the land sloped down towards the A690 and so the 2.5 storey properties were proposed for the highest point of the site.

Councillor Conway referred to the planning history of the site and stated that he had been perplexed when the last application had been brought before the Committee, given that an appeal decision was outstanding and that the Committee were not able to deal with any material planning considerations.

He advised that there remained an unresolved issue regarding surface water and foul water at the site, where different parties seemed to have differing opinions.

In relation to highway concerns, Councillor Conway stressed that the highway adjacent to the site was a very busy route and also a bus route. Overrunning on the verge occurred regularly and though there were few recorded incident reports, the Committee was advised that traffic incidents did occur regularly and that the statistical evidence was not reflective.

While Councillor Conway was encouraged by the Conservation Management Plan, he felt there remained issues regarding the proposed quality of design. On that basis he felt there were sufficient grounds to refuse the application on the basis that the application did not accord with Part 10 of the NPPF, and policies E16, T1, Q8 and H13 of the saved Local Plan.

Councillor Conway advised that there were already advertising boards for the developer at the site, which contravened planning law and went against the applicants assertion that they were keen to listen to local views.

In relation to affordable housing, Councillor Conway questioned the commercial viability of the site and whether commercial diligence would be sought in the future for a reduction in the number of dwellings.

In conclusion Councillor Conway felt that the current application should be refused to allow issues relating to the quality of design and property types to be addressed.

Councillor Kay queried the percentage reduction in the s106 contribution and also questioned the difference in size between 3 floor properties and 2.5 storey properties.

In response to the query regarding the s106 contributions, Mr D Brocklehurst clarified that the reduction in the s106 affordable housing contribution would be 20%, but the agreed financial contributions would remain at previous levels.

Councillor Bleasdale had concerns regarding the problems which would occur on the highway, more houses in that area would generate more traffic and exacerbate current traffic issues.

Councillors Lethbridge and Clark echoed those concerns and concerns regarding hours of work on site and noise from construction. Councillor Clark also queried whether the Committee could require that any construction traffic departing from the site could not be permitted to turn up into the adjacent housing estate.

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

- Both the 3 storey and 2.5 storey properties were 10.5 metres high and that a typical 2 storey dwelling was 8 metres high;
- A condition could be imposed to regulate the hours of work on site;
- The regulating of construction vehicle movements would be a matter for the Highways Authority.

In response to a query from Councillor Lumsdon, the Principal Planning Officer clarified that 21 metres was considered an acceptable separation distance between 2 storey properties. Mr Brocklehurst clarified that separation distances on site had been deliberately increased to 27 metres.

Councillor Conway moved that the application be refused in its present form for the following reasons:-

- That in relation to issues regarding design and the appropriateness of the site, the application did not accord with Part 10 of the NPPF and saved Local Plan policies T1, Q8 and U8a.

Councillor Conway clarified that U8a was appropriate in relation to issues regarding the consultation process and the differences of opinion regarding water issues.

The Solicitor clarified that the drainage of the site should have been dealt with under the outline planning permission and was therefore not now a matter for consideration.

Councillor Conway therefore clarified the reasons for refusal as follows:-

- That the application was contrary to saved Local Plan policy Q8 on the basis of issues regarding topography of the site, design and layout;
- That the application was contrary to saved Local Plan policy T1 on the basis of traffic issues;
- That the application was contrary to Part 7 of the NPPF on the basis that the design had an adverse impact on the area and was overbearing.

Councillor Moir seconded the motion to refuse the application.

The Solicitor clarified the scope of the matters for consideration before the committee on this reserved matters application following which Councillor Conway rescinded the proposed refusal on traffic grounds as this properly related to the development in principle rather than the reserved matters being considered.

Councillor Moir seconded the motion to refuse the application and upon a vote being taken it was

Resolved:

That the application be **REFUSED** for the following reasons:-

- That the application was contrary to saved Local Plan policy Q8 on the basis of issues regarding topography of the site, design and layout;
- That the application was contrary to Part 7 of the NPPF on the basis that the design had an adverse impact on the character and appearance of the area and was overbearing.