

## **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 10 March 2015 at 1.00 pm**

#### **Present:**

**Councillor P Taylor (Chairman)**

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

Councillors A Bell, H Bennett (substitute for Councillor J Clark), P Conway, M Davinson, D Freeman, S Iveson, J Lethbridge B Moir and J Maitland (substitute for Councillor K Shaw)

#### **1 Apologies for Absence**

Apologies for absence were received from Councillors G Bleasdale, J Clark, K Dearden, C Kay, A Laing, R Lumsdon and K Shaw.

#### **2 Substitute Members**

Councillor H Bennett substituted for Councillor J Clark and Councillor J Maitland substituted for Councillor K Shaw.

#### **3 Minutes**

The Minutes of the meetings held on 10 February 2015 were confirmed as correct a record and signed by the Chairman.

#### **4 Declarations of Interest**

There were no declarations of interest.

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

Prior to consideration of the agenda business, the Solicitor took the opportunity to advise the Committee on the current status of the County Durham Plan and to clarify the situation further to a request to call in referrals.

In relation to the County Durham Plan the Committee was advised that following the conclusion of Part 1 of the Examination in Public of the County Durham Plan, the Council was now in receipt of the Inspectors Interim Report.

The Inspector had indicated that at present, he considered the draft County Durham Plan to be unsound. As such, officers were currently considering a range of options, however a firm decision was yet to be made.

The Committee was advised that for the present time the Council was taking the view that no weight should be afforded to the County Durham Plan in the assessment of planning applications. There were indeed competing opinions as to how much weight should be afforded to the Plan and it would not be legally wrong for Members to afford limited weight to certain policies of the Plan, however the official view remained that no weight should be given to the County Durham Plan.

The Committee was aware that a request had been made to the Secretary of State to call in the applications on the meeting agenda. The Solicitor advised that this was a matter for the Secretary of State to decide on. Officers had spoken with the National Planning Casework Unit which had advised that the Authority should continue with the meeting and report the Committee's decisions after the meeting. Officers would then delay in issuing any decision notices until the National Planning Casework Unit had the opportunity to consider the decisions.

**a DM/14/03708/FPA – Land to the south of New Ferens Park, Belmont Business Park, Durham**

The Committee considered a report of the Senior Planning Officer regarding a new car showroom with ancillary service workshop, external forecourt and parking, offices and a café at land to the south of New Ferens Park, Belmont Business Park, 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. The Senior Planning Officer advised of late amendments to be made to the application, advising that as it was no longer considered appropriate or necessary, condition 6 would be removed should the application be approved.

Councillor B Moir advised that as local Members for the Belmont division, he and Councillor Conway regularly raised issues regarding traffic movement in the area and then before them at the meeting was an application which would inevitably mean more cars in Belmont. He stressed that it would be imperative that transporters loaded and unloaded strictly within the curtilage of the garage premises and not on the main road. In stressing that point, Councillor Moir moved that the application be approved.

Councillor Conway seconded the motion for approval as the application was consistent with land use in the Belmont area, though he strongly reiterated the point raised by Councillor Moir regarding transporters.

**RESOLVED:-** “That the application be approved subject to the conditions detailed within the report, with the exception of the removal of condition 6”.

**b DM/14/03713/FPA – Land at Mayorswell Close and Kepier Court, Durham, DH1 1JU**

The Committee considered a report of the Senior Planning Officer regarding the erection of 4 new buildings and restoration of Kepier House for use as 214 no. bed student accommodation and associated landscaping at land at Mayorswell Close and Kepier Court, Durham, DH1 1JU (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. The Committee was advised that contrary to the report before them, both Durham University and the City of Durham Trust had submitted letters of objection to the application.

Councillor R Ormerod, local Member, addressed the Committee. He was against the proposals, stating that the development would be in a primarily residential area. While there had been students living in the area some years earlier, the Committee were advised that they had been post graduate students, many of whom had families and so fitted in better with the surrounding residential area. Should the application be approved, Councillor Ormerod advised that the population balance in the area would be dramatically affected. While he was not against a suitable housing development being proposed for the area, he could not support a student accommodation application.

Councillor Ormerod advised that some 2000 student beds had already been given planning approval, yet Durham University were only predicting an increase of 500 students up to 2020. While Policy 32 of the emerging County Durham Plan was relevant, it was noted that the future of the Plan was not clear. Councillor Ormerod therefore called for the application to be deferred until a decision had been made regarding the future of the County Durham Plan.

Mr W Williamson, local resident, addressed the Committee. He advised that he lived directly next to the block at Mayorswell Close. He stated that the NPPF stressed 3 main criteria for development, that development should see a mix of home types, strengthening communities and strengthening a competitive economy. Mr Williamson felt that the application failed all 3 criteria.

Students only inhabited an area on a temporary basis and so did nothing to build and strengthen local communities. He felt that social cleansing would accelerate and the character, heritage and amenity attributes of the area would be adversely affected. Indeed Mr Williamson advised that most residents could expect a serious loss of amenity should the application be approved.

Mr H Dowdy, representing Durham University, addressed the Committee to speak in objection to the application.

Members were advised that the University's letter of objection dated 5 February 2015 anticipated that the Planning Inspector's Interim Report in respect of the County Durham Plan, would lead to a robust policy on Purpose Built Student Accommodation.

As that was not the case, Ms Dowdy advised that the University hoped that the application could be deferred for consideration at the same time as the applications in respect of the County Hospital Site, Claypath, Berensden Laundry and The Gates, so as to ensure consistency in the decision making process.

Furthermore, Ms Dowdy advised this would allow for proper scrutiny of the student number forecasts and the probability that there would be an oversupply of bed spaces. It would also give Members the opportunity to consider whether student accommodation was the best use of several economically important brownfield sites. It would also allow consideration of the impact of such use and form of development on the World Heritage Site and the desire to achieve a balanced city centre community.

Ms J George, local resident, addressed the Committee. She advised that the decision of the Committee would have an impact on the quality of her life and she urged Members to refuse the application or to defer consideration until the future of the County Durham Plan was known.

Ms George stated that the developer was out to make a profit from a development that was not required and she strongly believed that the site could be put to better use. Local amenity would be compromised and she advised that many local residents had concerns relating to noise and disturbance.

Ms M Johansen, local resident, addressed the Committee. As she lived close to the development site, she was particularly concerned about being overlooked. While the separation distance between properties might be 21m, Ms Johansen explained that the topography of the site would mean that students would have uninterrupted views into her home.

Members were advised that the applicant had been aware of those concerns and had originally offered appropriate mitigation in relation to the window designs on Block 4. However when the final plans had been revealed it was clear that no appropriate alterations had been made to the proposed design. As such she requested that should Members be minded to approve the application, then a condition be added to require opaque glass or angled windows in the blocks.

Mr P Gillespie, applicant, addressed the Committee. Members were advised that the previous use of the site had been student accommodation and that in planning the development, the Planning Inspectors report of 2007 had been used to influence the detailed design configuration.

In terms of design, the proposals sought to add to the quality of the area with the use of materials and the use of high and acoustic insulation would mitigate against noise.

No parking was to be provided which would mean the development would not generate any additional traffic and through landscaping regeneration and the addition of mature trees, the issue of overlooking could be mitigated. Furthermore protected species would be cared for.

Mr Gillespie stated that purpose built student accommodation could be managed much more effectively than HMO's and as such any issues related to students could be reduced significantly. Students would be talked to regularly regarding having respect for the surrounding area and Members were advised that any incidents would be dealt with promptly and that neighbouring residents would be provided with appropriate contact details for reporting any incidents.

Members were assured that there would be no first year students housed at the accommodation and the site would benefit from CCTV, adequate lighting and links with the Police.

The Solicitor took the opportunity to reiterate his earlier comments that no weight should be given to the County Durham Plan at this time and this point was emphasised by an officer from the Planning Policy team.

On the issue of need, Councillor Lethbridge sought clarification from the University as to the predicted number of student beds which would be required up to 2020.

The Planning Policy Officer advised that from a planning policy point of view, the NPPF did not require a need test for student accommodation. The NPPF promoted a significant boost in the supply of housing and the choice of homes and so student accommodation was considered part of that. Furthermore in terms of the saved City of Durham Local Plan, there was no numerical limit on the number of student beds.

Ms H Dowdy clarified that in general terms the University anticipated a growth of 500 students up to 2019/20 and reminded the Committee that there was an outstanding application at Mount Oswald.

Councillor Freeman stated that he did not dispute that the site would benefit from development, but noted that the previous use had been for post graduates, which was different to the housing of 240 undergraduates.

In the past 2 years there had been approval of 2000 bed spaces and there were some 2000 more in the planning process, yet the University only predicted 500 additional student beds required up to 2019/20. To not consider demand was unacceptable.

Councillor Freeman referred to paragraphs 105 and 106 of the report and stated that while the officer acknowledged that there would be a dense concentration of students, it seemed that issued was not then addressed.

Councillor Freeman cited Policy 32 of the County Durham Plan and stated that the application did not comply with it as there would be 50% student accommodation in the area. He highlighted that the Planning Inspectors critique of Policy 32 was that it was not actually strong enough, as such Councillor Freeman predicted that any future policy would need to either reflect Policy 32 or actually be stronger.

In terms of the size of development, Councillor Freeman highlighted that blocks 1, 2 and 3 would actually overlook neighbouring properties at a distance less than 21m and that block 4 would overlook residents of a nearby street, therefore all 4 blocks

failed to meet separation distance requirements. As the plans were for properties of 3-3.5 storeys, overlooking would be inevitable and such properties were too large for the area.

In referring to Policy 18 of the County Durham Plan, which focused on residential amenity, Councillor Freeman highlighted that the Inspector had no issue with the policy, so suggested that if not able to cite policy 32, then policy 18 could be cited as a reason for refusal.

In concluding Councillor Freeman stated that he supported the suggestion to defer the application until such time as a decision had been made on the County Durham Plan, otherwise he felt there were grounds to refuse permission.

Councillor Conway also considered deferral of the application based on the issues surrounding the County Durham Plan and the differing opinions as to how much weight should be given to it.

In terms of need and demand, while he acknowledged that these were not material planning considerations, he appreciated the confirmation from the University as to the predicted growth numbers.

Councillor Conway noted that while the saved local plan provided strong grounds to approve the application, the concerns raised by residents could not be ignored. He acknowledged also that the issue was not housing on the site, just that the housing should not be for students.

In referring to the planning history of the site, Councillor Conway highlighted that the application had been refused previously because there had not been sufficient affordable housing on site, however he felt that he would be more inclined to support such an application than the one before the Committee at the present time.

He therefore supported that the application be deferred, otherwise refused.

Councillor Moir stated that he would really have benefitted from having a visit to the site and was disappointed that one had not been arranged. He was aware that there was an eclectic mix of housing in the area but that the residents were stating that there was a lack of amenity such as shops and public transport.

He stated that the postcode analysis was flawed as much of the surrounding area had a DH1 postcode.

He felt that having listened to local residents, it was clear that local amenity would be disturbed and that there would be issues regarding visual amenity with the development of 3-3.5 storey blocks. Furthermore he felt that the character of the area would be detrimentally affected and that this particular area of the city would be spoiled by the introduction of 240 students.

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

- It was accepted that the previous use of the site had been student accommodation for post graduates, however there was no stipulation that it would have to be post graduates on the site now.
- Scale/Overlooking – a mix of storeys was proposed on the site and the levels on the site did change. The site sloped downwards as such the higher storey properties would be at the lower part of the site. The 21m separation distance was achievable across much of the site and could actually be exceeded in some areas. In some parts of the site the separation distance would be slightly below 21m by a maximum of 800 millimetres, however this was considered acceptable and a condition had been suggested to ensure obscure glazing where necessary.
- The Design and Conservation Officer was satisfied with all aspects of the scheme;
- Policy 32 – It was reiterated that no weight should be given to Policy 32 of the County Durham Plan.

Councillor M Davinson queried how much contributions would come from the S106 agreement. He further enquired as to the content of the objection letters which had been submitted by the University and the City of Durham Trust and he sought clarification as to whether other similar schemes had come forward but been deferred.

In response the Senior Planning Officer clarified that the S106 agreement would be subject to negotiation. The University had already presented its concerns earlier in the meeting and the Committee was advised that while the City of Durham Trust accepted the design of the proposed development, it objected to the application on the grounds of need. The Committee was further advised that no other similar schemes had been deferred.

Councillor A Bell moved that the application be deferred, to be considered at a future meeting so as to allow the Committee the opportunity to visit the site. Councillor Conway seconded the motion for deferral. Both Members clarified that the reasons for deferral were to allow the Committee to familiarise itself with the site. Furthermore, due to the differing opinions and advice which was being presented to the Committee in terms of the weight to be applied to planning policies, the Committee needed more time to reflect on the balances, particularly between saved local plan policies H16, H13 and also Policies 18 and 32 of the County Durham Plan.

Upon a vote being taken it was:-

**RESOLVED:-** “That the application be deferred for the following reasons:-

- The Committee required a site visit in order to familiarise itself with the site before considering the application;
- The Committee required time to reflect on the advice given in relation to the weight to be afforded to various planning policies”.

**c DM/14/03871/OUT – Land between 3 Church Villas and 7 Rectory View, Shadforth, Durham**

The Committee considered a report of the Senior Planning Officer regarding an outline application for 10 no. properties (all matters to be considered except landscaping) at land between 3 Church Villas and 7 Rectory View, Shadforth, Durham (for copy see file of Minutes).

The Chairman gave the Committee the opportunity to consider two statements which had been submitted by local Members Councillors S Guy and D Hall, both of whom wrote in objection to the application (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. Members were advised that further letters of objection had been received since the report had been published, as such there was now a total of 74 letters of objection.

Councillor D Bell, representing Shadforth Parish Council, addressed the Committee. He advised that the green space at the site location gave the village character and appeal. The application site was greenfield land and Councillor Bell highlighted that a previous application to develop the site had been refused. Infill development would mean the loss of an ancient hedgerow which added to the character of the village.

Members were advised that there were serious parking issues in the area and were often roadblock issues. The Church opposite the application site had no dedicated parking and so whenever there were ceremonies or services, the already poor parking situation was exacerbated.

Councillor Bell advised that there was local concern that should the current application be approved, that could lead to further development of the land in the future and there were also fears that development would affect the biodiversity of Shadforth beck.

The Committee was advised that 81 new dwellings had already been developed half a mile from the application site and Councillor Bell advised that there was no community need or benefit for the current application to be approved.

Mr I Higginbotham, local resident, addressed the Committee, speaking in objection to the application on behalf of Shadforth Community Association.

Members were advised that there were no fundamental changes to the application since the previous application had been refused, the same number of dwellings were proposed and there were no changes in relation to the layout of the development or the parking issues.

Mr Higginbotham advised that the current application remained contrary to saved local plan policies H3, H4 and H5 and he suggested that there was flawed analysis of the NPPF and the conservation area.



Mr Higginbotham stated that Part 14 of the NPPF restricted the presumption of sustainability and in relation to the conservation area, while there was now an impact assessment, it was felt that this was not entirely sound.

Local residents felt that it was lazy of the applicant to propose the same poor infill design as in the previous application and the lack of a conservation area appraisal was felt to be unacceptable, especially as Shadforth was one of the few green farming areas in the county.

Members were advised that when the conservation area had been designated, the farmland had been an important factor and the Design and Conservation Officer had commented on the value of the farmland.

Mr Higginbotham stated that the application site was an important area of open land as it served to separate two settlements and the gap between the two served to maintain the separate character of the two areas.

There was much local concern that the development would have a detrimental impact on the character of the conservation area and Mr Higginbotham questioned the officers comments at paragraphs 56 and 59 of the report regarding sustainability and vitality. The Committee was advised that there were no local amenities and Mr Higginbotham highlighted that there was no affordable housing element to the application.

Mr Higginbotham further stated that condition 8 was felt to be completely inappropriate and he highlighted that Natural England had not been consulted.

Mr R Newlove, agent for the applicant, addressed the Committee. He stated that there were technical objections to the application and that the only material objection was the impact on the conservation area. If that was considered to be of real concern, then it needed to be considered against the NPPF as to how much impact there would be.

There had already been a conservation area development in the Shadforth area and Mr Newlove argued that the test should be no harm to the conservation area, however the officer stated that the development would complement it.

Mr Newlove queried whether the current scheme was any worse to those which had already been approved. He highlighted that it was incorrect to state that the development would be intrusive on the open land as the development would only encroach on 0.03% of the open land.

The Committee was advised that the scheme had positive benefits, especially as it would integrate rather than segregate local communities.

Mr Newlove called for the application to be approved highlighting that the Council needed to demonstrate that it had a 5 year housing supply. At present, in light of the developments with the County Durham Plan, the Council did not have a 5 year housing delivery plan and would end up in a shortfall situation.

Ms C Dillon, Planning Policy Team, addressed the Committee to provide advice in relation to the 5 year housing supply. Members were advised that the most recent calculation of the housing supply had been for the Examination of the County Durham Plan and at that point it had been confirmed that a 5 year supply could be demonstrated. Based on current evidence, the Council maintained that it did have 5 year supply and as such the Committee should consider the proposed scheme at Shadforth irrespective of that issue.

Councillor Conway stated that the situation had not materially changed since the last submission had been considered and he felt that saved local plan policies H3, H4 and H5 were still relevant. As such, Councillor Conway moved that the application be refused. Councillor Moir concurred, stating that H3, H4 and H5 gave sufficient grounds for refusal.

In response to a query from Councillor A Bell, the Team Leader (Central and East) clarified that the material considerations on the application were policies H3, H4 and H5. In addition to those policies was the NPPF which could also be considered in its entirety.

Councillor Conway did not feel the provisions of the NPPF were sufficient enough to approve the application. There was no affordable housing element to the application despite there being a need in Shadforth and there were also sustainability issues.

Councillor Freeman did not believe that need had been demonstrated, he supported refusal of the application as the development would be in the greenbelt, outside of a village boundary and would not be sustainable development.

Councillor Davinson seconded the motion for refusal.

In response to a query from Councillor A Bell, the Senior Planning Officer clarified that although an outline application, all aspects of the scheme were to be considered apart from the landscaping. The Planning Authority was confident that the scheme was acceptable in design terms and would blend well with the surrounding area.

Councillor A Bell queried whether the NPPF would therefore override policies H3, H4 and H5 given that the design criteria had been met.

The Solicitor clarified that the NPPF stated that the weight afforded to local plan policies was dependant on their consistency with the NPPF. As such, should the Committee feel that H3, H4 and H5 were not consistent, then more weight could be given to the NPPF.

The Senior Planning Officer drew attention to paragraph 72 of the report. The development was contrary to policies H3, H4 and H5 but that needed to be weighed against the benefits of the development. As such, the officer suggested more weight should be given to the NPPF.

The Senior Planning Officer drew attention to the reasons why the previous application had been refused. One of the reasons had been the impact on the conservation area as at that time there had been a lack of details. The Committee

now had relevant details before them, as such that previous reason for refusal had now been overcome.

Councillor Conway highlighted that paragraph 55 of the NPPF supported strong and vibrant communities. He did not believe that the proposed scheme would have that affect in Shadforth. Furthermore the lack of affordable housing meant that there was no sustainability for people in lower income brackets.

Upon a vote being taken it was:-

**RESOLVED:-** “That the application be refused for the following reason:-

- That the development is contrary to policies H3, H4 and H5 of the City of Durham Local Plan, as the site is located outside the defined settlement boundaries and the development does not constitute the definition of infill development.

**d DM/14/03833/FPA – Former Peterlee Building Supplies, Yoden Way, Peterlee**

The Committee considered a report of the Senior Planning Officer regarding a 56 bedroom residential care home at the former Peterlee Building Supplies, Yoden Way, Peterlee (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.

In response to a query from Councillor M Davinson, the Highways Officer clarified that the provision of 1 disabled parking space did meet with parking standards and was considered suitable for the type of development.

While acknowledging that the disabled parking requirement met relevant standards, Councillor S Iveson felt it was not a common sense approach given that the development was to provide residential care.

Councillor Bennett raised no objections to the application, stating that there was a real need for such developments.

In moving the application, Councillor Lethbridge stated that the application would bring desirable development on to a brownfield, derelict site. Councillor Freeman seconded the motion for approval, stating that the design was not out of character for the surrounding area and that there was a need for residential care developments.

**RESOLVED:-** “That the application be approved subject to the conditions detailed within the report”.

**e DM/15/00187/FPA & DM/15/00188/FPA – No's 4 and 16 Wynyard Grove, Gilesgate, Durham, DH1 2QJ**

The Committee considered a report of the Planning Officer regarding a change of use C4 student HMO to 7 bed sui generis student HMO, demolition of rear extension and erection of rear extension at no's 4 and 16 Wynyard Grove, Gilesgate, Durham, DH1 2QJ (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.

Councillor B Moir advised that during the 1940's and 50's, Wynyard Grove had been a pleasant residential street, inhabited by many local people. However, today there was only 1 local resident living in the street, as Wynyard Grove had now become a student enclave. He remembered the way that Wynyard Grove and many streets like it, had once used to be before being overrun with students and he feared that the damage had already been done and that residential streets would never recover.

Councillor Freeman commented that there could be an argument to refuse the application based on the provisions of saved local plan Policy H9.

Councillor Conway advised that the reason he had requested that the application be brought before the Committee was to make a point that Wynyard Grove had now become a forgotten area which had lost a lot of family housing and the sense of community which was common in longstanding family residential areas. The number of cars parked in the vicinity also had an impact on the surrounding area, however taking all into consideration, Councillor Conway did not feel there were sufficient grounds to object to the application.

The Principal Planning Officer highlighted that contrary to the report, the City of Durham Trust had submitted an objection to the application.

In relation to application DM/15/00187/FPA, Councillor Lethbridge moved that the application be approved, seconded by Councillor Iveson and upon a vote being taken it was:-

**RESOLVED:-** "That the application be approved subject to the conditions detailed within the report".

In relation to application DM/15/00188/FPA, Councillor Maitland moved that the application be approved, seconded by Councillor Lethbridge and upon a vote being taken it was:-

**RESOLVED:-** "That the application be approved subject to the conditions detailed within the report".

