

DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Crook on **Thursday 17 September 2015 at 2.00 pm**

Present:

Councillor M Dixon (Chairman)

Members of the Committee:

Councillors H Nicholson (Vice-Chairman), B Armstrong, D Bell, H Bennett, J Clare, K Davidson, E Huntington, C Kay, S Morrison, A Patterson, G Richardson and C Wilson

Also Present:

S Pilkington – Senior Planning Officer
C Harding – Senior Planning Officer
P Herbert – Senior Planning Officer
T Burnham – Senior Planning Officer
D Stewart – Highways Officer
C Cuskin – Solicitor – Planning and Development

1 Apologies for Absence

Apologies for absence were received from Councillors D Boyes and L Taylor.

2 Substitute Members

Councillor H Bennett substituted for Councillor L Taylor.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The Minutes of the meeting held on 23 July 2015 were agreed as a correct record and were signed by the Chairman.

5 Applications to be determined

5a DM/14/01091/FPA - Former Weardale Motor Services and The Bungalow, 101 Front Street, Frosterley

Consideration was given to the report of the Senior Planning Officer regarding an application for the demolition of an existing bungalow and garage/office and the erection of 10no. dwellings (for copy see file of Minutes).

S Pilkington, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site.

Charlotte Tucker addressed the Committee on behalf of a local family in objection to the application. She explained that the family supported development of the site but had a number of concerns about the proposals.

The site was situated within the Conservation Area adjacent to a listed building. The development would be completely out of character and the developer had included as many houses as possible on the site. This would affect the character and appearance of the Conservation Area. 10 semi-detached dwellings would not be in-keeping with Frosterley and she referred in particular to the negative impact of plot 1. Local and National Planning Policy had to be carefully considered alongside a Conservation Area and any development should enhance heritage assets. A high quality scheme of lower density would be more appropriate.

Due to the high density there was no room to provide adequate gardens and the loss of the bungalow was a major concern. She noted that works to the bungalow were currently being carried out to the windows and doors. This appeared to be at odds with the proposals to demolish the dwelling.

Charlotte Tucker continued by referring to the potential for noise conflict and asked that noise mitigation measures be carried out prior to the commencement of any works on site.

In conclusion the scheme would have an impact on Frosterley and any development of the site should preserve and enhance the Conservation Area.

John Taylor, the applicant's architect addressed the Committee. He explained that the dwellings were modest and the proposals fully complied with policies in the Wear Valley Local Plan and the NPPF. No objections had been received from Design and Conservation, Environmental Health or from the Arboricultural Officer. The scheme had been designed in a traditional manner using traditional materials which reflected the character of the Dale.

The site had been redundant for a number of years and had become unsightly. The site was classed as previously developed land and proposed density was in line with planning policy. The proposed development would be an asset to the village, was a small scheme comprising of family homes and would contribute to the housing stock in the Dale. The site was highly sustainable with good links to community facilities and the rest of the Dale.

In accordance with the NPPF this development would enhance and maintain the vitality of a rural community and would help sustain the village. His client had advised that the properties would be for the rental market.

The Senior Planning Officer responded to the comments made. He advised that revisions had been made to the scheme to improve the layout which was now deemed to be appropriate. The design of the dwellings would enhance and protect the Conservation Area and was typical of other parts of the village and the Dales area.

The Senior Planning Officer then responded to questions from Councillor Clare about site density and the potential for noise conflict. Development in the rest of the village was of a similar density and this was an in-fill site. Environmental Health felt that there was a potential conflict with the haulage operation opposite the site, however condition 7 in the report would mitigate this. The haulage business had been operating successfully for some years within a predominantly residential environment and therefore conflict was not anticipated.

Councillor Richardson advised that having listened to the Officer's presentation and the submissions of the objector, he considered that site density was too high on a plot of this size with limited parking facilities. He was concerned that vehicles would park on the narrow roadside.

The Senior Planning Officer advised that the layout was informed by the access into the site. Each property had 2 spaces with a garage with the exception of Plot 1. Parking would be contained within the site.

Councillor Nicholson was of the view that this site was currently an eyesore in a beautiful part of the County. He had heard the submissions for and against the scheme and in conclusion supported the Officer's recommendation.

Concern was expressed by Councillor Kay with regard to site egress onto the A689 near a deceptively tight bend. He sought an assurance that egress from the eastern side travelling from Cragg Cottages met requirements in terms of visibility.

D Stewart, Highways Officer responded that this was formerly a commercial depot with buses entering and leaving the site onto the A689. He acknowledged the constraints in terms of visibility to the east but minimum requirements were met.

Councillor Armstrong was pleased that the applicant had reduced the number of dwellings to 10 and the properties were modest. The scheme would help young people stay in the village, and would also bring jobs to the area.

Councillor Nicholson moved and Councillor Armstrong seconded that the application be approved.

Resolved:

That the application be approved subject to the conditions in the report and to the completion of a Section 106 Legal Agreement to secure a financial contribution of £10,000 towards the provision/maintenance of open space and recreation facilities in the locality.

5b DM/15/01428/FPA - Land east of Van Farm, Green Lane, Hutton Magna

Consideration was given to the report of the Senior Planning Officer regarding an application for a wind turbine of 36.6m maximum tip height with associated meter house and access track (for copy see file of Minutes).

P Herbert, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site.

Mr Paul Townley addressed the Committee on behalf of Thorpe with Wycliffe Parish Meeting and local resident Mr Laidler.

He advised that on 25 June 2015 he had sent a letter on behalf of the Parish Meeting to all residents on the Planning Notification list to seek their views on the proposed wind turbine. Of the 40 responses received, 26 were in opposition and 14 were in favour, thereby demonstrating that 65% of the local community were opposed to the scheme. The Planning Officer had argued that as only 26 had offered their objections it followed that the rest of the community were in favour, but he disagreed as it could equally be argued that only 12% were in support.

In view of this he could not agree that the number of objectors and supporters was finely balanced, nor could it be said that community concern had been satisfied by this level of opposition. It had also been said that very few residents had been contacted but all those on the notification list had received the letter.

Mr Townley then proceeded to summarise a letter from a resident of Hutton Magna, Mr R Laidler.

In the letter Mr Laidler stressed that his personal feelings towards the applicant, which happened to be admiration and respect, were totally irrelevant to the planning application and his comments would be directed solely to the proposals.

The applicant sought to off-set the costs of running a pumping station, now his responsibility, following the Environment Agency relinquishing their ownership of it.

His objection to the proposal was not based on the principle of the solution, but the size of the turbine. He believed it to be an over-engineered solution, which would create unnecessary visual harm.

In their pre-application consultation letter, Earthmill had stated that the pumps used a large amount of electricity but did not provide any details.

The Environment Agency had provided details of annual electricity consumption by the pumps, during their last 5 years of ownership. In a dry year the site used as little as 5000 kWh, whereas in a wet year the consumption could be as high as 26,000 kWh. Over the last five years of service the average appeared to be around the 13,000 to 16,000 kWh mark.

In Mr Laidler's original letter of objection he had pointed out that a much smaller machine would meet the known demand, and had suggested an alternative model because its own performance data revealed a capability of between 5,000kwh and 30,000kwh per annum. The machine had a hub height of 9m and tip height of 11.8m.

He was surprised by the statement in paragraph 54 of the report that small machines such as this were inefficient. The paragraph also suggested that such a machine would produce insufficient power for the pumps, but this was contradicted by the machine's performance data which was published by the manufacturer and the applicant's agent themselves.

In summary he believed that the proposed machine was far larger than needed for the stated purpose, and that the acknowledged visual harm it would create could be almost completely eliminated with a smaller one, while still providing a solution for the applicant.

He asked Members to refuse the application on the grounds of excess and the unnecessary creation of avoidable harm, and that the applicant be advised that a proposal for a machine which was proportionate would be acceptable in principle.

Tori Heating of Earthmill addressed the Committee on behalf of the applicant. She advised that Van Farm was an independent third generation family-run business, with mainly arable land. Originally proposals were for 2 much larger turbines and Earthmill had worked with Planning Officers to produce a mutually acceptable scheme.

The pumps used large amounts of water, draining over 100 acres of her client's land and that of his neighbour. Without the pumps the land would be waterlogged. Surplus electricity from the turbine would feed back into the Grid Network for local use. The viability of the farm would be at risk without these pumps.

An objector had suggested that a smaller wind turbine would be more acceptable but research had shown that these were not as reliable. Wind turbine technology had improved in recent years, which was supported by the number of domestic wind turbines in use today.

This application was about balancing landscape impact against the transition to a low carbon future in a changing climate.

The number of objectors and supporters was finely balanced. Even if it had been shown that there were more residents in opposition to the scheme, the overall number of objections was still relatively small.

There was Government support for renewables and she urged the Committee to support the local family and local business.

C Cuskin, Solicitor – Planning and Development referred to the suggestion that a smaller wind turbine would be more appropriate but advised Members that this was not for consideration by the Committee. The application should be determined based on the merits of the submitted scheme on material planning grounds.

In response to a question from Councillor Dixon, the Senior Planning Officer confirmed that the proposed wind turbine was twice the size of the Angel of the North. In responding to the comments of objectors he advised that in accordance with planning policy and guidance, need did not have to be demonstrated. However if the proposals would result in fundamental visual harm, this would have to be balanced against the needs of the farmer. Planning Officers were of the view that there was no significant visual harm.

Turning to the consultation carried out by the Parish Meeting he advised that 26 objections did not constitute overwhelming opposition. It could be argued that people would be more likely to respond to a consultation if they were opposed to what was proposed. He noted the technical data provided by Mr Laidler but the detailed information submitted by the applicant had to be accepted.

Councillor Kay commented on the responses received to the consultation by the Parish Meeting and considered that the use of percentages could be misleading when dealing with such a small group of respondents. The Solicitor had advised that the Committee could only consider the size of the wind turbine submitted by the applicant, and therefore the comments about a smaller turbine were not relevant. He felt that the applicant should be supported; the turbine was a considerable distance from Hutton Magna and he could not envisage that it would be intrusive in the landscape.

In response to questions from the Member, the Senior Planning Officer advised that due to a change in funding arrangements, the Environment Agency was no longer able to maintain the pumps and the responsibility had been assumed by the farmer. The operation of the pumps avoided localised flooding in periods of wet weather.

Councillor Davidson noted the different arguments about the level of opposition and support to the proposals, and that 112 people had been consulted, however he felt that paragraphs 2 and 4 in the report demonstrated that the turbine would not impact upon many residents at all. The Member also noted the comments made with regard to the size of the turbine and the relevance of this to the Committee's determination of the application.

Councillor Richardson advised that the proposed wind turbine was within his electoral division. He found the statistics presented by Mr Townley on behalf of Mr Laidler to be confusing. This turbine was not as large as some which had greater impact on the landscape. He was familiar with the use of pumps on agricultural land and confirmed that maintenance and running costs now rested with farmers who had to decide whether to take on this responsibility or deal with the effects of

flooding. In reaching a decision this should be weighed against the visual impact of the turbine which would be easily visible from the A66.

Councillor Patterson noted that the turbine was not small, however she appreciated that a smaller turbine was not for consideration by Members. Shadow flicker was often an issue for residents but there were no properties within the relevant distance to be affected by this. The Member also appreciated that the turbine was necessary for the farmer's business.

It was moved by Councillor Kay and seconded by Councillor Davidson that the application be approved subject to the conditions outlined in the report.

Resolved:

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

5c DM/15/01961/FPA - Former Co-op, New Road, Crook

Consideration was given to the report of the Senior Planning Officer regarding an application for the demolition of existing food store and petrol station, and the erection of a replacement food store (Class A1) and associated works (for copy see file of Minutes).

C Harding, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site.

Richard Huteson, the applicant's representative was in attendance to respond to questions from Members.

In response to a question from Councillor Nicholson, Mr Huteson confirmed that the petrol station would not be replaced. The Lidl model did not have concessionary units and the site of the former garage would therefore be utilised for additional parking.

Councillor Clare considered that the reasons for approving the application were clearly set out in paragraph 44 of the report, and the concerns expressed by occupiers of an adjacent building had been addressed in paragraph 63.

Councillor Patterson, in supporting the proposed development, made reference to access arrangements and had concerns that there was no zebra crossing proposed at the point where pedestrians would cross from the store to the car park on the site of the former petrol station.

The point was made by the Member and Councillor Richardson that the access would also be used by the Police Station and Bradbury House, a nursing home.

D Stewart, Highways Officer advised that there had been a crossing as part of the former Co-op site. The Highways Authority had commented on the detailed layout of the car park to achieve improved connectivity and the majority of the issues raised had been addressed in a revised site layout. Although a zebra crossing had been suggested it had not been included in the revised car park arrangements. Nevertheless the absence of a zebra crossing would not be sufficient grounds to sustain a refusal of the application in highway terms.

In response Mr Huteson explained that it would not be possible to provide a zebra crossing at the point suggested by Councillor Patterson because it would encroach upon third party land, over which they had no control. Following further concerns expressed by the Member he advised that a pedestrian crossing would be provided for the West Durham Youth Centre building.

Councillors Kay and Armstrong both made the comment that other major supermarkets provided zebra crossings for the safety of pedestrians. Councillor Kay asked if this could be included as a condition.

C Cuskin, Solicitor – Planning and Development informed Members that planning conditions had to be tested against certain criteria, one of which was that they must be necessary. Members needed to determine if the need for a zebra crossing was so great that the application could not be approved without it being included in the scheme.

Councillor Patterson stated that she was fully in support of the application as a supermarket in Crook was much needed and it would bring jobs to the town. She therefore welcomed this scheme although was disappointed with the length of time it had taken to reach this stage and that no petrol station was proposed. The Member also requested that the applicant take into account the safety issues raised in respect of the car park.

Councillor Dixon stated that Lidl had heard the concerns expressed by Members and hoped that the company would take on board the comments made.

Councillor Clare was of the view that the issue for Members was whether the need for a zebra crossing was so great that it would lead the Committee to refuse the application. The Highways Officer had advised that the absence of a zebra crossing was not sufficient grounds to sustain a refusal in highway terms and the Solicitor had advised that to impose this as a condition it must be necessary. Therefore whilst he hoped that Lidl would provide a zebra crossing there were no grounds to impose a condition requiring it, or grounds to refuse the application.

Councillor Clare moved and Councillor Davidson seconded that the application be approved.

Resolved:

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

5d DM/15/02058/FPA - 1 Stockley Lane, Oakenshaw

Consideration was given to the report of the Senior Planning Officer regarding an application for a proposed dwelling and office/store (resubmission of refusal DM/14/02570/FPA) (for copy see file of Minutes).

T Burnham, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site.

Councillor O Gunn, local Member addressed the Committee on behalf of the applicant. She had referred the application to Committee on the grounds of business need. The applicant Mr Luke would address the Committee in this regard and she would therefore focus on the reasons for refusal.

The local Member strongly believed that paragraph 55 of the NPPF should not have been applied. This was not an isolated rural location. She acknowledged that it was rural but it was not isolated. This site was clearly within the development envelope of Oakenshaw village with a new development 50m to the west, allotment gardens adjacent to the site, a barn conversion 30m to the south, and several other properties to the north and south of the site. The site was also very close to New Row. There were over 200 properties in Oakenshaw. The location was sustainable with an extensive road network next to the property and a bus turning circle 30m from the site. Paragraph 42 of the report stated that the site was not visually isolated but that it was isolated in respect of the need to access local services and facilities by car. However there was a local bus service, although she acknowledged that it was infrequent.

She also strongly believed that paragraph 55 of the NPPF was introduced to prevent houses being built along country lanes in the middle of nowhere which was not the case here.

The same argument applied to ENV 1 of the Local Plan. Oakenshaw village was in the countryside so there were 2 policies on which the recommendation was based which were totally flawed. The report stated that the site was outside the settlement boundary, but there was no reference to settlement boundary in the NPPF. There were several instances where this had not applied, for example the recent application for houses opposite 1-14 West Road, Willington. If Members were minded to approve the application she suggested that matters relating to the Coal Authority site investigation, visibility splays and additional hedge planting could be included as conditions.

Mr Brian Iley, the applicant's agent addressed the Committee in support of the application. He advised that in March 2012 the Government had consolidated all planning policy statements, circulars and guidance into a single policy statement, the NPPF. The overriding message from the NPPF was that planning authorities should plan positively for new development and approve all individual proposals wherever possible. The role of planning in achieving sustainable development was defined under three headings; economical, social and environmental. There was a presumption in favour of sustainable development that required local planning authorities to approach development management decisions positively. This

statement was used in a planning consent for a domestic extension for recreation purposes with a footprint of almost twice that of the current application, which was to be attached to the adjacent barn conversion.

There was no sign of such a statement in the report for this application and he made the point that every report should provide a balanced argument.

The NPPF allowed planning authorities to set aside redundant or outdated policies, however they were being used to drive this report. The report also suggested that the proposals were the same as previously submitted, with the exclusion of the garage, but the design had been reduced by 20%. As an architect he aimed to enhance not harm and his greater concern was that it was going to be largely hidden by the adjacent development.

He therefore urged the Committee to approve the application to support and promote an existing long-established and valued business that provided an exemplary service that was in danger of being lost.

Mr Luke the applicant was invited to address the Committee. He sought permission to build a house for his son and daughter-in-law to expand and improve the 20 year business. He wanted to retire with his wife who suffered ill health. He did not want to move and assured Members that this was not a profit-making application. His son would take over the family business with the aim of expanding and employing more staff, bringing employment to the area. If the application was granted he expected a threefold increase in the business which had grown by 56% in the last 5 years with the help of his son.

Mr Luke continued that he had a good working relationship with local vets. If his son was a farmer he believed that this application would be allowed but unfortunately the policy did not apply to a cattery, even though a 24 hour presence was required. He was unable to retire because he needed to be on the premises at all times. He wanted to maintain the family business and not sell, move away or close down as had been suggested. He wanted the family business to stay and continue to provide a first class service to the community.

Councillor Dixon asked the Senior Planning Officer to explain the relevance of paragraph 55 of the NPPF in view of the comments made by the local Member.

The Senior Planning Officer advised that there was no clear guidance with regard to the meaning of 'isolation' and therefore opinions would differ in terms of its meaning. In response to other comments made he advised that the site was outside the settlement boundary, and applications for development that were outside a settlement boundary would normally only be acceptable where it had been demonstrated that the location was sustainable. This location was not sustainable as people would need to travel by car to access services.

The Officer continued that the size of the house had not been reduced and he was unaware of the comments made suggesting that the applicant should sell, move away or close down the business. He asked if Mr Luke intended to employ a Manager or if this role would be fulfilled by his son.

Mr Luke advised that his son would employ staff to run the business. Mr Luke would continue to be there initially and would phase out his involvement over time.

Councillor Davidson stated that paragraph 55 of the NPPF related to development spilling into the open countryside. If the application was approved the fields to the west would be ripe for development, although he appreciated that this was not a consideration for the Committee.

Councillor Clare accepted that Officers could not have recommended approval of the application because planning policy was clear, however the cattery required a 24 hour presence. Paragraphs 43-50 in the report were key considerations. The report advised that the application was based on a premise of what might happen in the future but acknowledged in paragraph 49 that the situation could change when the current owner/manager retired.

Currently the present owner lived in the house and was not allowed to build a second house on the site, but in accordance with paragraph 49 the owner was going to retire. If the cattery was sold the person who bought it would have the right to build a dwelling as the cattery had to be managed 24 hours a day. If the owner retired the dwelling would be needed for the continuation of the business which he considered would be a planning gain that would outweigh the building of a second dwelling on this site.

In agreeing with Councillor Clare, Councillor Patterson advised that the site was sustainable in that it was located next to a bus turning circle with bus services to Durham and Willington. With regard to the reference to settlement boundary, the site was not in the open countryside being located adjacent to a row of terraced houses. If the application was approved the Member asked if it would be possible to impose a restriction that the dwelling could only be occupied in connection with the business.

C Cuskin, Solicitor - Planning and Development confirmed that a condition could be included on the grounds of the need for the dwelling for the operation of the business. However Members had to be satisfied that there was a need. Following a question from Councillor Armstrong she advised that the condition would be imposed in perpetuity unless an application to vary was submitted.

Councillor Patterson stated that this was the only cattery in the area and was a viable business. The Member moved approval of the application subject to a condition restricting occupancy.

Councillor J Clare seconded this motion.

Councillor Kay moved refusal of the application. He considered that there was no demonstrable need for the house at present and whilst the applicant's future intentions appeared to be genuine he could not agree to the application in planning terms at this point in time, and moved refusal.

This was seconded by Councillor Davidson.

Following the discussion the Chairman requested a vote on Councillor Patterson's motion to approve the application as seconded by Councillor Clare, on the grounds that the dwelling was necessary for the continuation of the business.

Upon a vote being taken the motion was carried.

Resolved:

That

- (i) the application be approved subject to the inclusion of a condition limiting occupancy of the dwelling to a person solely or mainly employed in connection with the business;
- (ii) delegated authority be granted to Planning Officers to formulate detailed conditions.

At this point Councillor Kay left the meeting.

5e DM/15/01710/FPA - Site of Former Police Station, Central Avenue, Newton Aycliffe

Consideration was given to the report of the Senior Planning Officer regarding an application for the erection of a 56 bed residential care home, with associated car parking and infrastructure (for copy see file of Minutes).

S Pilkington, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site.

Councillor Dixon considered that the objections outlined in the report had been addressed and sought an assurance that the application would proceed to development as another site in the town with planning permission for a care home remained undeveloped.

The Senior Planning Officer advised that plans were well-advanced and an end provider had been identified by the applicant.

Councillor Nicholson shared the views of Councillor Dixon, noting that there had been no opposition to the proposed development from consultees.

Upon a vote being taken it was unanimously **Resolved:**

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