

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Council Offices, Spennymoor on **Thursday 19 November 2015 at 2.00 pm**

### **Present:**

**Councillor M Dixon (Chairman)**

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

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

### **Also Present:**

A Caines – Principal Planning Officer  
T Burnham – Senior Planning Officer  
S Pilkington – Senior Planning Officer  
C Cuskin – Solicitor – Planning and Development  
D Stewart – Highways Officer

### **1 Apologies for Absence**

Apologies for absence were received from Councillors B Armstrong, D Boyes and S Zair.

### **2 Substitute Members**

There were no substitute Members.

### **3 Minutes**

The Minutes of the meeting held on 22 October 2015 were agreed as a correct record, subject to minutes numbered 5(b) and 5(c) being amended to read as follows:-

**5b DM/15/00730/FPA – Site of the former St Peter’s School, Main Road, Gainford**

### **Resolved:**

That the application be approved subject to the conditions outlined in the report and to the completion of a Section 106 Legal Agreement to secure the provision of 3 affordable housing units and the dedication of a Public Open Space area adjacent to the site.

## **5c Land to the south of Broadway Avenue, Salters Lane, Trimdon Village**

### **Resolved:**

That the application be approved subject to the conditions outlined in the report, to the completion of a satisfactory Section 106 Legal Agreement to secure the provision of 3 affordable housing units and off site sporting and recreation contribution of £1000 per dwelling, and the provision of a landscaping buffer to the south and west of the site.

## **4 Declarations of Interest**

Councillor A Patterson declared an interest in item numbered 5b) on the Agenda DM/15/02372/OUT – land to the south east of High Grange, Crook. The Councillor advised that it may be construed that she had pre-determined the application. The Member left the meeting during consideration of the application.

## **5 Applications to be determined**

### **5a DM/15/02914/FPA - Field Barn to the east of Hawcroft Lane, Cotherstone**

Consideration was given to the report of the Principal Planning Officer regarding an application for the conversion of a field barn to 1no. residential dwelling (for copy see file of Minutes).

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

Councillor R Bell, local Member who had called the application to Committee was unable to attend but had submitted written representations which were read out at the meeting. In his statement Councillor Bell appreciated the efforts made by the Case Officer to make the application more acceptable, but there remained issues with it. He noted that at paragraph 41 of the report the applicant had dismissed the offer of a neighbour to buy the barn and restore it as a barn. A proper restoration would secure the barn's future for many decades, hardly a 'temporary solution', and it was regrettable that this had not been encouraged by the report. NPPF Part 12 mandated planning authorities to 'recognise that heritage assets are an irreplaceable resource and conserve them'. Failure to take up this offer was surely a breach of NPPF Part 12.

He noted the report at paragraph 68 dismissed the DCC Highways objections at paragraph 24. He considered it to be curious that a car or lorry serving a barn conversion was considered less dangerous in planning law than when they served a new build.

The use of red pantiles and the creation of a surrounding garden/amenity space was detrimental to the historic landscape character in a sensitive site, within a Conservation Area close to the listed Quaker meeting house, and was contrary to saved policy ENV3 and NPPF Part 12. Red pantiles were rare west of Barnard Castle and unknown on field barns of this vintage in the local area. The roof would stick out like a sore thumb.

He asked the Committee to refuse the application. If however the Committee was minded to accept the application, he asked for a condition to require the use of Teesdale stone slate as a roofing material, and a condition to prevent the applicant from demolishing and rebuilding the barn if he decided it was beyond economic repair.

Mr I Moorhouse addressed the Committee on behalf of Cotherstone Parish Council and the Field Barn Conservation Group. He stated that apart from the effect on the setting in a Conservation Area there were three main objections to the proposals. The offer to buy and restore the barn had been dismissed in paragraph 54 of the report and this seemed to be contrary to Part 12 of the NPPF which stated that Heritage Assets were an irreplaceable resource. The proposals would constitute a loss of essential character; the barn was small and the converted dwelling would be small and dark with no natural light downstairs. It would not be a desirable property and was contrary to the NPPF's requirement to provide a wide range of high quality homes. Even Planning Officers had acknowledged that this would be basic accommodation. The single track had no proper passing places and was unsuitable for emergency service vehicles. A recent estate development in the village had contributed to an increase in traffic.

In accordance with the General Permitted Development Order conversion could only be allowed where the structure was capable of being converted. Rebuilding was not permitted and he therefore asked if Members were minded to approve the application that a structural survey be carried out before planning permission was granted. He also asked that the curtilage of the development be defined at the same time.

Mrs Leech who spoke against the application reiterated the concerns raised in the 64 letters of objection, however she wished to emphasise paragraph 54 of the report. The applicant claimed that the only way of retaining the building was for conversion to a house but her husband had offered to buy the barn and provide a dowry to ensure its ongoing upkeep and maintenance. The building should be preserved and maintained as a historical agricultural building befitting the location in a Conservation Area and AONB. She urged the Committee to refuse the application to protect the Conservation Area and asked the applicant to reconsider her husband's offer.

Maria Ferguson, the applicant's agent then addressed the Committee. She commenced by emphasising the importance of being consistent and for the Committee to consider the proposals in the same way as other similar applications had been determined, some of which were in the Conservation Area and in the open countryside. Planning policy had been relaxed and new permitted development rights sought to allow the conversion of barns. At two appeals the

Inspector had concluded that the Government's commitment to facilitate residential conversion were material considerations which carried significant weight. The NPPF also made it clear that the risk of decay and neglect of heritage assets were best addressed through ensuring that they remained in active use. Left unaltered this building and its association would be lost and it would contribute nothing to the Conservation Area. This scheme would ensure the long-term future of the building.

The offer to restore the building by a third party did not meet her client's needs, offered no incentive to the landowner and was not a material planning consideration. It was a credit to the owner, who cared about Cotherstone, that the building had survived. The barn was unsuitable for modern agriculture and every care had been taken to respect the character of the building and its surroundings.

With regard to the access it was acknowledged that the lane was narrow but was an adopted highway and was typical of the area. It was safe and there had been no reported accidents.

By way of clarification for Members, C Cuskin, Solicitor – Planning and Development advised that the offer to purchase the barn by a third party was not a material planning consideration that could be given any weight in the determination of the application.

D Stewart, Highways Officer addressed the highway concerns submitted regarding access. In accordance with the NPPF one of the tests to be applied was whether the proposed development would have a severe cumulative impact. He advised that this could not be shown here; the limitations of the access road were clear but site visibility at the junction onto the B6277 was acceptable and commensurate with approach speeds. The lane already served other dwellings with existing vehicular and pedestrian movements associated with it.

A Caines, Principal Planning Officer responded to the submissions made. He advised that preservation was not purely about maintaining such buildings in their current form and Planning Policy encouraged development that brought them back into active use. Mr Moorhouse had asked that a condition be included to ensure that the building was converted and not rebuilt, however this was considered unnecessary as rebuilding would be outside the scope of a permission for conversion. The barn also appeared to be in good condition and it would be unlikely that major rebuilding works would be required to achieve the conversion.

Councillor Davidson made reference to the curtilage of the building and was informed that the site boundary comprised the track and barn, and did not include the surrounding land.

In response to comments from Councillors Huntington and Clare about the potential for further works to the building in future, such as additional windows or a conservatory, the Members were advised that permitted development rights would be removed by condition, and therefore any alterations the applicant may wish to make at a later date would require planning approval.

Having heard this, Councillor Clare was of the view that, with the exception of the roof, this was a proposal to retain a building in its existing form and preserve rather than lose it. The Member moved approval of the application.

The Chairman made the point that re-use of buildings of this type was now encouraged by planning policy.

Councillor Kay asked if the development was sustainable and if a condition could be included that Teesdale stone slate be used in place of red clay pantiles which would be very noticeable in the open countryside.

In response the Principal Planning Officer confirmed that the proposal constituted sustainable development. Cotherstone served other villages in the west of the County and was classed as a tier 4 settlement. The barn was only 100m outside of the village and within walking distance of facilities, including the local primary school. In accordance with the NPPF the site represented a sustainable location in a rural area. He acknowledged that stone slate would be preferable but the building was not listed and the existing roof was not made of this material. Stone slate was expensive and difficult to find. He also felt that imitation pantiles were sometimes confused with clay pantiles, and it was the imitation pantiles that were more vivid in colour. Clay pantiles would weather to a more subdued colour. There were examples of other buildings in the village with red clay pantile roofs and next to listed buildings, as seen by Members on the site visit. It was an appropriate local material and he did not consider it to be harmful to the appearance of the area.

To clarify, the Solicitor – Planning and Development advised that conditions had to be tested against certain criteria, one of which was that they must be necessary to make the development acceptable. Members could only impose a condition requiring the roof to be constructed out of Teesdale stone slate if they were satisfied that it would be necessary to refuse the permission if the roof was not constructed out of Teesdale stone slate.

In terms of the concerns expressed about traffic, Councillor Davidson advised that he had observed tracks in the field leading beyond the barn which were clearly being used. The access road was already in use by vehicles and he did not envisage that the development would make any real difference in terms of impact on the highway. The Member seconded approval of the application.

Councillor Richardson considered that on the face of it the site appeared suitable for development but there were a number of issues; the narrow access track, the lack of services to the field and the proposed red clay pantile roof. He agreed with Councillor R Bell that the proposals were contrary to saved Local Plan Policy ENV3 and Part 12 of the NPPF, and he could not support the application.

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

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

At this point Councillor Patterson left the meeting.

**5b DM/15/02372/OUT - Land to the south east of High Grange, Crook**

Consideration was given to the report of the Senior Planning Officer regarding an outline application for up to “15 executive dwellings” with all matters reserved (for copy see file of Minutes).

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

Mr S Murphy, a resident of High Grange addressed the Committee against the application. His main representation was that development on this site had been recommended for refusal on three previous occasions and this was the fourth application in eight years, with the last one being within a year of the current proposals. He lived in the terraced houses adjacent to the site. The main road was unsafe and accidents were common. The development would be out of keeping in what was a lovely unspoilt village built in the 1800s. Should this application be also refused he asked if the Council could prevent any further applications coming forward within the next 10 years to save residents from having to repeatedly submit objections to schemes. Mr Murphy was advised by the Solicitor – Planning and Development that this was not possible.

Councillor Richardson, although he did not support the application, made the point that High Grange was not in an isolated rural location and was surrounded by other single properties and allotments.

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

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

That the application be refused for the reasons set out in the report.

Councillor Patterson returned to the meeting.

**5c DM/15/02604/FPA - Low Etherley Farm, 2 Low Etherley, Bishop Auckland**

Consideration was given to the report of the Senior Planning Officer regarding an application for the demolition of existing farm buildings and the erection of 3no. dwellings (for copy see file of Minutes).

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

Councillor H Smith, local Member addressed the Committee. She stated that she and Councillor Turner had asked for this to be brought to Committee after being contacted by residents who would be directly affected by the proposals. There would be no issues if the scheme had been for two houses on the site vacated by the demolition of the existing farm buildings but Plot 1 would be on agricultural land and outside the settlement boundary. Despite separation distances being in excess of 21m the local Members agreed with local residents that the impact on the privacy of neighbouring residents would be significant. The proposals constituted an extension into the open countryside and would be detrimental to the character and appearance of the area.

The concerns of residents had been outlined in the report which included traffic and road safety, drainage and sewerage, and the frequent power cuts.

Part 6 of the NPPF sought to significantly boost the supply of housing which delivered sustainable, inclusive and mixed communities, and Part 4 required developments to be located where the need for travel would be minimised. Low Etherley had lost shops and its pub, the bus service was infrequent and residents were obliged to rely on travel by car. The Member also questioned the need for more housing in the village when one website had advertised 30 properties for sale in Etherley and Toft Hill. Planning permission had also been granted for a further 13 properties close to this site.

In view of these factors and the loss of privacy for neighbouring residents the local Members were unable to support the application.

Mrs S Bowen of Treetops addressed the Committee on behalf of her family and the residents of 4, 6, 8 and 8a Low Etherley. The proposed development of three very large houses on such a small site would be overbearing and would have a detrimental impact on their privacy and residential amenity. The farm buildings were only one storey high and would be replaced by three storey properties.

Low Etherley was a linear development and Plot 1 would be outside the settlement boundary on a greenfield site that was viable farm land. Plots 1 and 2 directly overlooked properties and Plot 1 included an external staircase which faced neighbours. Each dwelling would have parking for three vehicles, one of which was directly adjacent to her own barbecue area. Her youngest daughter was asthmatic and would be unable to enjoy clean fresh air in their garden.

The proposals would impact upon residents' enjoyment of their properties, their health and quality of life. She reiterated the comments of Councillor Smith that there were 30 properties for sale in the village excluding the 13 properties that had been granted planning permission across the road from the site. She did not therefore believe that there was a need for this development.

The development was not sustainable. In the last two years the village had lost amenities, including a shop, Post Office and a pub. Public transport was very poor resulting in increased use of private cars and an increase in greenhouse gas emissions. The village infrastructure was already struggling to cope; the sewerage system was inadequate and there were frequent power cuts. There were also

issues with surface water drainage and the proposed retaining walls would impact upon this further.

Each of the properties could accommodate three vehicles which would exit onto an already busy road where there had been a number of accidents, some involving neighbours leaving their own dwellings.

Having examined the NPPF, a core principle was about empowering local people to shape their surroundings. All the neighbours had objected to the scheme on the grounds of loss of privacy, impact on amenities, health and quality of life, and she asked the Committee to seriously consider their concerns in determining the application.

Mr M Lee, the applicant's agent advised that the farm had been in the family for generations prior to the cessation of the dairy farm operations. The land associated with the farm was now rented out for grazing.

The proposed development comprised a small scale housing development utilising the redundant farm buildings and a small parcel of grazing land. The land adjoined the defined settlement limits and was contained within the physical structure of the village. Landscape, Arboriculture and Ecology consultees had raised no objections to the loss of grazing land. Incorporating it into the overall redevelopment of the farm complex would not result in an encroachment into the open countryside or on the grazing, and would not undermine policies previously contained in the Local Plan which had now been overtaken by the NPPF.

Low Etherley was a medium sized village and part of the grouped settlement of Etherley and Toft Hill which included facilities such as a primary school, nursery, cricket club, pub, doctors surgery, village hall and a church. Access to facilities and services in Bishop Auckland was 1.8km away and the site was within walking distance of public transport. Therefore the development was sustainable.

Any concerns that had arisen with regard to highway safety had been considered by the Highways Authority and no objections had been raised, proving that a safe access could be maintained from the long established access into the farm.

Low Etherley was mainly linear in form but an occasional development existed behind the roadside. There was a range of properties and no consistent architectural vernacular within the village. From the application it could be seen that a high quality of design had been submitted using natural materials which would provide an attractive grouping of houses which would not cause harm to the character of the area. The dwellings were sized appropriately to the site and the proposals corresponded with Local Plan policies GD1 and H12, and Parts 7 and 11 of the NPPF.

Protecting their own residential amenity and privacy and that of their neighbours had been a major consideration. Separation distances were well in excess of 21m, the ridge heights would not exceed those of the existing dwellings and with the development being on a lower level, this would minimise overshadowing and



overbearing. Loss of view should not be a reason to refuse the application, given the separation distances.

In conclusion the applicant was a semi-retired dairy farmer looking to make use of redundant land and an opportunity was presented to provide three high quality homes with no adverse impacts which was supported by planning policy.

D Stewart, Highways Officer responded to the highway concerns. He advised that the proposals were deemed to be acceptable. Site visibility at the access point was satisfactory with proposals for improvements to the existing access. There were no highway grounds to justify refusal of the application on the basis of the subjective concerns raised.

The Senior Planning Officer responded to the submissions made by the local Members and Mrs Bowen. In relation to the representation that Plot 1 was outside settlement limits, he referred Members to recent appeal decisions which concluded that settlement limits were now less relevant because housing policies in the Teesdale Local Plan were out of date when applied against the NPPF.

Councillor Dixon highlighted the point made in the report that where there were no up to date housing policies the NPPF advised that developments should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against NPPF policies as a whole.

Following a comment from Councillor Kay about settlement boundaries, the Solicitor – Planning and Development clarified that recent legal advice stated that policies in Local Plans based on settlement boundaries were out of date where they related to housing supply.

The Senior Planning Officer continued that he could understand the concerns of residents who would have a loss of view, but the design, layout, separation distances and difference in land levels would ensure there was no significant harm to neighbouring properties in terms of amenity and privacy.

He had spoken to the Drainage Section who had confirmed that there had been works carried out to the south of the site to help previous problems with surface water drainage. A condition requiring a detailed scheme for the disposal of foul and surface water would be attached to the planning permission if members were minded to approve the application.

Members discussed access to the grazing land by agricultural vehicles and the potential impact of this. The agent advised that the grazing land was rented to an adjacent farm and was accessed from that farm.

The Highways Officer did not consider this to be a reason for refusal of the application on highway grounds. The access was already in use and the principle of use by agricultural vehicles would be able to continue in the future without any severe impact.

In response to a question from Councillor Davidson with regard to density of the site, the Senior Planning Officer informed the Member that the amenity space for each dwelling was deemed to be appropriate for the size of the site.

Councillor Clare accepted that access to the grazing land at the moment was gained by an adjacent farm and whilst this may make the land difficult to rent in future, it was not a material planning consideration. He was not convinced by the argument that the development was unsustainable in view of the proximity of the site to Bishop Auckland, and the loss of amenities had been experienced by the entire community. The residents of the new dwellings would be car owners. Whilst he also understood the arguments of the neighbouring residents about the impact on their quality of life, he could not accept that their quality of life would be affected. The quality of life of people living in towns was not affected by living in proximity to other buildings.

He referred Members to the similarities with the previous application in respect of proposals for housing at High Grange where one of the reasons for refusal was that the development would be detrimental to the character of the surrounding area. This was also a traditional community and three huge dwellings were to be placed in the adjoining field. He was not convinced by the agent that a 'rural palette' of materials would be used as these were clearly modern executive homes next to a traditional village. He therefore had a lot of sympathy with the residents' view that these dwellings would be overbearing by their size and would be incongruent in the village.

The Senior Planning Officer responded that High Grange was a large greenfield site with no properties surrounding it. By comparison, this site was a run-down farm complex set behind existing properties which were located on the main road. Unlike the application at High Grange these proposals would not impact on the character and appearance of the area.

With regard to the points made about the properties being overbearing the Chairman advised that on the site visit the difference in land levels could be observed.

Councillor Nicholson appreciated the views of both those who had objected to the application and those who wanted to improve the area. He was mindful of the advice about settlement boundaries and recent appeal decisions in that regard, and also noted that there had been no objections from consultees. He therefore considered that there were no grounds to refuse the application which accorded with the NPPF, and moved approval of the application.

Councillor Davidson was mindful of recent legal advice which reiterated that loss of view was not a material planning consideration. He did not consider that privacy would be compromised given the 30m separation distances, and seconded approval of the application.

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

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

At this point Councillors Davidson, Huntington, Kay and Taylor left the meeting.

**6 DM/15/02533/FPA - Unit B to C, Enterprise City, Green Lane Industrial Estate, Spennymoor**

Consideration was given to the report of the Senior Planning Officer regarding an application for change of use from use class B8 (warehousing) to use class B2 (General Industry) (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 Richardson moved and Councillor Clare seconded that the application be approved.

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

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