

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (NORTH)

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 19 May 2016 at 2.00 pm**

Present:

Councillor C Marshall (Chairman)

Members of the Committee:

Councillors H Bennett, P Brookes, J Cordon, I Jewell (Vice-Chairman), K Shaw, A Shield, L Taylor, O Temple, K Thompson and S Zair

1 Apologies for Absence

Apologies for absence were received from Councillors B Armstrong, J Maitland and S Wilson.

2 Substitute Members

There were no substitute Members.

3 Minutes

The Minutes of the meeting held on 28 April 2016 were agreed as a correct record and were signed by the Chairman.

4 Declarations of Interest

Councillor Shield declared an interest in item 5(a) as a local Member.

The Chairman agreed that the order of business be amended to allow planning application 5(d) DM/16/00672/FPA – 23 The Green, Nettlesworth, Chester-le-Street to be considered following planning application numbered 5(a).

5 Applications to be determined by the Area Planning Committee (North Durham)

5a DM/16/00473/FPA - Land at the South of Broomhill South Farm, Ebchester

The Committee considered a report of the Planning Officer regarding the change of use of land to horse grazing, erection of stable block and retention of existing shed (resubmission) (for copy see file of Minutes).

The Planning Officer provided a detailed presentation on the application which included photographs of the site and a plan of the proposed layout.

An objector and local resident, Mr Philips, had submitted additional information which included photographs of vehicles visiting the site and an activity log, copies of which had been provided to Members. Members were informed that Mr Philips had also asked for a DVD to be shown of activities on the site. At approximately 20 minutes long the footage exceeded the allotted 5 minutes to make representation, and therefore Mr Philips had been given the opportunity to highlight key issues from the DVD in the time allocated, shorten the length of the footage or have it played in the background while he addressed the Committee. Mr Philips had declined, preferring the footage to be shown in full. The Planning Officer advised that the DVD showed past activities on the site which were detailed in the activity log circulated to the Committee. Although much of what was included in the footage was not relevant to the consideration of the planning application, it may be useful to support any enforcement action.

The Planning Officer also advised of additional representations received since the report had been circulated. The Landscape Section remained concerned about the impact on the trees along the southern boundary and that there was no mitigation proposed. Three further letters of objection had been received from members of the public which related to parking, the proposed access, the proposed entrance and impact on the landscape. It had also been submitted that there had been an unwillingness on the part of the applicant to work with Planning Officers and a disregard of the planning process with a number of amended plans having been submitted. There was also concern that conditions would not be adhered to in future.

Councillor W Stelling, local Member, addressed the Committee in objection to the application. Referring to the considerable history in respect of the site, he advised that a key concern was access; the site was adjacent to a busy highway with a speed limit of 60mph. The proposed entrance would be huge and although used by slow moving vehicles this would not make the highway any safer. The fence on the western boundary was not suitable for the enclosure of horses and was of a type used for dogs. A shed on the site had been painted black, and the existing fencing, caravan and new access had all been erected or placed on site without planning permission.

The Member had visited the site earlier that week and had witnessed 7 people entering the site with 4 cars parked at the point of the proposed new entrance. They did not appear to be members of a single family. Turning to planning policy and the NPPF, Councillor Stelling did not consider the proposals to be sustainable or of economic benefit. He noted a recent Ministerial Statement which added weight against developments of a retrospective nature. Action had already been taken by the Enforcement Team for the removal of the caravan and he questioned whether the conditions would be adhered to when work had already been carried out without planning permission. The access to the stable site would not be made-up and left as grass would become muddy, causing problems on the highway as vehicles entered and left the site.

Councillor Stelling agreed with the views of the Landscape Officer and he noted the concerns of Environmental Health as set out in the report. He believed that horse-riding near residential properties would cause anti-social behaviour and as this was a Police matter there would be a reliance on residents to report problems, as there would be with regard to any parking on the highway verge.

In conclusion he stated that developments should only be allowed which would benefit the rural economy, enhance and maintain landscape character and which protected wildlife. He urged Members to refuse the application.

Mr Philips, local resident spoke against the application. He advised that all residents who lived in the vicinity of the site had objected to the proposals. His own property was surrounded by the development and the actual use of the land bore no resemblance to what had been applied for. This was a retrospective application and its true use should be made clear. The field had been developed for greyhound racing with the painted shed used to store the track and lawn-mower. The fencing erected was clearly to be used to enclose dogs. The land had also been used as a rifle firing range, for exercising dogs and social outings, and the static caravan had been used as a store for building materials. This did not appear to be a retirement project as claimed by the applicant, or for his personal use. The applicant did not own horses or tended them. He was only present when there were dogs on the land. 15 different vehicles and 25 people used the field yet only 1 parking space would be provided.

The development already had an impact on his family's privacy and security to the extent that his property was now for sale. His right to the peaceful enjoyment of his property and private life had been overlooked in the report. The applicant allowed horses to be ridden around the boundary and he could not sit in his garden without being harassed. This could be shown in the DVD he had provided.

There were no conditions with regard to disposal of waste, screening of his own property, noise mitigation or to make up the grassed road. The views of the Landscape Officer had not been addressed and a condition should be imposed to ensure that the trees were protected. Mr Philips did not believe that the applicant would adhere to conditions and referred to the Ministerial Statement mentioned by the local Member which should carry weight in deciding the application.

In response to a question from the Chairman, the Planning Officer advised that if the application was approved, Officers would seek to pursue enforcement action in respect of any activities on the land which were outside the prescribed use specified in the planning permission.

Councillor Shield advised that he had been aware of potential issues with the site but had not taken part in any specific discussions on the application. He advised that an impact of living in the countryside was the cumulative effect of equestrian facilities, and he was aware of a number of others in the area, however none that were as visually prominent as the site under consideration.

The Member understood that the site was in an area of high landscape value but was informed by the Planning Officer that the land was outside the boundary of the AHLV. Councillor Shield continued that an application for residential development had been granted 200m from this site, causing an increase in traffic on the highway, and he noted that Highways Officers considered that the proposals would be acceptable as long as the highway verge was maintained. He hoped that parking on the verge would not become an issue which would affect the whole community.

The NPPF and Policy EN1 of the Local Plan only allowed development where it enhanced or maintained landscape character and the report stated that the landscape within which the fields were located had substantial value as part of a consistent and undeveloped area of countryside within the Derwent Valley.

Councillor Shield also considered that the views of the Landscape Officer could not be ignored and concluded that he was unable to support the Officer's recommendation for approval. The Member moved refusal of the application on the grounds that it was contrary to Part 11 of the NPPF and to Local Plan Policies GDP1 and EN1.

Councillor Brookes shared Councillor Shield's concerns. He agreed that there had been an explosion of equestrian developments, and having heard the submissions made was concerned about the use of the site and the impact this would have on neighbours in terms of noise and intrusion. He also noted the Ministerial Statement with regard to retrospective applications and considered that the application was contrary to the NPPF Part 11 and Local Plan Policy EN1 which stated that development in the countryside would only be permitted where it enhanced the landscape character. It could not be said that this development would enhance the landscape character and he therefore supported Councillor Shield.

Councillor Clark stated that the photographs and log provided by Mr Philips showed the extra activity on the site and the concerns of residents should be recognised. There had been a disregard of the planning process by the applicant and no evidence of his co-operation with neighbours. The Councillor could not envisage the applicant adhering to the conditions imposed if the application was granted.

In response to a question from Councillor Temple regarding the unwillingness of the applicant to work with Planning Officers, the Planning Officer advised that this statement had been made in a letter submitted by an objector, however up to this point in time a number of amended plans had been submitted and an earlier application had been withdrawn.

Councillor Temple considered that given the high landscape value of this site, a site visit would have been appropriate and useful, although he acknowledged that the application must be determined in a given timescale.

The Chairman responded that if Members considered that a site visit would be helpful the application could be deferred, however the presentation by the Planning Officer had included clear photographs of the site.

Councillor Thompson seconded Councillor Shield's motion to refuse the application. He also noted the concerns about parking on the highway verges, and believed that this would be a problem which may not be a high priority for the Police.

Councillor Jewell made the point that this was a retrospective application and going forward it could not be assumed that the issues would continue as the proposed use was not the same. However he was uneasy about activities on the site in the past and was also cognisant of the views of the Landscape Officer.

In responding to the comments made by Members, the Solicitor – Planning and Development acknowledged the concerns expressed about past activity, however advised that this was not a consideration for Members and that the application should be determined on its own merits with a presumption that conditions would be adhered to.

Councillor Shield confirmed that his motion to refuse the application was put forward on the merits of the application before Members and not about activities on the site which was a separate matter.

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

That the application be refused for the following reason:-

The proposed development is considered to be contrary to Part 11 of the NPPF, specifically in relation to the protection of valued landscapes, and the proposed development does not contribute to and enhance the natural environment (paragraph 109). The visual impact of the proposal upon the character of the landscape and the harm to its protection would prove contrary to Policy GDP1 (C and E) of the saved Derwentside District Local Plan. Furthermore, the proposed development would not contribute to the rural economy contrary to Policy EN1 of the Derwentside District Local Plan.

5d DM/16/00672/FPA - 23 The Green, Nettlesworth, Chester-le-Street

The Committee considered a report of the Planning Officer regarding a Change of Use from Class D1 (non-residential institution) to B1 (offices) with ancillary treatment rooms for aromatherapy massage purposes (for copy see file of Minutes).

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

Members were informed that since the report had been circulated further discussions had taken place with the applicant who had sought an amendment to condition 3 to relax the proposed working hours in order to give flexibility in emergency situations. The Planning Officer advised that no enforcement action would be pursued if the hours were exceeded as a result of work directly related to the Charity.

The application had been presented to Committee at the request of the local Member who was concerned about parking arrangements given the congestion in the area and as residents already struggled to park. An additional condition was therefore proposed to retain the land to the front of the property for use as a parking area in perpetuity.

Mr D Smith and Mr J Elliott of the If U Care Share Foundation were in attendance to address the Committee. Mr Smith thanked Planning Officers for their support during the application process and provided background to the work of the Charity which promoted emotional well-being in young people and supported families affected by suicide. The Charity which had been in existence for 6 years had outgrown the premises it occupied in Great Lumley due to demand for the service. The applicants sought their own premises to allow greater flexibility of working hours. The core hours proposed were acceptable, however the inclusion of 'shall not be open' in the proposed wording of condition 3 was restrictive; the nature of their work meant that they had to react in emergency situations, and therefore general access to the building outside these times was requested. Early access to the building may be required, for example to collect resources, and therefore the extra flexibility would be welcomed. Whilst he acknowledged that no enforcement action would be taken if the hours were exceeded as a result of their charity work, Mr Smith asked Members to consider amending the proposed wording of condition 3 to the following:-

'The use of the premises as an office (B1) with ancillary treatment rooms shall be restricted to the hours of 8:00 am to 9:00 pm on a Monday to Friday, to the hours of 8:00 am to 6:00 pm on a Saturday and to the hours of 10:00 am to 6:00 pm on a Sunday and on Bank Holidays.

Use of the premises shall be permitted outside of the restricted times only in the event of an emergency situation arising when it is necessary for If U Care Share Foundation to provide its support services in response to that emergency and for general access purposes, always provided that such use does not constitute normal business operations'.

In response to the suggested wording the Planning Officer advised that planning conditions had to meet certain tests, one of which was that they must be enforceable. The wording proposed for outside the restricted times was subjective and the condition would be difficult to enforce.

In response to a question from the Chairman, Mr Elliott confirmed that they would be able to demonstrate why working hours had been exceeded if challenged, however reiterated that general access was required to allow entry to the building for legitimate reasons, but not to work. The wording proposed by Officers would prevent access to the building at all outside the core hours.

Councillor Jewell considered this to be a straightforward application for a good, worthwhile facility and suggested that problems were being identified which might not exist. If there had been concerns about parking local residents would have made representation. The Member moved approval of the application with the changes suggested.

Councillor Shield advised that this service was much-needed within County Durham, the County having the second highest suicide rates in the UK. The Member noted on the plan shown in the Officer's presentation that there was an unused area of land near to the application site and asked if it could be utilised for parking.

The Planning Officer advised that the land formed part of Phase 2 of the nearby housing development.

The Chairman, having heard the deliberations of Members observed that the proposals appeared to have the support of the Committee, however the wording of condition 3 with regard to use of the premises outside the restricted times 'in an emergency situation' and 'for general access', needed to be addressed.

The Planning Team Leader advised that Officers were in support of the proposals and the use of the premises 'in an emergency situation' was acceptable, but reiterated that allowing 'general access' outside core hours would be difficult to enforce as a condition. The Chairman therefore suggested that 'general access' be removed.

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

That the application be approved, subject to the conditions outlined in the report and subject to;

i) Condition 3 being amended to read as follows:-

The use of the premises as an office (B1) with ancillary treatment rooms shall not be open: before 8am Monday to Saturday; before 10am Sundays and Bank Holidays; after 9pm Monday to Friday; after 6pm Saturdays, Sundays and Bank Holidays.

Use of the premises shall be permitted outside of the restricted times only in the event of an emergency situation arising when it is necessary for the If U Care Share Foundation to provide its support services in response to that emergency.

ii) the following additional condition:-

4. The car parking area as shown on the approved plans shall be retained in perpetuity and shall be used as car parking for the users of the premises only and for no other purposes.

Reason: In the interests of highways and parking and to accord with Policy T15 of the Chester-le-Street District Local Plan.

5b DM/16/00351/FPA - Mendip House, Mendip Avenue, Chester-le-Street,

The Committee considered a report of the Principal Planning Officer regarding the demolition of former care home and erection of 20 two bed homes and 2 one bed apartments (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 were informed that an e-mail had been received from local Member Councillor K Davidson expressing his wholehearted support to the application.

Councillor Thompson referred to a recent application for residential development nearby which had been approved but where there had been concerns expressed about drainage. In view of the proximity of the site to Mendip House, the Member asked if this would have an impact on drainage in respect of the scheme under consideration.

Members were referred to the comments of the Drainage Officer which were included in paragraph 44 of the report and who was satisfied with the proposals in principle subject to the submission of a detailed drainage design. This had been included as a condition.

Councillor Shield stated that the proposals offered 100% affordable housing, was on a brownfield site in a residential area with good transport links, and moved approval of the application.

In expressing his support for the application, Councillor Brookes referred to NPPF Part 4 and the importance of promoting sustainable transport, and Local Plan Policy T8 which stated that new development should seek to minimise parking provision other than for cyclists and disabled users. The Member noted that there was no provision for cyclists within the site which he felt would be welcomed by the new tenants given the proximity of the properties to the town centre.

The Planning Officer advised that this matter had been raised with the developers but had not been included in the scheme because of viability concerns.

The applicant's agent was in attendance and advised that a viability assessment had been submitted to the Local Planning Authority which demonstrated that the scheme was extremely marginal in terms of return for the developer.

Councillor Brookes was of the view that the provision of cycle racks within the site would be inexpensive, and felt that this should be a requirement for this scheme and other schemes coming forward.

The Chairman suggested that this could be included as an additional condition.

Councillor Jewell considered that the scheme had many positive benefits and conditions would mitigate matters raised by consultees. The Member felt that cycling provision should be looked at as an overall policy matter. Councillor Jewell seconded approval of the application.

Councillor Thompson appreciated that the applicant was a social housing provider but considered that viability was not a valid argument for not including provision for cycle parking in the scheme. The Councillor moved an amendment to the original motion that the application be approved subject to an additional condition requiring on-site cycle provision. Councillor P Brookes seconded the motion.

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

That the application be approved subject to the conditions outlined in the report and to the following additional condition:-

Prior to the occupation of the dwellings and apartments Sheffield stand cycle loops or similar shall be provided on site in a secure, well lit, open area on the site .Details of the number, design and location of the cycle stands shall be submitted to the Local Planning Authority prior to their installation.

Reason: To promote cycling in accordance with Chester-le-Street Local Plan Policy T17.

At this point Councillors P Brookes and K Thompson left the meeting.

5c DM/16/00986/OUT - Land to the rear of 1 To 8 Wesley Terrace, Castleside Industrial Estate, Castleside

The Committee considered a report of the Senior Planning Officer regarding an outline application for residential development of up to 21 units, including details of site access (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.

Following a question from Councillor Shield the Senior Planning Officer confirmed that the proposed site access would be sited off the industrial estate.

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

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