

City of Durham

At a Meeting of the **DEVELOPMENT CONTROL COMMITTEE** held in the Town Hall, Durham, on Monday, 16th January 2006, at 5.30 p.m.

Present: Councillor Norman (in the Chair)
and Councillors Bell, Carr, Crathorne, Dickie, Gibbon, Griffin, Howarth, Jackson, Kinghorn, Rochford, Shaw, Simpson, Southwell, Stoddart, Syer, Taylor, Walker, Wynn and Young.

Also Present: Councillors Hepplewhite, Kellett, Lodge, Marsden, Moderate, Simmons and Turnbull

427. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Hawgood, Hopgood and Wolstenholme

428. MINUTES

The Minutes of the Meetings held on 14th December, 2005, and 21st December, 2005, were confirmed as a correct record and signed by the Chairman, subject to the amended conditions to Application Nos. 05/00207/FPA and 05/00210/CAC, which are attached at Appendix A, being included in the Minutes of 21st December, 2005.

Report of the Director of Legal & Administration Services

429. BRETT BROTHERS DEVELOPMENTS – PROPERTIES AT ALDRIDGE COURT, USHAW MOOR

The Council had previously approved the stopping up of various footpaths at Aldridge Court in accordance with Section 257 of the Town and Country Planning Act 1990 for the purposes of enabling development to be carried out in accordance with planning permission previously granted by this Authority.

The appropriate Stopping Up Order was made by the Council on 1 July 2005 and was subsequently advertised in the local press and details forwarded to various Statutory Consultees.

The Council had not as yet been able to confirm the Order on the basis of an outstanding objection from Northern Gas Networks but that objection had now been withdrawn.

As the City of Durham Council had approved the scheme of development at Aldridge Court and the objection to the Order had been withdrawn, it was now appropriate for the Order to be confirmed.

Resolved: That the Council approves the confirmation of the City of Durham (Footpaths at Aldridge Court, Ushaw Moor Parish, Ushaw Moor, Durham) Stopping Up and Diversion Order 2005.

Report of Head of Planning Services.

430. REPORTS FOR INFORMATION

Reports in relation to the following items had been circulated:-

- (a) Notice of Planning/Enforcement Appeals which had been lodged with the City Council:
 - (i) Appeal by Mr M Lau – Site at 4 Front Street, Framwellgate Moor, Durham
 - (ii) Appeal by Mr S Williams – Site at 3 & 4 South Terrace, Framwellgate Moor, Durham
- (b) Applications – Determined under Plenary Powers
- (c) Building Control Applications

Resolved: That the reports be noted.

431. DISTRICT MATTER APPLICATIONS

Details of the following application which had been recommended for **APPROVAL** subject to the condition set out below were considered:-

Note: Councillor Howarth declared a personal interest in the undermentioned item and remained in the Meeting during the consideration thereof.

**4/05/1049/LB
Mr & Mrs Hawgood**

**2 St Anne's Court, Durham, DH1 4TZ
Replacement of solid modern door with new half glazed traditional door within improved existing opening**

Resolved: That the aforementioned application be **APPROVED** subject to the following condition:-

- (1) - Time Limits (R3)

432. RECOMMENDATIONS ON OTHER APPLICATIONS

The Head of Planning Services presented reports on the following applications and the following decisions were made:-

**(a) 4/05/01062/FPA &
4/05/01074/FPA
McCarthy & Stone
(Developments) Ltd**

**Site of Ashcroft Cleasby Crankshaft Services Limited Front Street Framwellgate Moor Durham
Erection of sheltered apartments (category 2 type) for sale to the elderly, with associated access, car parking spaces and landscaping**

Following a site inspection by the Committee in relation to these applications on 16th January 2006, it was:-

Resolved: (i) That application no. 4/05/01062/FPA be **APPROVED** subject to the following conditions:-

- (1) T1 - Time Limit [Full Approval] 2004
- (2) DT4 - External Materials
- (3) DT8 - Enclosure (Details to be Agreed)
- (4) DT10 - Hardstanding/Surface Materials
- (5) LA2 - Landscaping Scheme (Full/Reserved Matter)
- (6) DT23 - Drainage Scheme
- (7) CL01 - Contaminated Land Risk Assessment
- (8) CL02 - Approved Method Statement
- (9) CL03 - Addendum Method Statement
- (10) CL04 - Remediation Report
- (11) - Notwithstanding the information shown on the submitted plans, details of fencing and a planting scheme along the boundaries to Stone Lea and Rowan House shall be agreed in writing with the Local Planning Authority prior to development commencing. The agreed scheme shall be implemented before the development is occupied and shall thereafter maintained and retained at all times unless the Local Planning Authority gives written consent to any variation.
- (12) - Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
- (13) - Details of the design, external appearance and materials of the external refuse storage, buggy storage and substation shall be submitted to and approved in writing by the Local Planning Authority before the development commences. Development shall thereafter take place in accordance with the approved details.
- (14) - Details of any external security lighting and street lighting shall be submitted to and approved by the Local Planning Authority in writing and thereafter implemented in accordance with the approved details before the development is occupied.
- (15) - The approved building shall only be occupied by persons over the age of 55.
- (16) - The residential flats at ground floor level of the building hereby approved shall only be occupied by persons over the age of 55. The first floor accommodation shall only be used as the house manager's accommodation and shall not

- be used for any other purpose.
- (17) - The building hereby approved shall only be used as the house manager's accommodation and 2 no. flats for occupation by residents over the age of 55. The building shall not be used for any other purpose other than that stated and nor shall it be sold or in any other way disposed of as an independent dwelling.

(ii) That application no. 4/05/010674/FPA be **APPROVED** subject to the following conditions:-

- (1) T1 - Time Limit [Full Approval] 2004
- (2) DT4 - External Materials
- (3) DT8 - Enclosure (Details to be Agreed)
- (4) DT10 - Hardstanding/Surface Materials
- (5) LA2 - Landscaping Scheme (Full/Reserved Matter)
- (6) DT23 - Drainage Scheme
- (7) CL01 - Contaminated Land Risk Assessment
- (8) CL02 - Approved Method Statement
- (9) CL03 - Addendum Method Statement
- (10) CL04 - Remediation Report
- (11) - Notwithstanding the information shown on the submitted plans, details of fencing and a planting scheme along the boundaries to Stone Lea and Rowan House shall be agreed in writing with the Local Planning Authority prior to development commencing. The agreed scheme shall be implemented before the development is occupied and shall thereafter maintained and retained at all times unless the Local Planning Authority gives written consent to any variation.
- (12) - Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
- (13) - Details of the design, external appearance and materials of the external refuse storage, buggy storage and substation shall be submitted to and approved in writing by the Local Planning Authority before the development commences. Development shall thereafter take place in accordance with the approved details.
- (14) - Details of any external security lighting

and street lighting shall be submitted to and approved by the Local Planning Authority in writing and thereafter implemented in accordance with the approved details before the development is occupied.

- (15) - Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that order, no additional windows or rooflights (other than those expressly authorised by this permission) shall be inserted at any time into the managers accommodation / annex building without the grant of further specific permission from the Local Planning Authority. The first floor windows to the West elevation of the managers accommodation / annex building shall be obscure glazed to the satisfaction of the Local Planning Authority and shall remain so thereafter in accordance with the approved scheme.

Note: Councillors Carr and Lodge left the Meeting at 6.30p.m.

Note: Councillor Bell declared a personal interest on behalf of all Labour Members of the Committee in the undermentioned item and all said Members remained in the Meeting during consideration thereof.

Councillor Rochford declared a personal interest in the undermentioned item and remained in the Meeting during consideration thereof.

(b) **05/01071/FPA**
Mr & Mrs E Marrion

13 Brierville, Durham, DH1 4QE
Erection of single storey infill extension within rear yard insertion of 1 no. windows into existing building

Resolved: That the application be **REFUSED** for the following reason:-

The proposed development would result in the enclosure of the existing rear yard thereby severely reducing the available amenity space within the site, resulting in the displacement of facilities for car parking and refuse storage in the area which in turn would detract from and fail to preserve or enhance the character and appearance of the Durham City Conservation Area contrary to Policy E6 of the City of Durham Local Plan 2004.

**433. ENFORCEMENT MATTER
25 WALTONS TERRACE, NEW BRANCEPETH, DURHAM**

Planning permission was refused for the retention of unauthorised timber decking and balustrade fencing over a ground floor flat roof extension to the above property. The development, by reason of its size and height above ground level and in terms of overlooking, was considered to be of substantial detriment to the amenity and level of privacy, which local residents could reasonably expect to enjoy and as such, was contrary to Policy Q9 of the City of Durham Local Plan 2004.

An enforcement notice was issued requiring the removal of the decking and balustrade fencing. An appeal against the notice was dismissed and the enforcement notice upheld. The owners were given 3 months in order to comply with the notice. They have failed to comply with the terms of the notice within the stipulated period. Authorisation was therefore sought to instigate prosecution proceedings of the offences committed.

- Resolved:**
- (i) That authorisation be given to bring prosecutions in the Magistrates Court in respect of the offences committed of failing to comply with the terms of the planning enforcement notice issued by the Council.
 - (ii) That delegated authority be given to the Chairman and Vice-Chairman in Consultation with local Members to authorise prosecution proceedings in future enforcement matters subject to the cases being reported to the first available Meeting of the Development Control Committee.

**434. ENFORCEMENT MATTER
LAND TO THE REAR OF MALVERN VILLAS, GILESGATE, DURHAM**

In September 2004 a complaint was received concerning development taking place on land to the rear of 17 Malvern Villas. The land had been recently purchased by a resident of Lenadale, Sherburn Road, which adjoins the site to the east. Dolomite was spread over the land to form a hard surface. Following the service of a Planning Contravention Notice, the owner submitted an application to retain the development and to continue to use the land for the parking of vehicles, caravan and trailer. Planning permission for the retention of the development was refused as it was considered to have a significant adverse effect on the character and appearance of the surrounding predominantly residential area and the amenities of local residents. An enforcement notice was also issued requiring the discontinuance of the use and the restoration of the site to its former condition. The materials used to form the hard surface were required to be removed from the site and replaced with topsoil to its former depth.

An appeal against the enforcement notice was dismissed and the notice upheld. The appellant was required to cease using the site for the parking of vehicles by the 16th August 2005 and to carry out the required remedial works by the 9th November 2005.

The owner had chosen to ignore letters requesting compliance with the effective enforcement notice. An inspection carried out on 21st November 2005 revealed that material used to form the hard surface, including a large mound, still remained on site. Authorisation was therefore sought to instigate prosecution proceedings in respect of the offence committed.

Resolved: That prosecution proceeding be instigated in the Magistrates Court in respect of the offence committed of failing to comply with the terms of the planning enforcement notice.

Note: Councillors Gibbon and Simpson left the Meeting at 7.05p.m.

**435. ENFORCEMENT MATTER -
18 DEERNESS HEIGHTS, BRANDON, DURHAM**

A complaint had been received concerning fencing and a wall erected to enclose the front garden of the above property. The complainant considered that the fence detracted from the appearance of the adjacent front garden that it bordered. He also felt that the development created a precedent, which was likely to dispose other residents of the estate to act similarly, to the detriment of the general amenities of the area. It was also pointed out that the means of enclosure was a breach of covenant imposed by the developer of the estate.

The 1.22m high close boarded fence erected along the mutual boundary with the adjoining property was not immediately adjacent to the highway and would therefore normally constitute development which is permitted under Town and Country Planning (General Permitted Development) Order 1995. This would also apply to the 0.30m high low brick wall along the back of the public footpath and front garden.

The development was however in breach of planning control. When the estate was granted planning permission in 1973, a condition was imposed removing permitted development rights relating to all means of enclosure. The condition was imposed in order to enable the Local Planning Authority to exercise control over any proposed means of enclosure by the owners of dwellings on the estate.

The owner had been invited to submit a retrospective application for planning permission but none had been received.

It was considered that the low wall simply demarcated the boundary of the dwelling from the adjacent public footpath and did not detract from the openness of the estate. The low fencing was set against a neighbouring hedge of similar height and was not considered to detract from the amenity of the area.

It was not therefore considered that enforcement action, which was discretionary, could be justified in this case, having regard to the provisions of the development plan and the other material considerations.

With regard to the alleged breach of covenant, this was a civil matter between the parties involved and not one in which the Council can become involved.

Resolved: That no further action is taken in respect of the breach of planning control.

The Meeting terminated at 7.10 p.m.

Chairman

Development Control Committee

16th January 2005

Application No. 05/00297/FPA

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
2. Notwithstanding the information shown on the submitted application details of all materials to be used externally and the standard of their finish shall be submitted to and approved by the Local Planning Authority in writing before the development is commenced, and thereafter implemented in accordance with the approved scheme.
3. Before the development hereby approved is commenced a sample panel of the proposed wall materials shall be erected on the site to include examples of all materials to be used, including mortars, its exposed finish, the coursing or bonding to be used, and the style of pointing of the finished wall. The proposed panel shall be made available for inspection by the Local Planning Authority and the development shall not be commenced until the said materials have been approved in writing by the Local Planning Authority.
4. That notwithstanding the information shown on the submitted plans precise details of all new fenestration, glazing and head and cill details shall be submitted to and agreed in writing with the Local Planning Authority prior to development commencing and thereafter implemented in accordance with the approved scheme.
5. Where any fences, walls or other means of enclosure are required to be erected on any of the site boundaries or within the site, no development shall be commenced until details of these have been submitted to and approved by the Local Planning Authority in writing.
6. Notwithstanding the information shown on the submitted plans, details of all flues, vents, external plant, ventilation, filtration, and fume extraction shall be submitted to, and agreed in writing by, the Local Planning Authority prior to the buildings hereby approved being brought into use. Thereafter the agreed equipment shall be operated and maintained in accordance with the manufacture's instructions.
7. Notwithstanding the information shown on the submitted plans, details of the surface treatment of all public footpaths, steps, ramps, and pedestrian squares shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The development shall then be carried out in complete accordance with the approved details.
8. All pedestrian squares, footways, and ramps contained within the development hereby approved shall remain accessible and open for use by the general public for 24 hours every day, unless agreed by the Local Planning Authority.
9. Notwithstanding the information shown on the submitted plans, a scheme for the lighting of all external and internal spaces, footpaths, roads, and the external faces of all buildings and structures hereby approved shall be submitted to and agreed in writing by the Local Planning Authority prior to the development commencing. Such a scheme shall include the number, type, design, and siting of all light fixtures and details of their levels of luminance, and the development shall be carried out in accordance with the approved details.
10. Notwithstanding the information shown on the submitted plans, details of the elevational treatment to the external faces of all the buildings hereby approved shall

be submitted to the Local Planning Authority in a form and scale of not less than 1:50, to show details of all windows, doors, joinery, balconies, and architectural features, before the development is commenced. The development shall thereafter be carried out in accordance with the approved details.

11. Prior to development commencing, a scheme for the floor space treatment to Freemans Place shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall then be carried out before any part of the development is open to the public.
12. Before the development hereby approved commences a scheme shall be submitted to and approved in writing by the Local Planning Authority making provision for the control of construction noise and vibration emanating from the site. The development shall thereafter be carried out in accordance with the agreed scheme.
13. A scheme for the provision of public art within the development site area shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into public use, and thereafter implemented in accordance with the approved scheme.
14. Before any development is commenced the approval of the Local Planning Authority is required in writing to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post planting maintenance. Such scheme as approved by the Local Planning Authority shall be carried out in its entirety within a period of 12 months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary, unless the Local Planning Authority gives written consent to any variation.
15. That before development commences, agreement shall be reached with the Local Planning Authority regarding those trees, shrubs and hedges which shall be retained. These shall be properly fenced off from those parts of the land to be developed and shall remain so protected, to the satisfaction of the said Authority, until the cessation of building works. Details of this fencing shall be submitted to and approved in writing by the Local Planning Authority.
16. No development approved by this planning permission shall be commenced until:
 - a) A desktop study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information, and, using this information in a diagrammatical representation [Conceptual Model] for the site of all potential contaminant sources, pathways and receptors has been produced.
 - b) A site investigation has been designed for the site using the information obtained from the desktop study and any diagrammatical representations [Conceptual Model]. This should be submitted to, and approved in writing, by the LPA, prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable:
 - a risk assessment to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected, and
 - refinement of the Conceptual Model, and
 - the development of a Method Statement detailing the remediation requirements.

- c) The site investigation has been undertaken in accordance with details approved by the LPA and a risk assessment has been undertaken.
 - d) A Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the LPA. This should be approved in writing by the LPA prior to that remediation being carried out on the site.
17. The development of the site should be carried out in accordance with the approved Method Statement.
 18. If, during the development, contamination not previously identified is found to be present at the site then no further development [unless otherwise agreed in writing with the LPA] shall be carried out until the developer has submitted, and obtained, written approval from the LPA for an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with.
 19. Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the LPA that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement[s]. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
 20. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor installed in accordance with a scheme previously submitted to and approved in writing by the LPA. Roof water shall not pass through the interceptor.
 21. Finished floor levels should be set at least 33.35 metres AOD.
 22. A flood access/egress route must be maintained at a level of at least 32.72 metres AOD for the life of the development.
 23. The building must be flood proofed to a height of 33.36 metres AOD.
 24. Prior to the first dwelling hereby approved being occupied, a commuted sum shall be paid to the Local Planning Authority in lieu of the provision of open space and play space within the development. Such a sum shall be calculated in accordance with the requirements of Appendix 3 of the City of Durham Local Plan 2004.
 25. No development shall take place until the applicant has secured the implementation of an agreed phased programme of archaeological works, to include assessment, evaluation, and where appropriate mitigation, in accordance with a written scheme of investigation. This should be submitted by the applicant and approved by the Planning Authority.
 26. No site works shall be undertaken until the implementation of an appropriate programme of building recording/analysis has been agreed in writing with the local Planning Authority, in accordance with an approved brief.

Application No. 05.00210/CAC

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
2. No development approved by this planning permission shall be commenced until:
 - a) A desktop study has been carried out which shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information, and, using this information in a diagrammatical representation [Conceptual Model] for the site of all potential contaminant sources, pathways and receptors has been produced.
 - b) A site investigation has been designed for the site using the information obtained from the desktop study and any diagrammatical representations [Conceptual Model]. This should be submitted to, and approved in writing, by the LPA, prior to that investigation being carried out on the site. The investigation must be comprehensive enough to enable:
 - a risk assessment to be undertaken relating to groundwater and surface waters associated on and off the site that may be affected, and
 - refinement of the Conceptual Model, and
 - the development of a Method Statement detailing the remediation requirements.
 - c) The site investigation has been undertaken in accordance with details approved by the LPA and a risk assessment has been undertaken.
 - d) A Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the Site Investigation has been submitted to the LPA. This should be approved in writing by the LPA prior to that remediation being carried out on the site.
3. The development of the site should be carried out in accordance with the approved Method Statement.
4. If, during the development, contamination not previously identified is found to be present at the site then no further development [unless otherwise agreed in writing with the LPA] shall be carried out until the developer has submitted, and obtained, written approval from the LPA for an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with.
5. Upon completion of the remediation detailed in the Method Statement a report shall be submitted to the LPA that provides verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement[s]. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
6. No development shall take place until the applicant has secured the implementation of an agreed phased programme of archaeological works, to include assessment, evaluation, and where appropriate mitigation, in accordance with a written scheme of investigation. This should be submitted by the applicant and approved by the Planning Authority.
7. No site works shall be undertaken until the implementation of an appropriate programme of building recording/analysis has been agreed in writing with the local Planning Authority, in accordance with an approved brief.
8. No demolition shall take place until a contract has been signed and start date set for the redevelopment of the site in accordance with approved plans