

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 31 July 2013

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| APPLICATION REF. NO: | 13/00340/FUL |
| STATUTORY DECISION DATE: | 28 June 2013 |
| WARD/PARISH: | HEIGHINGTON AND CONISCLIFFE |
| LOCATION: | The Bungalow, The Cumby Arms, Beech Crescent, Heighington |
| DESCRIPTION: | Application under Section 73 of the Town and Country Planning Act 1990 for removal of condition No 6 (occupancy condition) attached to planning permission 8/97/249/DM |
| APPLICANT: | Mr Gary Raistrick And Miss Julie Finley |

APPLICATION AND SITE DESCRIPTION

The application site is located on the northern edge of Heighington Village on the corner of Hall Lane and Beech Crescent and it is within the Heighington Conservation Area. The site contains The Cumby Arms Public House, a detached bungalow and a sports field. A Public Right of Way (Footpath No 1) runs along the east boundary of the site and along part of the south boundary. Both the bungalow and The Cumby Arms are currently vacant and have been for approximately 18 months.

In 1997 (reference number 8/97/249/DM) planning permission was granted for the erection of a detached single storey dwelling within the curtilage of The Cumby Arms Public House. The planning permission was granted subject to a condition and a Section 106 Agreement restricting the occupation of the dwelling to persons wholly or mainly employed as a Licensee or manager in the adjoining public house or the widow or widower of such a person.

This application is seeking to remove the planning condition that was imposed on the planning permission.

Separate planning applications (ref no: 13/00363/FUL and 13/00349/FUL) have been submitted for this site to remove the Section 106 Agreement attached to the 1997 approval and to convert The Cumby Arms to a single dwelling and they also form part of this Agenda. The applicant has confirmed that he would occupy the Public House, once converted, and the bungalow would be occupied by members of the same family or by visitors of the family. The bungalow would be an annex to the proposed dwelling.

PLANNING HISTORY

The site has a detailed history but the most relevant entry is:

8/97/249/DM In November 1997 planning permission was GRANTED subject to a Section 106 Agreement for the erection of a detached single storey dwelling

PLANNING POLICY BACKGROUND

The National Planning Policy Framework 2011 is relevant to this application along with the following local development plan policies are:

Borough of Darlington Local Plan 1997

E2 - Development Limits

Darlington Core Strategy Development Plan Document 2011

CS1 - Darlington's Sub Regional Role and Locational Strategy

CS11 - Meeting Housing Needs

CS16 - Protecting Environmental Resources, Human Health and Safety

RESULTS OF CONSULTATION AND PUBLICITY

Three letters of objection have been received following the Council consultation exercises. The comments can be summarised as follows:

- *The premises are on green belt land and without this condition the original planning permission would not have been granted*
- *This application presumes that 13/00349/FUL will be granted. If it is not then the bungalow should still have the condition imposed. Would it not be needed as a managers house or are we to expect another house to be granted*
- *Like The Cumby Arms this has not been advertised for sale*
- *I object to the application to discharge the 106 agreement on this property as I am concerned that the property lies within a conservation area outside the designated building envelope for Heighington. The buildings on this land were specifically allowed as they were intended to support a public amenity. To allow the properties to become private dwellings could set a precedent that will challenge the integrity of the village building envelope.*
- *Furthermore, two distinct public footpaths exist accross the property, one for general access to Hall Lane and the for pedestrian and vehicle access to the playing field that bounds the land in question. Changing the status of the property from public to private could jeopardise these rights of way.*
- *The premises are in green belt land. If they are no longer needed they should be demolished and the land returned to its former use*
- *I feel this will set a precedent for the possible future development of the site in the form of more private dwellings being built. The infrastructure of the village could not cope with the possible influx of new residents in respect of the school and the local amenities as was raised at the application submitted for the traveller's site. The road structure around the Cumby Arms could not cope with an increase in traffic as this entrance is the only one onto and off the site and the site also has a public footpath running around it and a*

public right of way through it which could cause serious problems with traffic and pedestrians

- *The land falls outside the development limits and thus should not be made available for private dwelling*
- *The development of a private dwelling would also mean a loss of another playing field. The field is used regularly by local youth football teams. The applicant has said in principle he would not object to them using it but I cannot see in the future someone letting teams practice and play matches in what would effectively be their front garden. This goes against the campaign for local sports fields to be maintained and used for sport*
- *If the dwelling goes ahead it must be connected to the existing bungalow otherwise it creates two private dwellings. To say no one else is interested in doing anything with the land is completely untrue. One person was trying to get funding to convert the Public House to an old person residence and another was hoping to turn it into a football academy and to create recreational activities.*

Consultee Responses

The **Council's Highways Engineer** has raised no objections to the proposal

The **Council's Environmental Health Officer** has raised no objections to the proposal

Heighington Parish Council has objected to the application on the following grounds:

- *The Agreement was originally entered into and the occupancy condition imposed to allow this quasi residential development to take place outside development limits for Heighington. The development would not have been permitted for these important restrictions*
- *The original objective is unchanged and any proposals to develop outside of the identified area for residential purposes are and will continue to be resisted strongly*
- *The application acknowledges that it goes against planning policy in that development outside development limits of the village is limited to development meeting identified rural needs. There is no identified need in Heighington for additional housing*
- *The application is not persuasive in its argument that a public house would not be viable nor does it explore any future potential development that would satisfy identified rural needs of which the Council feels there are many for example a nursing home. The Parish Council believes that insufficient evidence has been submitted in this regard and it is critical to these proposals that a conclusion is reached on this matter*
- *The application appears to propose two separate dwellings on the site which was not the Parish Council's understanding of the applicant's intention. The Parish Council understood that the two buildings were to be linked but this is not indicated on the plans*
- *The site provided an important sporting facility for the local community which the Parish Council and undoubtedly Sport England would like to see retained. It is the Parish Council's knowledge that the site has continued to be used under the current ownership and it would like to see assurances that this will continue in the future. The Cumby Arms was not simply a public house but a sports club providing unique community facility that has been used for competitive football for at least 8 years*
- *Part of the site lies within a conservation area*

PLANNING ISSUES

The principle of the proposal needs to be considered along with whether or not the introduction of two dwellings, albeit one as an annex would have an adverse impact upon:

The Heighington Conservation Area
Highway Safety
Residential Amenity

The Principle of the Proposal

The planning condition was imposed along with a Section 106 Agreement to planning permission 8/97/349/DM to restrict the occupation of the bungalow as the site lies outside of the development limits for Heighington as designated by the Proposals Map of the Borough of Darlington Local Plan 1997. This application has been submitted under the provision of Section 73 of the Town and Country Planning Act 1990 (as amended) in order to seek approval to remove the condition.

The removal of the planning condition would allow the bungalow to be occupied by any persons, which in this instance would be the extended family of the applicant or visiting friends and family. The bungalow would be an annexe to the converted Cumby Arms, if the application (ref no: 13/00349/FUL) for the change of use of the public house to a residential dwelling is successful. As stated in the Report for the above application, the applicant would accept the imposition of a planning condition restricting the use of the new dwelling as such.

The main issue to consider is whether or not the removal of the condition on the bungalow would be acceptable in land use terms. Paragraph 55 of the National Planning Policy Framework states: "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities..." It goes on to state that: "Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as...where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting..." The removal of the condition would enable the re-use of a currently disused building on the edge of one of the Borough's larger villages within a conservation area and in this regard, would not be contrary to the policy direction of NPPF.

In line with Policy CS11 of the Core Strategy, "New housing and the conversion and adaptation of existing dwellings will be required to contribute to achieving an overall balanced housing stock that better meets local needs..." In this regard, the proposal would not be in conflict with this policy as would essentially be helping to improve housing choice to better meet local housing need.

If the planning application to convert The Cumby Arms to a single dwelling is successful the requirements of the condition would become redundant and it would no longer be required.

Impact upon the Heighington Conservation Area

The removal of the condition would enable the site to be reused and kept in a suitable condition which would be of benefit to the significance of the Heighington Conservation Area. Alternatively the building and the surrounding land could become unkempt adversely affecting the appearance of the Area.

Highway Safety

The Council's Highways Engineer has not raised any highway concerns about the proposal

Residential Amenity

As the bungalow would be occupied by members of the family of the occupiers of the converted public house, there would be no amenities issues between the two properties.

The proposal would not give rise to any adverse amenity issues for the occupiers of the dwellings which bound the application site.

Conclusion

Having considered the proposal and its materials planning considerations in conjunction with the other two planning applications for the site which form part of this Agenda, the Local Planning Authority consider that the condition should be removed.

Other Matters*The 1997 Approval*

The original application was granted subject to conditions, including one which removes permitted development rights for the bungalow and also prevents a vehicular access being created to the bungalow from Hall Lane to the south. If this application is approved, these conditions would still remain in force. An Informative would be attached to any grant of planning permission.

Material Planning Considerations

The Local Planning Authority can only take account of material planning considerations when determining a planning application and the suggestions made by the objectors that the site should be used for other purposes such as agricultural land or a care home is not a material planning consideration. The Local Planning Authority must consider the acceptability of the proposal that is put before them.

Precedent

Court and appeal decisions have established that it is legitimate for decision makers to give weight to the possibility of creating an undesirable precedent when considering whether to grant permission. However, it is not enough for Local Planning Authorities to have a general anxiety that their decisions may be used in the future to justify other proposals. There has to be evidence that there is a real likelihood that applications, in this case for new build residential development, would be submitted and no such evidence has been provided.

Playing Fields

The issues relating to the continued use of the playing field for sporting activities is considered in more detail within the report for planning application reference number 13/00349/FUL

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

The removal of the condition would allow the bungalow to be occupied by any persons. The applicant has also submitted a planning application (reference number 13/00349/FUL) to

redevelop the public house for residential purposes and the applicant has confirmed that the intention would be for the bungalow to be occupied by members of his family or visiting friends and relatives. In the opinion of the Local Planning Authority the planning condition would no longer be required and should be removed if the application for the change of use of The Cumby Arms is approved.

RECOMMENDATION

PLANNING PERMISSION BE GRANTED

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The removal of the condition would allow the bungalow to be occupied by any persons. The applicant has also submitted a planning application (reference number 13/00349/FUL) to redevelop the public house for residential purposes and the applicant has confirmed that the intention would be for the bungalow to be occupied by members of his family or visiting friends and relatives. In the opinion of the Local Planning Authority the planning condition would no longer be required and should be removed if the application for the change of use of The Cumby Arms is approved.

INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED

The applicant is advised that conditions 3) and 7) attached to planning permission reference 8/97/249/DM dated 11 November 1997 for the erection of a detached single storey dwelling remain in force