

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 31 July 2013

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APPLICATION REF. NO:	13/00349/FUL
STATUTORY DECISION DATE:	28 June 2013
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE
LOCATION:	The Cumby Arms, Beech Crescent, Heighington
DESCRIPTION:	Change of use from public house (A4) to residential use as a single dwelling (C3) with associated external alterations
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.

This application is for the change of use of The Cumby Arms Public House to a single dwelling along with associated external alterations. The property would become a four bedroom dwelling and access to the site would remain via the existing access off Beech Crescent.

Separate planning applications (ref no: 13/00340/FUL and 13/00363/FUL) have been submitted for this site to remove a planning condition and a Section 106 Agreement attached to the 1997 approval (see Planning History) which restricts the occupancy of the bungalow adjacent to the Public House and they also form part of this Agenda. The applicant has confirmed that he would occupy the proposed dwelling, once converted, and the bungalow would be occupied by members of the applicant's family or by friends/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 recent and relevant entries are:

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

98/00025/FUL In March 1998 planning permission was GRANTED for a single storey extension

00/00407/FUL In October 2000 planning permission was GRANTED for the erection of an extension to form a concert hall

03/00543/FUL In July 2003 planning permission was GRANTED for the erection of a changing pavilion

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

E5 – Change of Use of Buildings in the Countryside

H7 – Areas of Housing Development Restraint

Darlington Core Strategy Development Plan Document 2011

CS1 - Darlington's Sub Regional Role and Locational Strategy

CS2 - Achieving High Quality, Sustainable Design

CS9 – District and Local Centres and Local Shops and Services

CS11 - Meeting Housing Needs

CS14 - Promoting Local Character and Distinctiveness

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 applicant states that The Cumby Arms is no longer viable as a public house and wishes to turn it into residential premises. I disagree because since Enterprise Inns it has been neglected to the extent that it has been gradually unattractive for public to visit*
- *Enterprise Inns have charged high rents that is has been almost impossible for anyone else to make it commercially viable*
- *Few people even knew it was for sale as it has never had a For Sale notice*
- *A public house in this area with such a pleasant view and so much potential should be quite well patronised. Examples of similar in the area being Burtree Inn, Tindale Crossing, Gretna Green. New public houses/restaurants are appearing all over County Durham and none of these premises have such a large area of grass so close with so much potential*
- *When The Cumby Arms was a full and going concern it employed quite a number of people who live in the village. With the change of use, this employment would be gone and never to return. Various events were held all bringing customers into the village*
- *If this application is granted it will become yet another executive house in the village. We already have lots of them with quite a few for sale*
- *This site would make an ideal site for an elderly care home which the village is in need of or alternatively a light industrial unit*

- *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.*
- *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.*

Consultee Responses

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*

The **Council's Countryside Access Officer** has no objections to the proposal provided that the Right of Way is retained for public use and is not affected by the change of use

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

Sport England has commented on the application on a non statutory basis and they are concerned about how the playing pitches will be retained for sporting purposes

PLANNING ISSUES

The main issues to be considered here are whether or not the proposal is considered acceptable in the following terms:

Planning Policy

Residential Amenity

Highway Safety

Impact upon the Significance of the Conservation Area

Continued Use of the Playing Pitch for Sporting Purposes

Rights of Way

Contaminated Land

Planning Policy

The application site lies outside of the development limits for Heighington as defined by the Proposals Map of the Local Plan 1997.

The Core Strategy states that leisure uses such as pubs and social clubs remain important in providing for residents day to day needs close to their homes. Policy CS9 of the Core Strategy seeks to protect and promote facilities where they serve a local need. The Cumby Arms has been vacant for approximately 18 months and actively marketed since 2011. The marketing consultants have confirmed that the majority of interest came from prospective residential developers and there were no other written offers received from parties interested in carrying on using the property as a public house. Arguably, this could be due to the existence of two other public houses in the village.

The National Planning Policy Framework 2011 states that planning decisions should guard against the unnecessary loss of facilities and services such as public houses where this would reduce the community's ability to meet its day to day needs.

The Council has consulted CAMRA on the application and any comments received will be reported verbally at the Planning Applications Committee.

In the opinion of Officers, the marketing exercise confirms that there is no local need for the retention of this public house and its loss would not have an adverse impact upon the services that are currently available to the residents of the village and the outlying areas as there are two other existing public houses within Heighington.

Saved policy E5 of the Local Plan states that the general change of use of buildings in the countryside will be permitted provided that the building is sound and capable of adaption without significant rebuilding or extension and it will not be intrusive in the countryside and does not create unacceptable traffic, amenity and disturbance problems.

Saved Policy H7 of the Local Plan specifically deals with residential development in the open countryside and the policy states that such development is permitted where it involves the conversion of an existing structurally sound building without adversely affecting its setting or character.

The policy position has been developed further by the National Planning Policy Framework (para 55) which 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 proposal in question is not proposing new build, but the conversion of a pub to a residential dwelling would enable the re-use of disused buildings on the edge of one of the Borough's larger villages and in this regard, would not be contrary to the policy direction of the 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 bring a vacant building back into use and it would not be in conflict with this policy as it is essentially helping to improve housing choice to better meet local housing need

Residential Amenity

The bungalow and the proposed dwelling would be occupied by the applicant and his family and potentially visitors. In these circumstances, protecting the amenities of the occupiers of each dwelling from each other is less important as the bungalow would be an annex to the main dwelling and not occupied by a separate household.

The proposal would not raise any residential amenity issues with the properties on Hall Lane and Beech Crescent that bound the application site

Highway Safety

The current access off Beech Crescent has served the Public House, the bungalow and the playing field and its associated traffic. The conversion of the Public House to a dwelling would result in far fewer vehicle trips at the access junction and therefore no highway objections have been raised.

Suitable arrangements would need to be agreed for refuse collection as the existing access road is longer than the maximum 25m allowable walking distance from the public highway. A suitable scheme can be secured by the imposition of a planning condition.

Impact upon the Significance of the Conservation Area

The Cumby Arms Public House is a late twentieth century single storey property built on the north eastern edge of Heighington Conservation Area. The external alterations to the building are quite minimal and involve the insertion of new window and door openings within the north, south and west elevations. The proposal does not involve an enlargement or reduction in the footprint of the building, The external alterations proposed to facilitate the change to residential use (primarily additional and altered fenestration) will make little difference to the character of the Conservation Area and they are in keeping with the existing building. Additionally, the site is well screened from Hall Lane and Beech Crescent by mature planting, so alterations will have little, if any, impact on the appearance of the Conservation Area

In the interests of the visual amenity of the site and the Conservation Area, it is considered appropriate to impose planning conditions which remove the permitted development rights for the proposed dwelling and to retain control of the erection of any means of enclosure. The planning permission for the bungalow also contains a condition that removed permitted development rights.

The proposal would have a neutral impact upon the Heighington Conservation Area in accordance with the requirements of the National Planning Policy Framework 2012 and Policy CS14 of the Core Strategy.

Having the site in use would ensure that the site and the buildings are maintained and do not fall into disrepair or an untidy condition that would adversely affect the Conservation Area.

Continued Use of the Playing Pitch for Sporting Purposes

The wider site under the ownership of the applicant includes a playing field in the south east section. The playing field has been used previously for cricket and more recently football. In his supporting statement the applicant has stated that he does not wish to prevent football training on the pitch.

Sport England have confirmed that the site is not considered to form part of or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184) but they have provided some comments on a non-statutory basis.

It is Sport England's understanding that there was a symbiotic relationship between the use of the playing field and the Public House. Whilst the application does not include the playing field within the red edge, it is understood that the playing field would belong to the owners of the Cumby Arms and bungalow if the applications were approved. Sport England has stated the site was audited as part of the preparation of the Darlington Playing Pitch Strategy in 2009 and identified as having a cricket square and two football pitches, and recent aerial photos show football pitches to be marked out with the last 5 years. Moreover a Junior Football Club called Cumby Rovers (taking their name from the site) has used the site for competitive fixtures during that period. In the opinion of Sport England, if the relationship between the Cumby Arms and the playing field could be described as being symbiotic, it is difficult to imagine the relationship between two private dwellings and the playing being so agreeable.

Sport England are objecting to the proposal on the grounds that despite the comments in the supporting statement by the applicant, it suggests that they would not wish to see competitive matches taking place on the field or the field being used on Sundays.

Sport England consider that this is a clear indication that without protection measures being in place the potential use of the playing field for sport is likely to suffer if the condition of the bungalow is removed and the change of use of The Cumby Arms is approved. In the opinion of Sport England the playing field needs to have a formal security of use and a clear plan for its future management and maintenance if it is to remain in use for sport. Sport England considers the assurances contained within the supporting letter to be wholly insufficient to safeguard the playing field's sporting use. Sport England would consider withdrawing its objection if measures were proposed which secured the use of the playing field for competitive sport and to establish how the pitches will be managed and maintained.

Officers have considered the comments from Sport England, which have been made on a non-statutory basis. The site boundary for this application does not include the playing field area and therefore its planning status would remain as such rather than becoming part of the domestic curtilage of the existing bungalow or the proposed dwelling. It is acknowledged that the applicant or future occupiers, as landowners, could prevent the field being used for sporting purposes but the Local Planning Authority considers that it would be unreasonable to request the applicant to enter into any form of legal agreement or impose a planning condition to secure the usage of the field for sporting purposes in perpetuity.

Rights of Way

Footpath No 1 runs along the east and south boundaries of the site and along the playing field. The footpath would not be affected by this proposal

Contaminated Land

A Screening Assessment has been submitted and it does not highlight any significant contaminated land issues.

Other Matters

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.

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 principle of the change of use and conversion of the building to a residential dwelling is considered to be acceptable. The external alterations to the building to facilitate the change of use would not have an adverse impact upon the significance of the Heighington Conservation Area in accordance with the National Planning Policy Framework 2012. The proposal does not raise any residential amenity issues and it would not have an adverse impact upon highway safety. The following local development plan policies have been taken into consideration along with the National Planning Policy Framework 2011:

Borough of Darlington Local Plan 1997

E2 - Development Limits

E5 – Change of Use of Buildings in the Countryside

H7 – Areas of Housing Development Restraint

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RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 – Implementation Limit (Three Years)
2. B4 – Details of Materials (Samples)
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no enlargement, improvement or other alteration of the premises, including any additional structures/building within the curtilage of the site, shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.
REASON - In order that the Local Planning Authority is able to exercise control over future development of the site in the interests of visual amenity
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no development of the types described in Schedule 2, Part 2, Class A shall be carried out without the prior consent of the Local Planning Authority, to whom a planning application must be made.
REASON - In order that the Local Planning Authority is able to exercise control over future development of the site in the interests of visual amenity
5. The dwelling for which permission is hereby granted shall be used only for residential purposes connected to the use and occupiers of the existing adjacent bungalow. The

dwelling shall not be occupied, let, or otherwise disposed of as a separate dwelling to any persons not related to the occupiers of the bungalow.

REASON – To allow the Local Planning Authority to retain control over the development and due to the close proximity of the properties.

6. Prior to the occupation of the dwelling hereby approved, a scheme for the storage and collection of refuse shall be submitted to and agreed in writing by the Local Planning Authority and the development shall not be completed otherwise than in complete accordance with the approved details

REASON - In the interests of highway safety and the general amenity of the locality

7. B5 – Detailed Drawings (Accordance with Plan)

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The principle of the change of use and conversion of the building to a residential dwelling is considered to be acceptable. The external alterations to the building to facilitate the change of use would not have an adverse impact upon the significance of the Heighington Conservation Area in accordance with the National Planning Policy Framework 2012. The proposal does not raise any residential amenity issues and it would not have an adverse impact upon highway safety. The following local development plan policies have been taken into consideration along with the National Planning Policy Framework 2011:

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