

DEVELOPMENT CONTROL COMMITTEE

5th October 2004

PRESENT:-

Labour Group

Councillor Shepherd (Vice-Chair in the Chair) and Councillors Bambrick, Murphy (substitute for Councillor Dunn), Richards, Southerd, Southern and Whyman, M.B.E.

Conservative Group

Councillors Bladen, Mrs. Hood (substitute for Councillor Bale), Hood, Lemmon and Mrs. Renwick (substitute for Councillor Ford).

Independent Member

Councillor Mrs. Walton.

[The following Members also attended the Meeting and, with the approval of the Chair, spoke to the Minutes Nos. indicated:-

Councillor Isham – Minute Nos. DC/55(b)

Councillor Taylor – Minute Nos. DC/55(b) and DC/55(c)]

APOLOGIES

Apologies for absence from the Meeting were received from Councillor Dunn (Labour Group) and Councillors Bale and Ford (Conservative Group).

MATTERS DELEGATED TO COMMITTEE

DC/55. SITE VISITS

- (a) The reconstruction of former railway station building to form dwelling at Railway Cottage, Trent Lane, Weston-on-Trent (9/2004/0732/F)

Further to Minute No. DC/53(a) of 14th September 2004, it was reported that Members of the Committee had visited the site prior to the Meeting. The Planning Services Manager read a statement received from Councillor Atkin and also made reference to a letter received from Network Rail. Consideration was given to the application and, it was,

RESOLVED:-

That planning permission be granted, subject to the conditions set out in the report of the Planning Services Manager to the Meeting held on 14th September 2004.

- (b) The erection of 36 apartments (amendment to plots 66 to 89 inclusive approved under planning permission 9/2003/0911/D) and associated works at Qualitas Bathrooms, Hartshorne Road, Woodville (9/2004/0937/DM)

Further to Minute No. DC/53(b) of 14th September 2004, it was reported that Members of the Committee had visited the site prior to the Meeting. Consideration was given to the application and, it was,

RESOLVED:-

That, contrary to the recommendation, planning permission be refused due to unbalanced dwelling types in the area and an over-concentration of flats, which would be detrimental to amenities.

(Councillors Bladen, Hood, Lemmon and Mrs. Walton wished it to be recorded that they were not in favour of this decision.)

- (c) The construction of underground foul water pump station adjacent to Butt Farm, No. 163 High Street, Woodville (9/2004/0940/F)

Further to Minute No. DC/53(c) of 14th September 2004, it was reported that Members of the Committee had visited the site prior to the Meeting. Reference was made to additional correspondence received from the applicant company and Severn Trent Water. Consideration was given to the application and, it was,

RESOLVED:-

That consideration of the application be deferred further to enable the applicant company to examine other possible alternative solutions.

- (d) Outline application (all matters to be reserved) for the erection of a detached dwelling at land adjoining No. 15 Main Street, Linton (9/2004/0927/O)

Further to Minute No. DC/53(d) of 14th September 2004, it was reported that Members of the Committee had visited the site prior to the Meeting. Consideration was given to the application and, it was,

RESOLVED:-

That planning permission be refused for the reasons set out in the report of the Planning Services Manager to the Meeting held on 14th September 2004.

DC/56. PUBLIC HEALTH ACT 1925, SECTION 17
STREET NAMING

- (a) Hatton

It was reported that a new street name was required for a development under construction at land off The Hays, Hatton. The suggested name was “Yew Tree Court” which had been submitted by the developer. The Royal Mail and the Parish Council had no objections.

RESOLVED:-

That, in accordance with the provisions of Section 17 of the Public Health Act 1925, no objections be raised to the suggested name.

(b) Etwall

It was reported that a new street name was required for a development under construction at land to the rear of No. 83 Egginton Road, Etwall. The suggested name was “Hollies Court” which had been submitted by the developer. The Royal Mail and the Parish Council had no objections.

RESOLVED:-

That, in accordance with the provisions of Section 17 of the Public Health Act 1925, no objections be raised to the suggested name.

(c) Newhall

It was reported that a new street name was required for a development under construction at land adjacent to No. 34 Main Street, Newhall. The suggested name was “Tilley Green” which had been submitted by the developer. The Royal Mail had no objection.

RESOLVED:-

That, in accordance with the provisions of Section 17 of the Public Health Act 1925, no objections be raised to the suggested name.

DC/57. PROPOSED TREE PRESERVATION ORDER NO. 224

It was reported that the tree concerned was situated next to a small outbuilding that once formed part of the outbuildings to Hoon Ridge, a Grade II Listed Building. It was an imposing specimen that contributed greatly to the setting of these outbuildings and was visible from public vantage points, including public footpaths and the main A50. On inspection it was considered to contribute to the attractive countryside in this area.

The provisional Order was imposed on 25th June 2004 as a house was for sale in the converted outbuildings and enquiries were being received with regard to the development potential opportunities in the vicinity of the tree. However, upon closer investigation, it was noted that the tree contained significant wounds and that there was some evidence of rot in cavities as well as some of the branches. It was not considered that the tree was in imminent danger of falling, but it would be inappropriate to apply an Order to a tree that had a limited future.

RESOLVED:-

That the Tree Preservation Order No. 224 not be confirmed for the reasons set out in the report.

DC/58. TELECOMMUNICATIONS DEVELOPMENT

It was reported that the Council had a policy in both the adopted Local Plan (Community Facilities Policy 4) and the emerging replacement Local Plan (Policy C7) that guided its determination of applications for telecommunications equipment. PPG8 provided advice with regard to the health issue that if a proposed mobile phone installation met ICPRN guidelines for public exposure it should not be necessary for the Local Planning Authority, when processing an application for planning permission

or prior approval, to consider further health aspects and concerns about them.

The Committee had raised the issue of whether an exclusion zone could be imposed around schools and other accommodation where vulnerable people resided. In particular, it was suggested that a Scottish Authority had adopted such a policy. Officers had undertaken a review of the Scottish Office Web Site and that of Glasgow City Council. Neither had any reference to any exclusion zones as mentioned above. By chance, a publication by Orange had been received. It was a newsletter for Councillors and the following was an extract from the newsletter with regard to exclusion zones:-

“No country has imposed an exclusion zone, as there is no scientific reason for doing so.

It is a common misunderstanding that Sir William Stewart and his expert science review panel, in 2000 recommended that the UK should use a ‘precautionary approach’ to keep masts away from schools. There was no such recommendation. What he said was, the ‘beam of greatest intensity’ should not fall on any part of a school without agreement from the school and parents.

The Government did not accept the recommendation exactly as proposed but did accept that schools should be consulted where base stations are to be erected nearby. In the Government’s view, as expressed in paragraph 31 of PPG8, local planning authorities should not implement their own precautionary policies.

Since Stewart reported, Ofcom has checked the radio levels at about 100 new sites a year, normally schools and hospitals, to check compliance with UK emission limits.

In the three years of the survey, the highest reading recorded was less than one seven hundredth of the guidelines. To put this in perspective, an annual salary of £25,000 reduced by 700 times would amount to £35 per year. In fact, radio field levels were generally found to be thousands of times lower.

Another well rehearsed argument claims that exclusion zones have been adopted abroad, and cites Australia as an example. Actually this is not the case at all. What happened was in 2000, a 500-metre exclusion zone was demanded in New South Wales by the Regional Association of Local Government, but rejected by the state government. To date, no country has adopted any form of exclusion zone.”

The above comments represented the view of one operator. The views of the Government Office on the statements made in the article had been sought and were as follows:-

“...Stewart recommended a precautionary approach to the development of this technology and made proposals for further research. The Group’s report does not recommend the introduction of a cordon sanitaire/exclusion zone between masts and existing development and we have no plans to introduce such a requirement. The report does not provide any basis for precautionary actions beyond those already proposed. In the Government’s view, local planning authorities should not implement their own precautionary policies e.g. by way of imposing a laboratory on new telecommunications

development or insisting on minimum distances between new telecommunications development and existing development.”

An independent consultancy had reviewed the opinions expressed in appeals and in the courts. The review acknowledged that although many cases regarding health issues had been considered, the overall conclusion was that if a mast or apparatus was below the guidelines of the ICNIRP, Inspectors and judges would overturn decisions to refuse planning permission or prior consent if they had been rejected on health grounds. This was most recently tested in May last year in a case which involved the Diocese of Ripon and Leeds, regarding mast equipment on two churches at Hawes and Knaresborough. The most important conclusion on the health issue stated that if the base stations conformed to the International Commission on Non-Ionizing Radiation Protection Guidelines, there was no compelling evidence of real risk to health; that stress and/or anxiety, real enough in itself, was attributable to the perception of risk and would not be attributable to the levels of radiowaves. For those reasons, the ‘health issue’ was resolved in favour of the petitioners.

A full copy of the judgement was available in the Planning Offices. The case was heard on 1st March 2003 and the judgement was given on 21st May 2003.

In January 2004, a Private Members Bill was laid before the House which proposed a requirement that operators (inter alia) submit with applications, a certificate which would set out the area and maximum range of the Beam of Greatest Intensity, and that where such a beam fell on any part of any premises or land occupied by, or consisting of an education or medical facility, or of residential property, planning permission would not be granted without first taking into account the information contained in the certificate and any representations received. However, in July the Bill failed to gain sufficient support at its second reading and was therefore now abandoned.

A further Bill was also before Parliament for consideration which proposed that planning permission could only be granted where a local planning authority was satisfied that there was a need for a mast in the location and that it would not be a threat to health and safety. The second reading of this Bill had been deferred until 15th October 2004.

Members were also reminded that the Leader of the Council presented to the last Committee a reply from Mark Todd M.P. which stated that it was not appropriate for each Council to take its own view of health issues relating to masts but that it was possible to consider anxieties about health, which was why guidelines excluded schools (although officers were unsure where the guidelines stated this).

In view of the above, it was considered that the imposition of an exclusion zone would be contrary to the advice issued by the Government in PPG8. The advice was clear and where there was no evidence that there was a risk to health, and that equipment complied with the ICNIRP guidelines, then the planning system was not the arena to decide that health was an issue. Expressed more simply, if the equipment was certified to comply with the exposure guidelines, then permission should not be refused on health grounds or on the perceived health risk.

Clearly, if operators submitted applications that did not certify that the equipment complied with ICNIRP guidelines, then a refusal could be justified. However, it was unlikely that even this would be successful in the courts in light of the recent case referred to above. In this case the highest reading was 300 times lower than the guidelines and the judge accepted the argument that it did not matter whether the readings were 300 times or 5,000 times below the guidelines, the fact remained that the emissions were below the guidelines.

The objective should be that in all cases, applicants should provide the Local Planning Authority with all necessary information and that the appropriate level of pre-application consultation should take place, not only with the authority but also with schools, parish councils and elected Members. To this end it was recommended that a Supplementary Planning Document (SPD) be prepared to set out the Council's minimum expectations in the submission of applications and prior notifications. It would be the intention that if submissions were received that did not comply with the SPD, then the applications would be returned to ensure that the guidance was followed. It would be necessary to carry out consultations with the operators, parish councils and other stakeholders and proceed through the new prescribed procedures prior to adopting such a document.

The Committee had recently expressed a wish to consider employing consultants to advise on those applications where there was concern about the location of a mast because of its relationship to a school or other sensitive locations. This was currently being investigated. The basis for proceeding with such consultation however, would be to improve the Council's ability to deal with applications solely on the basis of more sustainable planning issues, like amenity.

In conclusion, Members were reminded that it was not within their remit in the determination of planning applications as the Local Planning Authority to be the arbiters of public health issues. The concept of defining exclusions zones was not an acceptable option for a Local Planning Authority. To this extent, Members need have no sense of responsibility for consequences arising from any future discovery of health risks. However, the introduction of SPD should provide a more rigorous test for applications and ensure that operators provided the necessary evidence recommended by the Government's Code of Best Practice.

It should also be noted that in cases where the Council refused an application because of health issues and there was no corroborated expert evidence to substantiate the refusal, then there may be a risk of incurring costs at appeal or, in the case of granting permission, at a judicial review.

Members welcomed the report and thanked the Planning Officers for their efforts on this issue.

RESOLVED:-

- (1) That the report be noted and that a draft Supplementary Planning Document relating to telecommunications development in South Derbyshire, be prepared for consideration by the Environmental and Development Services Committee.***

- (2) That operators be approached to request discussions regarding the establishment of a hierarchy of preferred areas.**
- (3) That a further report be submitted to the Committee following the second reading of the Private Members Bill on 15th October 2004.**

DC/59. REPORT OF THE PLANNING SERVICES MANAGER

The Planning Services Manager submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

DC/60. PLANNING APPROVALS

RESOLVED:-

That the following applications be granted, subject to the conditions set out in the reports of the Planning Services Manager and to any matters annotated:-

- (a) The erection of a single storey extension to rear, front porch canopy and detached double garage for part business/part domestic use at Braemar, Dalbury Lees (9/2004/0861/U) – subject to the imposition of any appropriate environmental conditions, if necessary.***
- (b) The erection of two link detached bungalows at land off Maple Drive, Aston-on-Trent (9/2004/0985/F) – the Planning Services Manager read a statement received from Councillor Atkin. Reference was made to additional correspondence from the Parish Council, Derbyshire NHS Mental Health Services Trust a neighbour and the applicant company.***
- (c) Outline application (all matters reserved accept for siting and means of access) for the erection of five dwellings at Claire De Lune, Lucas Lane, Hilton (9/2004/1009/O) – subject to an additional condition requiring three of the dwellings to be bungalows, as shown on amended plans.***

DC/61. THE ERECTION OF 8 DWELLINGS, GARAGES AND ANCILLARY WORKS AT ALDERSLADE FARM, DERBY ROAD, ASTON-ON-TRENT (9/2004/0977/F)

RESOLVED:-

- (1) That the applicant company be advised that the Council agrees with the principle of development and that the proposal is such as may be permitted, subject to appropriate conditions as part of an Agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) to secure an appropriate contribution towards education provision at Aston-on-Trent Primary School.***
- (2) That the Chief Executive be authorised to conclude the Agreement on the above basis. [Page 7 of 8](#)***

- (3) That the conditions set out in the report of the Planning Services Manager be approved for imposition on the issue of any planning permission.**

DC/62. APPLICATIONS DEFERRED FOR SITE VISITS

RESOLVED:-

- (1) That consideration of the following applications be deferred for the reasons indicated to enable Members of the Committee to visit the sites prior to the next Meeting:-**
- (a) The demolition of existing dwelling and the erection of semi-detached houses at No. 17 Church Avenue, Hatton (9/2004/1016/F) – to enable issues raised to be clarified. Reference was made to a letter received from a neighbour.**
 - (b) The erection of five growing tunnels at OS Field No. 5407, Ambaston Lane, Thulston (9/2004/0117/F) – to enable issues raised to be clarified. Reference was made to a letter received from the Chair of Elvaston Parish Council's Minerals and Flooding Sub-Committee.**
 - (c) The erection of an agricultural building at OS Field No. 5407, Ambaston Lane, Thulston (9/2004/0118/F) - to enable issues raised to be clarified. Reference was made to a letter received from the Chair of Elvaston Parish Council's Minerals and Flooding Sub-Committee.**
- (2) That Members be authorised to consider any ancillary matters which might arise.**
- (3) That the local representatives be invited to be present in a representative capacity, as appropriate.**

DC/63. THE TEMPORARY ERECTION OF AN AGRICULTURAL WORKER'S DWELLING AT OS FIELD NO. 5407, AMBASTON LANE, THULSTON (9/2004/0009/F)

RESOLVED:-

That planning permission be refused for the reason set out in the report of the Planning Services Manager.

D. SHEPHERD

CHAIR

The Meeting terminated at 7.35 p.m.