

NORTHUMBERLAND COUNTY COUNCIL

TYNEDALE LOCAL AREA COUNCIL

At a virtual meeting of the **Tynedale Local Area Council** held on Tuesday, 8 December 2020 at 2.00 p.m.

PRESENT

Councillor T Cessford (Chair, in the chair for items 2-4 and 10-11)

Councillor R Gibson (Planning Vice-Chair, in the chair for items 1 and 5-9)

MEMBERS

A Dale
C R Homer
C W Horncastle
I Hutchinson
D Kennedy
N Oliver (part)

K R Quinn
J R Riddle
A Sharp
G Stewart
K G Stow

OFFICERS

K Blyth
M Bulman
D Brookes
R Campbell
M Francis
R Murfin
K Norris

Principal Planning Officer
Solicitor
Infrastructure Records Manager
Planning Officer
Senior Planning Officer
Director of Planning
Democratic Services Officer

The Chair reordered the agenda for the Planning Vice Chair to outline the procedure to be followed at a virtual meeting when he took the chair.

159. MINUTES

RESOLVED that the minutes of the meeting of Tynedale Local Area Council held on 10 November 2020 as circulated be confirmed as a true record and signed by the Chair.

Ch.'s Initials.....

160. DISCLOSURE OF MEMBERS' INTERESTS

Councillor Sharp declared a prejudicial interest in agenda item 9, Review of the Definitive Map and Statement of Public Rights of Way, Alleged Public Footpaths Nos 24-27, Parish of Wall as the firm he worked for acted as agents for owners of the various woods and sites around the area. He would leave the meeting for this item and take no part in the discussion or voting thereon.

Councillor Dale stated in respect of agenda item 6, 20/01932/FUL, she was County Councillor for both Stocksfield and Riding Mill and knew many people in the area, however, she had no pecuniary interest in the application and had taken advice from the Solicitor about this.

161. PROCEDURE TO BE FOLLOWED AT A VIRTUAL PLANNING COMMITTEE

The Planning Vice Chair advised members of the procedure which would be followed at the virtual meeting and of the changes to the public speaking protocol.

162. DETERMINATION OF PLANNING APPLICATIONS

The committee was requested to decide the planning applications attached to the report using the powers delegated to it. Members were reminded of the principles which should govern their consideration of the applications, the procedure for handling representations, the requirement of conditions and the need for justifiable reasons for the granting of permission or refusal of planning applications.

RESOLVED that the information be noted.

163. 20/01932/FUL

Construction of single dwelling with annex and ancillary accommodation, c.6.5 metre high wind turbine, associated landscaping and highway works (amended description) at Land South of Church Lane, Church Lane, Riding Mill, Northumberland.

Members confirmed they had seen the site visit video which had been circulated prior to the meeting.

Melanie Francis, Senior Planning Officer, introduced the application with the aid of a slide presentation and updated members as follows:

An objection had been received from Public Protection after the committee report was written and had been circulated to members, leading to refusal reason 7 which had also been forwarded to members. Subsequently, the

agent had submitted contaminated land screening assessments and noise information for the turbine. Public Protection had considered these and determined that the contaminated land screening assessment was acceptable and if members were minded to grant permission this would be a condition. The information received in relation to noise from the wind turbine was considered to be insufficient.

Refusal reason 7 was therefore to be amended as follows:

Insufficient information has been submitted to assess the noise emissions from the wind turbine and its impact on residents and the local area contrary to Tynedale Local Plan Policy GD2, Core Strategy Policy B1 and the NPPF.

With reference to refusal reason 3 which related to ecology, following a response from the agent's ecologist, officers remained of the opinion that an inadequate amount of survey work had been undertaken so there were no changes to that reason.

The recommendation was therefore as set out in the report plus the extra refusal reason 7.

A summary of the key issues was provided.

Statements in objection to the application submitted by Mike Smith and Broomhaugh and Riding Parish Council were read out by R Campbell, Planning Officer and would be attached to the signed minutes and uploaded to the Council's website.

A statement in support of the application on behalf of Rachel Thompson, the agent to the applicant, was read out by R Campbell, Planning Officer and would be attached to the signed minutes and uploaded to the website.

At that point Rob Murfin, the Director of Planning, asked members to confine their views on the application to the formal representations made and information contained in the planning report. He said the application was very unusual and should be seen as a one-off iconic proposal for the future.

Mr Murfin referred to comments made by the Design Panel and paragraph 79 of the NPPF, which he said should be read in its entirety. There was no doubt that the design of the proposal was exceptional and came with exceptional sustainability credentials, but Members would need to consider whether it enhanced the setting and what weight should be given to that. This was a very important concept and could impact on future proposals. He provided some background information and said, although the proposal may be technically acceptable in terms of mitigation, the enhancement element of paragraph 79 was a requirement.

Members were entitled to approve or refuse the application depending on what weight they placed on the different elements of the total scheme and although public opinion was part of that, it was not a ballot.

In response to questions from members, the following information was provided:

- The land for the proposal was owned by the applicants. They did not own Church Lane but had access over it as it was a public right of way.
- There had never been any buildings on either of the fields which had been used purely for grazing.
- All areas of the country had Design Review Panels who were local groups of experts such as landscape architects and planners. Applicants paid them a fee to have their design looked at and receive feedback. They were asked about the design of the scheme but were not asked to make a planning decision. Officers did not disagree with the Design Panel's views in terms of the design of the building in isolation and the technical nature of its construction, however, this would need to be weighed up as part of the overall planning balance and the Design Panel itself had said the scheme offered a dilemma to the Local Planning Authority.
- Paragraph 79 of the NPPF said Planning Authorities should avoid the development of isolated homes in the countryside unless one or more of the circumstances, as listed in a) to e), applied. It was emphasised that in terms of e) this was in two parts (exceptional design and enhancement of the area), and the proposal must reflect both, not one or the other. Paragraph 131 of the NPPF should also be considered.
- It was the view of officers, when weighing up all the issues, that the house as a design passed the first part of the test but it did not enhance that location and there were other factors to be considered and additional reasons for refusal. The building would also have to meet Green Belt tests. Members must form their own view and make a decision accordingly.

Councillor Oliver left the meeting at 2.57 pm

- In terms of wider public benefit, that was within the context of the two part question referred to previously in point e) of paragraph 79 of the NPPF. There was a lot of emphasis on mitigation rather than enhancement and it was reiterated that this was a two part test.
- Reference was made to Reason for Refusal no. 4, as set out in the report, which discussed the overall scale and massing of the proposed building. Whilst members may accept it was a good quality design, those were important factors to consider.
- In the application, the applicants had stated it was not proposed to develop the whole site. As a planning application the red line covered 4.65 hectares and, although there could potentially be a Section 106 Agreement at the outset to set parameters with regards to planting, it would be very difficult to control. It was acknowledged therefore that 4.65 hectares would become residential curtilage and overtime this could be developed in many different ways.

The solicitor referred to the site videos mentioned earlier and, for clarification, requested that members be asked if they had any questions thereon. The Chair raised this with members and no questions were put forward.

Councillor Horncastle moved refusal in line with the officer's recommendation, as set out in the report, plus the extra refusal reason 7 which was seconded by Councillor Quinn.

Members commented as follows:

- A lot of information had been provided and the consultation had been thoroughly considered.
- The comments of the applicant's representative were disappointing when criticising the officer which was felt to be unfair.
- Thanks were conveyed to officers for being fair and open regarding this application.
- A lot of objections had been put forward and objectors had been very articulate about their reasons and their love of the area.
- The Design Panel had raised concerns about the scale of the house in the Greenbelt. It was an exemplary design but the impact on the Greenbelt outweighed the design which did not enhance the area at all.

In summary Councillor Horncastle agreed that the proposal was of exceptional design but said it did not fit in with or enhance the area. The benefits relating to green issues did not outweigh the impact and it was important that members set the bar for future proposals. It was an excellent report by the officer backed up by the advice of the Director of Planning and he encouraged members to support the officer's recommendation.

Upon being put to the vote the motion was unanimously agreed. It was therefore:

RESOLVED that planning permission be refused for the reasons set out in the report plus the extra refusal reason 7.

164. PLANNING APPEALS UPDATE

The report provided information on the progress of planning appeals.

RESOLVED that the information be noted.

RIGHTS OF WAY

165. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

Ch.'s Initials.....

Tynedale Local Area Council, 8 December 2020

ALLEGED PUBLIC FOOTPATH NO 99 PRUDHOE TOWN

David Brookes, Infrastructure Records Manager, introduced the above report in which members were asked to give consideration to all the relevant evidence gathered in support and rebuttal of a proposal to add to the Definitive Map and Statement a public right of way from Restricted Byway No 74 at the junction with Public Footpath No 97 in a general northerly direction to join Public Footpath No 21 at the junction with Public Footpath No 87.

Background information was provided and members were advised that further to consultation, no written response had been received to date from the landowner.

Following some confusion about the alignment used by members of the public on the ground, clarification had been sought from the evidence users about the claimed route and an amended plan was included within the report.

Councillor Sharp moved approval of the recommendation as set out in the report which was seconded by Councillor Stewart. Upon being put to the vote the motion was unanimously agreed and it was:

RESOLVED that

- i) There was sufficient evidence to justify that a public right of way had been reasonably alleged to exist over the claimed route.
- ii) The route be included in a future Definitive Map Modification Order as a Public Footpath.

Councillor Sharp left the meeting and took no part in the discussion or debate for the following item.

166. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC FOOTPATHS NO. 24 – 27 PARISH OF WALL

David Brookes, Infrastructure Records Manager, introduced the above report in which members were asked to give consideration to all the relevant evidence gathered in support and rebuttal of a proposal to add to the Definitive Map and Statement a number of public rights of way at East Wood to the north of Acomb.

Background information was provided.

Reference was made to two photographs received from the landowner's agent following publication of the report showing a sign which had been erected on

the site stating the land was for the private use of caravanners. Clarification had been sought from the landowners regarding the date this was put in place but no response had been received.

In terms of the recommendation, it was stressed at this stage members were only being asked to consider if the application in itself was reasonably alleged. Should it be agreed to make a modification order and record the routes, the landowner would have an opportunity to object and evidence would be further explored by the Inspectorate at that time.

In response to questions from members and concerns raised, the following information was provided:

- By looking at all the information provided, Members should decide if they were satisfied that the routes had been used by the public over various periods for a number of years and that they had not been prevented from doing so. Problems for landowners in terms of litter and leaving gates open could not be taken into account.
- Due to it being a woodland area no historical evidence had been found to show public rights of way had existed over the land. There was no requirement that an application must be accompanied by historical documentary evidence and it was acceptable for public rights of way to be recorded on the basis of user evidence.
- In general it was open to a landowner to take measures to show their land was not open for public use but that was not a consideration in the context of this application.
- On a point of clarification, Mr Brookes said it was a two level test and members were currently being asked to decide whether the application, together with the user evidence provided, reasonably alleged that these routes were being used as suggested. If members agreed to make an order to record these routes as public rights of way, the landowner could object and it would then be referred to the Secretary of State who would appoint an inspector to consider this at the next stage on the balance of probability. Whilst members may have concerns, officers were satisfied that the low level reasonably alleged test had been met and the order should be made so that it could be dealt with through the inspectorate.
- There was no documentary evidence to show what the tracks had been used for and no obvious answer as to why they existed.
- Route 24 did not presently have any public status recorded over it. The photographs of the signs referred to related to footpath 24 which provided a connection from the caravan site to the East Wood and members were being asked to consider if the public, as well as caravan site residents, used this route.
- In response to comments about paragraphs 8.8 on page 27 and 8.3 on page 29, Mr Brookes said paragraph 8.3 set out what was stated in Section 31 of the Highways Act. If it could be shown there had been 20 years uninterrupted used of the route by the public and no steps had been taken by the landowner, rights of way could exist. User evidence seemed to show

use by a substantial number of members of the public in excess of 20 years for each of the alleged 4 public rights of way.

Councillor Hutchinson proposed that a public right of way had been reasonably alleged to exist over Public Footpath 24 (A-B-J-C) and that the route be included in a future Definitive Map Modification Order as a Public Footpath. With regard to Public Footpaths 25 (A-B-E-G-H) , 26 (F-G-H) and 27 (D-E-B-A), he proposed there was not sufficient evidence to say public rights of way existed and the applications for these should be refused.

The motion was seconded by Councillor Dale who said Footpath 24 was already in use but she shared the concerns raised about the evidence relating to Public Footpaths 25, 26 and 27.

Debate followed and concerns were raised about the reliability of the usage figures and the risks involved with formalising the routes. There was also some concern that footpath 24 was for the specific use of walkers using the caravan park and was therefore a private footpath. On the other hand a member said she found it hard to disbelieve the user evidence provided and therefore supported the officer's recommendation as set out in the report.

In summary Councillor Hutchinson said he could not understand why all of the other alleged routes went around the edge of the woods and there was nothing through the middle, he queried why people would walk around the edge of the woods for all those years.

A vote was taken as follows: FOR - 9; AGAINST - 2; ABSTENTION - 0.

RESOLVED -

- 1) There was sufficient evidence to justify that a public right of way had been reasonably alleged to exist over Public Footpath 24 (A-B-J-C).
- 2) The route be included in a future Definitive Map Modification Order as a Public Footpath.
- 3) There was not sufficient evidence to justify that public rights of way existed over Public Footpaths 25 (A-B-E-G-H) , 26 (F-G-H) and 27 (D-E-B-A).

167. DATE OF NEXT MEETING

The next meeting would be held on Tuesday, 12 January 2020 at 2.00 p.m.

The meeting closed at 4.25 pm.

CHAIR _____

DATE _____

Ch.'s Initials.....
Tynedale Local Area Council, 8 December 2020