

DEVELOPMENT CONTROL  
COMMITTEE

2 FEBRUARY 2007

RECENT PLANNING APPEAL  
DECISIONS

Report of Director of Neighbourhood  
Services

The following recent planning appeal decisions are reported for the information of the Members:-

ST LUKES CHURCH SEDGEFIELD STOCKTON-ON-TEES TS213NN - AP/2006/0011

**Appeal Description**

The appeals were made by Mrs C Moore against a listed building enforcement notice and the refusal of listed building consent issued by Sedgefield Borough Council on the 18<sup>th</sup> April 2006 in respect of consent to undertaken internal alterations to facilitate change of use to health and fitness centre at St. Lukes Church Sedgefield.

**Appeal Decision**

In the Inspector's decision letter dated 13 December 2007, a copy of which is attached to this report, both appeals were dismissed.

**Analysis of the Appeal Decision (s)**

The Inspector in refusing listed building consent and upholding the listed building enforcement notice considered that:

*The design did not respect the main structural elements of the church which give the church so much of its special character.*

*The proposed works would block appreciation of the length of the church and of the quality of the space within the church. It would look particularly out of place...and would destroy the quality of the space within the church.*

*The removal of the timber floor and cast iron ventilation grilles has harmed the special quality of the listed building.*

*The proposed scheme causes serious harm to the special architectural interest of the listed building and goes far beyond **'the optimum viable use that is compatible with the fabric, interior and setting of the historic building'**.*

*The proposed scheme/works would seriously harm the special architectural quality of the listed building contrary to section 16(2) of the 1990 Act and Policy E19 of the Borough Local Plan.*

*In the approved scheme three bays of the nave, and corresponding parts of the aisles, would not be built upon and could be appreciated as a whole together with views into the apse. The approved scheme respects the main structural elements of the church.*

*The steps required in the notice serve the purpose of restoring the character of the building to its former state in respect of the works enforced against. The appeal on ground (i) fails.*

*The time period specified in the listed building enforcement notice is reasonable and the appeal fails on ground (h).*

The outcome of the appeal decision is that the listed building enforcement notice came into force on 9 January 2007. The appellant must therefore undertake the following works within the specified timescales:

- 1 Remove in its entirety the steel framed mezzanine floor structure from within the building within **2 months** of this notice taking effect.
- 2 Reinststate a timber floor using oak tongue and groove floor boards to the area outlined in blue on the attached floor plan within **6 months** of this notice taking effect.
- 3 Reinststate the ornate cast iron ventilation floor grills using the original floor grills or reproduction floor grills within **6 months** of this notice taking effect.

In addition, should the appellant fail to comply with the terms of the listed building enforcement notice proceedings for prosecution will be instigated in accordance with the mandate previously approved by Development Control Committee when committee authorised the service of the listed building enforcement notice.

## **Conclusion**

The Inspector's decision letter totally vindicates the Council's decision to issue a listed building enforcement notice and to refuse listed building consent. The Inspector clearly gives significant weight to the '**desirability of preserving the building or its setting or any features of special architectural or historic interest which it posses**' and confirms that this requirement accords with the aims of policy E19 of the Borough local plan. In arriving at his decision the Inspector took into account the fact that the building had been disused for some years, was subject to lack of maintenance and vandalism and the importance of finding a viable use for the building. The Inspector however was clearly of the opinion that the proposal caused serious harm to the building.

Finally, at paragraphs 11 and 12 the Inspector appears to endorse the previously approved scheme when he states that '*The approved scheme respects the main structural elements of the church and would be far less harmful.* Again, this vindicates the approach that has been adopted in attempting to secure an alternative use which is compatible with the fabric, interior and setting of building.

DENHAMFIELDS GARAGE COMMERCIAL STREET CHILTON LANE FERRYHILL CO. DURHAM - AP/2006/0002

## **Appeal Description**

The appeal was made by Westside Contracts Ltd. against the refusal of planning permission issued by Sedgfield Borough Council on the 9<sup>th</sup> December 2005 for the change of use and extension of an existing building to form a detached bungalow at Denhamfields Garage, Commercial Street, Chilton Lane.

## Appeal Decision

In the Inspector's decision letter dated 29<sup>th</sup> December 2006, a copy of which is attached to this report, the appeal was UPHELD

### Analysis

Planning permission was refused for the following summarised reasons:

- The development represents residential development outside the settlement boundary of Chilton Lane as defined under Policy H8 of the Local Plan. The applicant failed to demonstrate an essential need to live in the open countryside, close to his place of employment, and the proposal was therefore contrary to Policy H12 (Housing in the Countryside for Agricultural or Forestry Workers) of the Borough Local Plan.
- Future occupiers of the dwelling could not be adequately protected from the wide range of environmental pollution associated with both the commercial use of the site and the heavily trafficked main east coast railway line, and the proposal was therefore contrary to Policy D11 (Location of Pollution Sensitive Developments) of the Borough Local Plan.

The Inspector agreed with many of the points raised by the Local Planning Authority. In particular, it is encouraging to note the following points:

- The Local Planning Authority's view that the appeal site is located outside the residential framework of Chilton Lane, where rural development policies apply, is endorsed.
- The adopted Interim Planning Policy Statements IPS1 & 2 are acknowledged as having some weight as updated policy on rural conversions from the original Local Plan Policy H13 which is now 10 years old.
- The Inspector acknowledges that the proposal would double the size of the existing building and that Policy H13 (and the Interim Policy Statements) does not permit major extensions.
- It is acknowledged that the living conditions of the future occupiers of the dwelling would be worse than would usually be expected because of the commercial uses and the proximity of the main east coast railway line.

The Inspector however made the following observations:

- The rural development policies are designed to protect the character of the local countryside, and whilst the appeal site lies in an area that can be regarded as countryside because it is outside the defined settlement boundary, it is not open countryside in terms of its character.
- The proposal would result in the removal of an existing coal business from part of the site and that this would lead to local environmental improvement.
- The pollution impact upon future occupiers of the dwelling could be adequately mitigated.
- The proposal would be unlikely to establish a precedent to be repeated elsewhere.

### Conclusion

It is disappointing to have lost the appeal, particularly as the Inspector agreed with the general policy methodology adopted by the Council and endorsed the status of the quoted development plan policies. However, it is clear that there was not only a difference of opinion in respect of the character of the locality and how the policies could

be applied but also that the removal of the coal business was considered a significant material consideration in this instance.

Planning permission has therefore been granted subject to 9 conditions set out in the first two pages of the decision letter.

RECOMMENDATION: That the information be received.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**LIST OF BACKGROUND DOCUMENTS USED IN THE PREPARATION OF REPORT**

All relevant Planning Files listed in report.



## Appeal Decision

Site visit on 13 December 2006

by J D Waldron MCD BArch

an Inspector appointed by the Secretary of State for  
Communities and Local Government

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**Appeal Ref: APP/M1330/F/06/2019807**  
**St Lukes Church, Winterton, Sedgfield, TS21 3NL**

- The appeal is made by Ms C Moore under Section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a listed building enforcement notice issued by Sedgfield Borough Council on 14 June 2006.
- The breach of listed building control alleged in the notice is **The erection of a two-storey steel framed mezzanine floor structure within the building and the removal of the original timber floor and cast iron ornate floor ventilation features.**
- The requirements of the notice are as follows:
  1. **Remove in its entirety the steel framed mezzanine floor structure from within the building within two months from the date on which the notice takes effect.**
  2. **Reinstate a timber floor using oak tongue and groove floor boards to the area outlined in blue on the plan attached to the notice within 6 months of the date on which the notice takes effect.**
  3. **Reinstate the ornate cast iron ventilation floor grills using the original floor grills or reproduction floor grills within 6 months of the date on which the notice takes effect.**
- The appeal is made on the grounds set out in Section 39(2)(e), (h) and (i) of the 1990 Act.

**Summary of Decision: The enforcement notice is upheld as corrected.**

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**Appeal Ref: APP/M1330/E/06/2023960/NWF**  
**St Lukes Church, Winterton, Sedgfield, TS21 3NL**

- The appeal is made by Ms C Moore under Section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent by Sedgfield Borough Council.
- The application No: 7/2005/0889/DM was refused by notice dated 21 April 2006.
- The application is **to undertake internal alterations to facilitate change of use to health and fitness centre.**

**Summary of Decision: The appeal is dismissed.**

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### Procedural matter

1. The notice is incorrect in paragraph 3 by referring to the requirements as being **"for bringing the building to the state it would have been in if the terms and conditions of the listed building consent ... which has been granted for the works had been complied with"**, namely the powers at Section 38(2)(c) of the 1990 Act. The requirements of the notice are clearly for restoring the building to its former state under the powers at Section 38(2)(a), namely its former architectural state in respect of the works enforced against. Indeed the appeal on ground (i) made by the appellant is only available to requirements made under Section 38(2)(a). The notice needs to be corrected accordingly. There is no dispute about what is enforced against and required by the notice. I consider that the notice can be corrected without injustice to either party and within the powers available to me. The appeals are determined accordingly.

### Background

2. The appeal on ground (e) relates to the steel framed mezzanine floor structure enforced against which is different at the east end to the steel framing of the scheme for which listed building
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consent was refused and shown on drawing 05040/6. At the site visit the appellant indicated where the steel framing would need to be altered. The appeals are determined accordingly.

**The appeal on ground (e) and the appeal against the refusal of listed building consent**

3. Under Section 16(2) of the 1990 Act, in considering whether to grant listed building consent, special regard shall be given to the **"desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"**. This requirement accords generally with the aims of Policy E19 of the adopted Sedgfield Borough Local Plan.
4. The main issue is the effect of the proposed scheme/works on the special architectural quality of the listed building.
5. Paragraph 3.12 of PPG15 states with regard to listed buildings that **"In judging the effect of any alteration or extension it is essential to have assessed the elements that make up the special interest of the building in question"**. St Luke's Church was built as a hospital church in about 1884 but now has an attractive open setting within new development. The church is brick-built in the Early English style with six-bay aisled nave and apsed chancel. The arcading has pointed arches and paired clerestory windows above. The roof is steep-pitched with scissor-braced trusses. The brick piers are of cross-plan with attached colonettes and carved capitals. The interior of the church is in a restrained decorative style of special interest within the meaning of paragraph 3.12.
6. The proposed building would start about one and three-quarter bays into the church. It would wrap round the arches of the nave arcade, part way between their springing and their apex. About two-thirds of the ground-floor of the church would be subdivided into small rooms and spaces. The first-floor would extend into the aisles with the floor wrapping around the piers just below the carved capitals. The second-floor would abut the upper part of the arches of the nave arcade. The proposed building would be unrelated to the rhythm of the six-bay arcade and the six clerestory windows above, which is a fine feature of the church. The design of the building does not respect the main structural elements of the church which give the church so much of its special character.
7. The proposed building would block appreciation of the length of the church and of the quality of the space within the church. I am not persuaded by the argument of the appellant that on entering the church at the west end (the main entrance of the proposed health and fitness centre) a definite sense of the original openness would remain. A person entering at the west end would be immediately aware of a large building dominating the interior of the church. The building would look particularly incongruous and out-of-place from this viewpoint. It would destroy the quality of the space within the church.
8. The former timber floor and cast iron ventilation grilles are shown on photographs submitted by the Council. They were an integral part of the design of the interior of the church and in keeping with a church designed in the Gothic style which dates from the latter part of the C19. Their removal has harmed the special architectural quality of the listed building contrary to the aims of Section 16(2) and Policy E19.
9. The appellant says that the timber floor was irreversibly damaged by rainwater and had to be completely removed because it was a health and safety hazard. The builder who carried out the work states the same. However I am not persuaded that the timber floor could not have been repaired/restored "like with like". The appellant intends to provide a tiled floor and under-floor heating, albeit not apparently indicated in the scheme for which listed building consent was refused. Nor do they form part of the scheme for which listed building consent was granted. At present a rough stoney surface exists at a level well below that of the former timber floor.
10. In conclusion the proposed scheme/works would seriously harm the special architectural quality of the listed building contrary to the aims of Section 16(2) and Policy E19.
11. Listed building consent was granted on 30 June 2004 (7/2004/0076/DM) for a smaller scheme, including a smaller building within the church (at the west end) to facilitate the use of the church as a health and fitness centre. The building within the nave would be separated from the arcading on each side, enabling the arcading to be appreciated. The underside of the first-floor

would be about in line with the top of the decorative capitals, enabling the piers and the capitals to be appreciated. At ground-floor level the only structural items within the nave would be six columns supporting the first-floor and the stair up to the first-floor. Small rooms would be provided within the aisles, namely set back behind the piers for three bays of the nave. The apse would be separated from the nave by a glazed screen allowing the shape of the apse to be seen from the nave. The full length of the nave and apse would be seen and appreciated. The approved scheme respects the main structural elements of the church.

12. In the approved scheme three bays of the nave, and corresponding parts of the aisles, would not be built-on and could be appreciated as a whole together with views into the apse. The first-floor would be about 1.5m below the bottom of the five lancet windows at the west end of the nave, and about 1m clear of the west wall. However the upper part of the proposed structure, and the **"access stair to "roof" area over (for maintenance)"**, would be visible from outside the church especially at night. Nevertheless, on balance, the approved scheme would be far less harmful to the special architectural quality of the listed building than the scheme for which listed building consent has been refused.
13. In undertaking the balancing exercise referred to in paragraph 3.9 of PPG15, the Council accepted that additional floor space was necessary for the health and fitness centre to be viable financially, and granted listed building consent accordingly. The appellant now considers that further floor space is necessary to achieve financial viability, with other changes necessary on account of the requirements of recent disability discrimination legislation. I find no reason to doubt the appellant's assessment. However the proposed scheme causes serious harm to the special architectural interest of the listed building and goes far beyond **"the optimum viable use that is compatible with the fabric, interior and setting of the historic building"** as referred to in paragraph 3.9.
14. PPG15 advises, at paragraph 3.42, that consent should not be granted to recognise a **"fait accompli"**. It is necessary to consider whether consent would have been granted for works **"had it been sought before they were carried out, while having regard to any subsequent matters which may be relevant"**. The church had been disused for some years, and subject of lack of maintenance and of vandalism as indicated at the site visit. I have taken into account all the matters raised, including the importance of achieving a viable use for the listed building, and the considerable number of representations in support of the appellant's case. The appellant points out that the proposed works are fully reversible and that a condition could be imposed that the building be restored to its former state should its use as a health and fitness centre cease. However such condition would not overcome the considerable objections to the proposed scheme. In conclusion I am not persuaded that consent would have been granted within the meaning of paragraph 3.42 having regard to subsequent matters which are relevant. The objections could not be overcome by the imposition of conditions and are not outweighed by other material considerations. The appeal fails on ground (e). The appeal against the refusal of listed building consent also fails.

#### **Appeal on ground (i)**

15. The appellant considers that **"rather than removing the steel framed mezzanine in its entirety, the approved scheme could be implemented and therefore it is unreasonable to insist that the character of the building (ie: prior to the commencement of any works) should be restored"**. However the appellant does not indicate what part of the **"steel framed mezzanine"** should not be removed. There is no dispute that, in order to implement the approved scheme, the steel framed structure enforced against would need to be removed not least because the columns are in different positions. For the avoidance of doubt, the powers available at Section 38 could not require the construction of a wholly different scheme, even one for which listed building consent has been granted.
16. As indicated previously, the requirements of the notice have been made under Section 38(2)(a) for restoring the building to its former state in respect of the unauthorised works, namely its architectural state before the unauthorised works enforced against took place. It seems to me that the requirements of the notice would achieve this. In conclusion the steps required by the notice would serve the purpose of restoring the character of the building to its former state in respect of the works enforced against. The appeal fails on ground (i).

**Appeal on ground (h)**

17. The appellant considers that the timber floor and cast iron grills should not be provided until the building has been converted into a health and fitness centre, to prevent the items from being damaged. However the approved scheme is not considered to be viable. A new scheme would need to be prepared, approved and implemented. Given the stance of the Council, and my conclusion at paragraph 10, there is no certainty that this would happen. In any event, it would be possible to protect the reinstated floor and grills during subsequent works. Taking such precaution is integral to the carrying out of works to listed buildings. I am not persuaded that the period specified in the notice falls short of what should reasonably be allowed. The appeal fails on ground (h).

**FORMAL DECISION**

**Appeal against the listed building enforcement notice**

18. I direct that the listed building enforcement notice be corrected:

- at paragraph 3 by the deletion of "**for bringing the building to the state it would have been in if the terms and conditions of the listed building consent specified in the Fourth Schedule which has been granted for the works had been complied with**" and the substitution therefor "**for restoring the building to its former state**".
- by the deletion of the **FOURTH SCHEDULE**.

Subject thereto-I dismiss the appeal, uphold the listed building enforcement notice as corrected, and refuse to grant listed building consent for the works enforced against.

**Appeal against the refusal of listed building consent**

19. I dismiss the appeal.

*John Waldron*

Inspector





## Appeal Decision

Hearing held on 24 October 2006

Site visit made on 24 October 2006

by **Jacqueline North BSc MSc**

an Inspector appointed by the Secretary of State for  
Communities and Local Government

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Date: 29 December 2006

**Appeal Ref: APP/M1330/A/06/2006153**

**Denhamfields Garage, Commercial Street, Chilton Lane, Ferryhill, Co Durham, DL17 0DF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Westside Contracts Ltd against the decision of Sedgefield Borough Council.
- The application Ref 7/2005/0680/DM, dated 23 May 2005, was refused by notice dated 16 December 2005.
- The development proposed is change of use & extension to form detached bungalow.

### Decision

1. I allow the appeal, and grant planning permission for change of use & extension to form detached bungalow at Denhamfields Garage, Commercial Street, Chilton Lane, Ferryhill, Co Durham, DL17 0DF in accordance with the terms of the application, Ref 7/2005/0680/DM, dated 23 May 2005, and the plans submitted therewith, subject to the following conditions:
  - 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
  - 2) The development hereby approved shall not be commenced until the existing use of the land as a coal business has ceased.
  - 3) The area vacated by the coal business shall be restored in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the bungalow. The scheme should include the removal of all deposits of coal and associated plant and machinery. Thereafter the development shall be implemented in accordance with the approved scheme, unless agreed in writing with the Local Planning Authority.
  - 4) Development shall not commence until details of the materials to be used on the external surfaces of the building have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved scheme, unless agreed in writing with the Local Planning Authority.
  - 5) The development hereby approved shall be designed and constructed to provide protection from noise generated from the local rail network and adjacent industrial estate. The upper limits for the designated noise levels within the new dwelling shall be 35dBA LAeq in habitable rooms with windows shut and other means of

ventilation provided and for external noise shall be 55dBA LAeq in outdoor recreational areas.

- 6) No development approved by this permission shall take place until:
  - a) A desk top study has been carried out which shall include the identification of previous site uses and potential contaminants, and a diagrammatical representation (Conceptual Model of the geology and hydrogeology) 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 desk top study and any diagrammatical representations. This should be submitted to, and approved in writing by the Local Planning Authority prior to that investigation being carried out on the site. The investigation should be comprehensive enough to enable:
    - I. A risk assessment to be undertaken relating to any ground and surface waters that may be affected;
    - II. Refinement of the Conceptual model; and
    - III. The development of a Method Statement detailing any remediation requirements.
  - c) The site investigation has been undertaken in accordance with details approved by the Local Planning Authority and a risk assessment has been undertaken.
  - d) A Method Statement detailing any remediation requirements using the information obtained from the Site Investigation has been submitted to the Local Planning Authority. This should be approved in writing by the Local Planning Authority prior to that remediation being carried out on site.
  - e) The measures approved in the remediation scheme have been implemented.
- 7) If during development contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until an addendum to the Method Statement has been submitted to and agreed in writing by the Local Planning Authority. This addendum must detail how the unsuspected contamination shall be dealt with.
- 8) Upon completion of any remediation detailed in the Method Statement a report shall be submitted to the Local Planning Authority to verify that the required works regarding contamination have been carried out in accordance with the approved Method Statement. The report should include post-remediation sampling and monitoring results and any proposals for future monitoring and reporting considered necessary.
- 9) The development hereby approved shall not be occupied until details of the means of a boundary treatment to the dwelling have been submitted to and approved in writing by the Local Planning Authority and have been implemented on site in accordance with these approved plans.

**Procedural Matters**

2. On 30 June 2006 the appellant made a Unilateral Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) to restrict the use of the site to a haulage, distribution and garage business and to ensure residential use of the bungalow would be ancillary to the primary use of the site for business. I deal with this in paragraph 21.

**Main Issues**

3. I consider there to be two main issues:
  - a) the effect of the proposed development on the countryside and
  - b) the effect of any existing environmental pollution on the future occupants.

**Planning Policy**

4. The Development Plan includes the adopted Sedgefield Borough Local Plan 1996 (LP). Policy H8 of the LP identifies Chilton Lane as a village where development within an identified residential framework will normally be permitted provided that there is no conflict with the provisions of the plan's environmental, open space or design policies. Policy H13 allows the change of use of a building in the countryside to residential where certain criteria are met. Policy D11 requires pollution sensitive developments such as housing to be sited away from sources of contamination, pollution, noise or vibration.
5. The LP is 10 years old. Policy H13 is not fully compatible with national Planning Policy Guidance on development in the countryside. In order to comply with national policy guidance the Council has adopted interim policy statements on the change of use or conversion of a building in the open countryside. Interim Policy ISP1 allows conversion or reuse of buildings for employment, tourist, recreational, community and rural enterprise uses but only permits conversion to residential use following attempts to market the site for other uses. Interim Policy ISP2 states the criteria to be met for conversions or change of use in the open countryside. These Interim Policies have been subject to a consultation exercise and can be given some weight in determining planning applications.

**Reasons**

6. The appeal site is located to the east of Commercial Street, a residential terrace, and immediately west of the main East Coast railway line. There is a social club to the north and a row of wooden garages to the south. The land lies at a significantly lower level than both the adjacent housing and the rail line, which runs along an embankment and is elevated above the site. The site is well screened by mature tree planting.
7. The appeal building lies within a site that has a long-standing use for industrial and commercial purposes. For many years its principal use was that of a coal yard, with stocking bays, screening plant, weighbridge and office block. Subsequently, part of the land has been used as a depot for heavy goods vehicles and a vehicle garage and workshop. Approximately two thirds of the land is used in connection with the coal storage and distribution business.
8. The appeal building currently serves as a weighbridge office connected with the existing coal business. It is a single storey brick and tiled structure. The proposed development is to

extend this building by the addition of a new wing at 90 degrees to the existing building to form an 'L' shaped dwelling.

9. The appellant states that the dwelling is required in order to secure the site, the repair yard, equipment and heavy vehicles. The appellant and his family would live in the bungalow. The site is enclosed by tall, 6-7m high fencing, with razor wire or barbed wire in places; there is lighting and CCTV although the appellant states that these security measures are inadequate and that there is frequent damage to the fence and damage and theft of property from the site.
10. The site lies outside the residential framework of Chilton Lane, where the rural development policies of the LP apply. Although the site is located between the Chilton Lane housing area and main railway line and within a commercial, industrial and railside corridor and could not be considered to be in a rural area, the proposed development does not comply with the requirements of LP Policy H8 and needs to be considered with reference to other LP policies. In these circumstances I consider the policies regarding development in the countryside to be applicable.

*The Countryside*

11. Dealing with the first issue, Policy H13 of the LP permits the change of use to residential of a building in the countryside subject to three criteria. The aim of the policy is to protect the character of the local countryside.
12. Criterion A states that major extensions or rebuilding are not permitted. The appeal proposal would extend the original office by approximately 70 sq m. This would almost double the size of the existing building although the resulting dwelling would be a modest 2-3 bedroomed bungalow. The new dwelling would be single storey, below the level of the existing houses on Commercial Street, located in a corner of the site and well screened.
13. Criterion B aims to ensure there would be no harmful effects caused by traffic or environmental impacts on the character of the local countryside. The proposed development would be linked to the cessation of trading of the coal business. This would result in a significant reduction of daily traffic movements to and within the site, a reduction in noise generated by the operation of the coal business and removal of pollutants such as coal dust. I consider that the proposed development would result in significant local environmental benefits.
14. Criterion C aims to ensure that there would be no significant additional demand upon public services. In my opinion the provision of one additional dwelling will have a minimal impact in this respect.
15. The Interim Policies ISP1 and ISP2 refer to development in the open countryside, and whilst the site may be considered countryside for policy purposes, it is clearly not in the open countryside therefore these new policies have limited application. The thrust of Interim Policy ISP2 is similar to that of H13. Policy ISP1 permits change of use to employment uses but restricts residential development. The reasoned justification for the Interim Policies states that the re-use and adaptation of existing rural buildings has an important role in meeting the needs of rural areas for commercial and industrial development. It is also stated that the development of mixed residential and business conversions can help to diversify the rural economy and provide sustainable rural

employment opportunities. I consider that the proposed development accords with the intentions of ISP1 and complies with ISP2.

16. I conclude that a dwelling on this site would not be harmful to aims of Policy H13 of the LP because it would not harm the character of the area, there would be environmental improvements associated with the development and no significant demands upon public services.

*Living Conditions*

17. Turning to the second issue, there are a number of environmental issues associated with the site. Cessation of the coal storage and distribution business would result in environmental improvements due to a reduction in vehicular movements, a reduction in noise associated with traffic movements onto and within the site, noise associated with the movement of coal and operation of coal hoppers and removal of coal dust. The site is approximately 75metres from the main East Coast rail line and there will be noise associated with this. In addition the continued commercial use of the site is a potential source of environmental pollution including noise, fumes and dust. I consider that the living conditions of the future occupiers of the bungalow would be worse than those usually expected but that adequate mitigation measures could be implemented and conclude that the proposed development would comply with LP Policy D11.

**Conditions**

18. I consider that conditions are necessary requiring the coal business to cease prior to commencement of the development in order to safeguard the living conditions of the future occupiers of the new dwelling. I require details of how the area vacated by the coal business shall be laid out and of the boundary treatment of the new dwelling, for the same reasons.
19. I also consider that conditions are necessary requiring the submission and approval of external materials, to ensure the materials used are appropriate to those used in the existing building.
20. I have imposed a number of conditions in connection with potential pollutants and contaminants at the site, including a requirement for protection from sources of noise, in order to protect the living conditions of the occupiers.

**Overall Conclusions**

21. I have therefore found no material harm in considering the main issues. Moreover, I am satisfied that the particular circumstances of this site are unlikely to be readily repeated, and it is clear that there would be a benefit from the closure of the coal yard. I note concerns for security and the provisions of the Section 106 Unilateral Planning Obligation but they have not been central to my overall conclusions that this appeal should be allowed.

*Jacqueline North*

INSPECTOR

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