



## Planning Services

# COMMITTEE REPORT

### AGENDA ITEM NUMBER:

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#### APPEAL UPDATE REPORT

#### APPEALS DETERMINED

#### **Appeal against an enforcement notice the material change of use of 10 Queen Street, Grange Villa, Chester – le – Street to a guest house.**

The Enforcement Notice was served on 05.01.18 for the following reasons –

*'The use of the property as a guesthouse without appropriate planning consent constitutes inappropriate development and has a detrimental effect upon the amenity and character of the area contrary to Part (vi) of Policy HP17 of the Chester-le-Street Local Plan and Part 8 of the NPPF.'*

*'The Council believe that planning permission should not be granted because planning conditions could not overcome the objections to the development.'*

The Notice required the use of the property as a guesthouse to cease.

The appeal was dealt with by way of written representations and an accompanied site visit.

The main issues in the determination of the appeal were the impact upon the amenity and character of the area by reason of noise, disturbance, anti-social behaviour and the associated fear of crime contrary to the principles set out in Policy HP17 of the Chester-le-Street District Local Plan and Part 8 of the NPPF.

In terms of the impact on the character and amenity of the area the Inspector noted that the character of usage of the property as a Class C1 use is distinctly different to that of the surrounding Class C3 uses. These different characteristics of usage can be significantly detrimental to the living conditions and enjoyment of the area by permanent residents. Furthermore, the apparent lack of site management has the potential to lead to situations where loud or unruly behaviour cannot be dealt with in a swift and effective manner. Guests

will have a free hand on the hours they keep and the noise they might generate. There could also be situations whereby street parking places are used at the expense of permanent residents and guests arriving, whether by car or other means, might arrive and/or leave at unsociable hours.

The Inspector noted there would be some economic benefits in that the use would generate income for the appellant and bring visitors to spend money on the many tourist attractions in this part of County Durham. In that sense the use would meet the economic objective of achieving sustainable development as set out in the NPPF. However, it failed in the social and environmental objectives because of its effect on living conditions; the need to promote a healthy community and the overall impact on the character of this residential area.

The Inspector consider that in failing to meet all objectives the use was not sustainable. Thus, any presumption in favour of sustainable development was therefore outweighed.

The appeal was dismissed.

### **Appeal against refusal of planning permission for the construction of four dwellings on Land East of The Byre, Cornsay Lane, Cornsay.**

Planning permission was refused under delegated powers for the construction of four dwellings on the site on 19<sup>th</sup> July 2018 on the following grounds:

*'The public benefits of this proposal in terms of housing supply, the construction sector and community viability would not be substantial to the extent that they outweigh the substantial harm to the designated heritage asset of the conservation area therefore paragraph 14 and 133 of the NPPF direct that this application should be refused.*

*The proposal conflicts with the core planning principles within the NPPF in regard to the potential for a low carbon future and locating development where sustainable modes of transport for the movement of people can be exploited. Therefore this is not a sustainable location for new dwellings contrary to Part 1 of the NPPF.*

*The proposal fails to protect the existing landscape and open land which is recognised for its visual amenity value contrary to Derwentside Local Plan Policy GDP1 and would result in an encroachment into the countryside contrary to Derwentside Local Plan Policy EN2 and the development would have an adverse impact upon the landscape contrary to Derwentside Local Plan Policy EN1 and the NPPF.*

*The application has failed to demonstrate compatibility with the NPPF and Derwentside Local Plan Policy in respect of residential amenity, protecting ecology and protecting the economy (agricultural sector).'*

The appeal was dealt with by way of written representations and an unaccompanied site visit.

The main issues in the determination of the appeal were the effect on the character and appearance of the Conservation Area and the surrounding countryside; whether the appeal site is a suitable location for new housing and whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to odour and noise from the neighbouring farm.

In terms of the impact on the character and appearance of the Conservation Area the Inspector noted the openness of the Conservation Area is a defining characteristic of the Conservation Area and considered that the proposed development would interrupt the current openness of the north east side of the road. It was considered that the proposal would introduce new solely residential properties in a part of the Conservation Area that is predominantly agricultural in appearance. The Inspector also noted that the existing built form tends to have direct access to the main carriageway and that the village has no kerbed edges to the carriageway and no footways. In this context the Inspector considered the proposed access to be overly engineered and incongruous. It was concluded that due to the above the proposal would neither preserve, nor enhance the character and appearance of the Conservation Area and would result in harm to its significance. In weighing up the harm against the public benefits of the proposal such as housing supply, the community, economic benefits and support for local services the Inspector concluded that whilst there would be some benefits, that these would be small in scale and consequently the Inspector found that they would not overcome the great weight that the NPPF requires to be given to the harm.

In terms of encroachment into the countryside the Inspector considered that due to the presence of a dry-stone wall that the site had the appearance of being more a part of the village than part of the countryside and did not consider that it would appear as an encroachment into the countryside. The Inspector also considered the effect on the wider landscape to be neutral. However, these neutral effects were not considered to outweigh the harm that the development would cause to the character and appearance of the Conservation Area.

In respect of sustainable transport, due to the lack of facilities in the village; the paucity of public transport; the distance to the nearest schools and to settlements; and the nature of the connecting roads, the Inspector considered that the occupants of the proposed dwellings would, on the balance of probability, be reliant on travel by private car to meet their day to day needs. He accepted that the Framework acknowledges that sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making. However, in this instance weight was given to the fact that no sustainable transport solutions have been identified.

With regard to the living conditions of the future occupiers, the Inspector was of the view that at certain times of the year there would be noticeable odour

and transient noise from the nearby farm, however, as potential occupiers would be aware of the presence of the farm, the odour would not be all year round and there was no evidence that noise levels would be so high as to cause disturbance the Inspector concluded that the proposed development would provide suitable living conditions for the future occupiers.

To conclude, whilst the Inspector found that the development would have a broadly neutral effect on the wider countryside and landscape, and that it would provide suitable living conditions for the future with some other small scale benefits, none of these considerations would outweigh the harm to the character and appearance of the Cornsay Conservation Area and the fact that the site is not a suitable location for new housing having regard to the development plan and access to shops, services, other facilities and employment opportunities.

The appeal was dismissed.

Reports prepared by Christine Wood (Planning Enforcement Officer), Louisa Ollivere (Planning Officer)