



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against refusal of outline planning permission for the erection of a single dwelling to use existing farm access at Stobilee Farm, Langley Park, Durham.

Planning permission was refused under delegated powers on 25th May 2018 on the following grounds:

'The proposal would neither protect or enhance this valued landscape contrary to Derwentside Local Plan Policies GDP1, EN1, EN6 and section 11 of the NPPF.

The proposal would result in the encroachment of built development into the countryside contrary to Derwentside Local Plan Policy EN2.

The proposal does not generally support sustainability objectives of paragraphs 17 and 35 of the NPPF with regard to the potential for reducing greenhouse gas emissions and locating development where sustainable modes of transport for the movement of people can be exploited. Therefore this is not a sustainable location for a dwelling.'

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 whether the proposed development would be in an appropriate location, having regard to the aims and objectives of national and local planning policies, and the effect on the valued landscape and character and appearance of the countryside.

Whilst the Inspector considered the site to be within the countryside and that Derwentside Local Plan Policy EN1 is of relevance in terms of protecting the landscape the Inspector considered that this policy approach to constraining

housing supply would be given limited weight with the Development Plan being out-of-date and being in conflict with the Framework.

With regards to the location of the appeal site, the Inspector disagreed with the Council's conclusions regarding the likely level of reliance on the private car to access the shops and services in Langley Park. The Inspector noted that the distances to shops, bus stops and a school were within the preferred maximum distances outlined in the *Institute of Highways and Transportation Guidelines for providing for journeys on Foot, 2000 (the IHT Guidance)* although he acknowledged that other services and facilities would fall beyond the preferred maximum distances. It was acknowledged by the Inspector that the distance from the site to the Front Street would be along an unlit and unmade access where the terrain is not level, however taking into account the limited conflict with vehicles, the reasonable maintenance of the access and the gradient of the track the Inspector was not persuaded that this section of the journey would necessarily act as a complete deterrent to access by foot or bicycle. The Inspector was therefore satisfied that the accessibility of the site to local services and facilities would not be solely dependent on the use of the private car.

With regard to the protection of the landscape, the Inspector noted the peripheral location in respect of the AHLV and considered that the site does not reflect the wider agricultural character of the AHLV. Whilst the Inspector noted the development would be visible from a public right of way east of the site and in approaching from the south east, he considered that the development would be read in the context of the existing buildings and dwellings immediately adjacent to the south and was therefore satisfied that this would limit the overall negative effect on the proposed development with regard to the AHLV.

The Inspector accepted that the development would result in some unjustified encroachment into the countryside and adverse impacts on the countryside through the introduction of development, nevertheless, he considered that the development of the appeal site would have a more limited adverse visual impact on the character and appearance of the countryside and wider landscape given the position of existing dwellings and buildings, and the secluded position of the appeal site.

With regards to other matters the Inspector considered the provision of an additional dwelling to the local housing market would be an undoubted benefit and attached some limited weight to this. The Inspector also considered that the local economy would benefit during the construction period and from the expenditure of future occupiers.

To conclude, whilst the Inspector found that the development would not be in accordance with the Development Plan as the development plan is out of date he considered that paragraph 11 of the NPPF is engaged and he did not consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

The appeal was allowed, no application for costs was made.

Report prepared by Louisa Ollivere (Planning Officer)

Appeal against the refusal of a Householder Prior Notification of the erection of a single storey rear extension with a projection of 4 metres, an eaves height of 2.1 metres and a total height of 2.7 metres at 8 Kinloch Court, Chester-le-Street (DM/18/02722/HPN).

The notification was refused on the following grounds –

‘The proposal is considered to be contrary to Policy HP11 of the Chester-le-Street District Local Plan, as by virtue of its scale it would result in an unacceptable loss of loss of light which would be harmful to the amenity of neighbouring properties.’

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 privacy and amenity to neighbouring properties.

In terms of privacy and amenity to neighbouring properties, the Inspector considered that the extension will be located on the far side of the host property’s rear elevation beyond a centrally located bay window.

The extension by the very nature of its predominantly glazed elevations, would allow a degree of inter-visibility between properties in a suburban setting such as this. However, the conservatory would be located on the far side of No. 8’s rear elevation from No. 10, resulting in a reasonably generous distance between its side facing elevation and the neighbouring property.

Existing fencing between Nos. 8 and 10 would also continue to provide a degree of screening between the areas immediately to the rear of the two properties.

Although the proposed conservatory would lie to the south of No. 10, its siting on the far side of the rear elevation away from No. 10 would be sufficient to avoid a materially harmful impact in terms of sunlight and daylight to the rear of that property. As the sun follows its natural path, the more substantial form of the houses themselves would continue to have a far more significant impact in terms of daylight and sunlight than the fundamentally light-weight and predominantly glazed conservatory structure.

With regard to No. 6, the overall depth of the proposed conservatory would make it a relatively sizeable structure close to the boundary with that house. It would breach the 45° ‘line of sight’ guidance set out in the Council’s

Residential Estate Design Guidance. However, the general aspect from the rear of No. 6 is open and the proximity and relative depth of the proposed extension would be offset by its fundamentally light-weight and predominantly glazed nature, and a slight inset from the boundary with No. 6. Moreover, it would be located broadly to the north of No.6, thereby avoiding overshadowing and loss of light, whilst its south facing elevation would reflect a degree of sunlight and natural light back towards the rear of No. 6.

Whilst there may be a technical breach of the Council's 45° 'line of sight' guidance from the patio windows at No. 6, the extension would not result in material harm in terms of daylight or sunlight, whilst the otherwise open aspect would ensure adequate outlook for the occupiers of No.6. The obscure glazing indicated on the submitted plans could be secured by way of a planning condition, thereby avoiding direct overlooking or loss of privacy. Insofar as development plan policies are relevant to an application of this nature, there would be no conflict with Local Plan policy HP11.

In addition to the conditions 2 imposed on development permitted by virtue of Class A of the Order, Schedule 2, Part 1, paragraph A.4(12) also allows for conditions 'reasonably related to the impact of the proposed development on the amenity of any adjoining premises. A condition to ensure the installation and retention of the obscure glazing shown on the submitted plans would satisfy these provisions. Thus, in addition to the conditions set out at paragraphs A.3 and A.4(13), (14) and (15) of the Order, the Inspector has also imposed a condition regarding the fitting and retention of obscure glazing.

To conclude, whilst the Inspector found that the development would not be in full accordance with the Development Plan, he considered that the privacy and amenity of neighbouring properties would not be significantly harmed.

The appeal was allowed, no application for costs have been made.

Report prepared by Tracey Outhwaite, Assistant Planning Officer.

APPEALS RECEIVED

An appeal has been received against the refusal of a Change of Use application for the change of use of open space to domestic garden at land adjacent to 41 Carrowmore Road, Chester-le-Street (DM/18/02961/FPA).

The application was refused on the following grounds –

'The proposed change of use of land to domestic garden and its enclosure would have an unacceptable effect upon an important landscape feature which by virtue of its open nature and appearance significantly contributes to

the character and visual amenity of the area contrary to Part (i) of Policy HP16 of the Chester-le-Street District Local Plan.'

The appeal will be dealt with under written representations and members will be updated in due course.

Report prepared by Sarah Seabury, Planning Officer.