

# COMMITTEE REPORT

## APPEAL UPDATE

### DECISIONS RECEIVED:

APPEAL REF: APP/X1355/C/12/2185950

LPA REF: ENF6/2007/082

### APPEAL AGAINST THE ISSUE OF AN ENFORCEMENT NOTICE RELATING TO THE UNAUTHORISED ERECTION OF A BUNGALOW AND GARAGE/STORAGE BUILDING NEWMOOR YARD COTTAGE, EVENWOOD GATE, CO DURHAM DL14 9NN

1. This appeal relates to the serving of an Enforcement Notice by the Council against the unauthorised erection of a bungalow and a garage/storage building and their use for residential purposes on land in the countryside. The appeal was heard at an informal hearing.
2. The decision was – the enforcement notice appeal on grounds (c) (a) (f) and (g) **fails, the enforcement notice was upheld and the “deemed planning application on appeal” was refused.**

In arriving at the decision, the Inspector considered the following issues specific to the grounds of appeal:

Ground (a) that planning permission should be granted for the development alleged in the notice -

3. *Whether the development would represent a sustainable form of development* – the site is isolated and accessed via an unmade shared access lane 0.5k from the highway. The nearest settlement with services is Evenwood village approx 1.5km from the site. The nearest bus stop is 0.5km from the site. This will result in the occupiers relying on private transport to meet day-to-day needs, therefore in terms of sustainability and suitability the site performs very poorly due to its remoteness from local amenities. A presumption in favour of sustainable development is at the heart of the National Planning Policy Framework, but the development is at odds with this presumption because of its location. Taking all the points into consideration the scheme conflicts with Local Plan Policy GD1, ENV1 and H6 and the advice contained in paragraphs 14 to 17 of the NPPF because the development does not represent a sustainable form of development.
4. *The impact of the development on the character and appearance of the locality, with particular regard to the design and appearance of the buildings* - the erection of the bungalow and building is at odds with the established rural character of this part of the countryside, because the materials used in the construction of the buildings are visually incongruous to the landscape. The design and external architecture of the buildings is more akin to a suburban housing estate than an area of attractive open countryside. Accordingly the development fails to comply with LP Policy GD1(a) because the buildings are not of a high standard of design and do not contribute to the quality of the rural environment. The scheme fails to satisfy design advice contained in paragraph 56 of the NPPF.

5. *The effect of the development upon highway safety, having particular regard to the access track* – the access to the site is along a single track unmade and unlit with two passing places. The residential use of the track is likely to result in an increase in motor vehicle use and conflict with other vehicles and pedestrians using the track. The hazards would be accentuated at night. The development fails to comply with LP Policy GD1(c) because of inadequate access arrangements and is inconsistent with advice contained in paragraphs 29 to 32 of the NPPF because of its unsustainable location and unacceptable effect upon highway safety.
6. *Whether there are any other material considerations.* The evidence did not show that it was essential for an agricultural worker to live on or near this particular site to support a functional need. The provisions of LP Policy H4 do not apply (previously developed land) as it is in the countryside. The use of conditions would not overcome local and national planning policy objections to seek to control residential development in the countryside for its own sake.

Grounds (c) that development had not taken place –

7. The Inspector concluded that the erection of the bungalow and garage/storage building were development for which planning permission is required, and that in the absence of permission the matters alleged in the notice did constitute a breach of planning control and the ground (c) must fail.

Ground (f) that the steps required in the notice to remove the buildings were excessive –

8. The Inspector concluded that the removal of the two buildings in their entirety does not exceed what is necessary to remedy the breach of planning control – therefore the ground (f) fails.

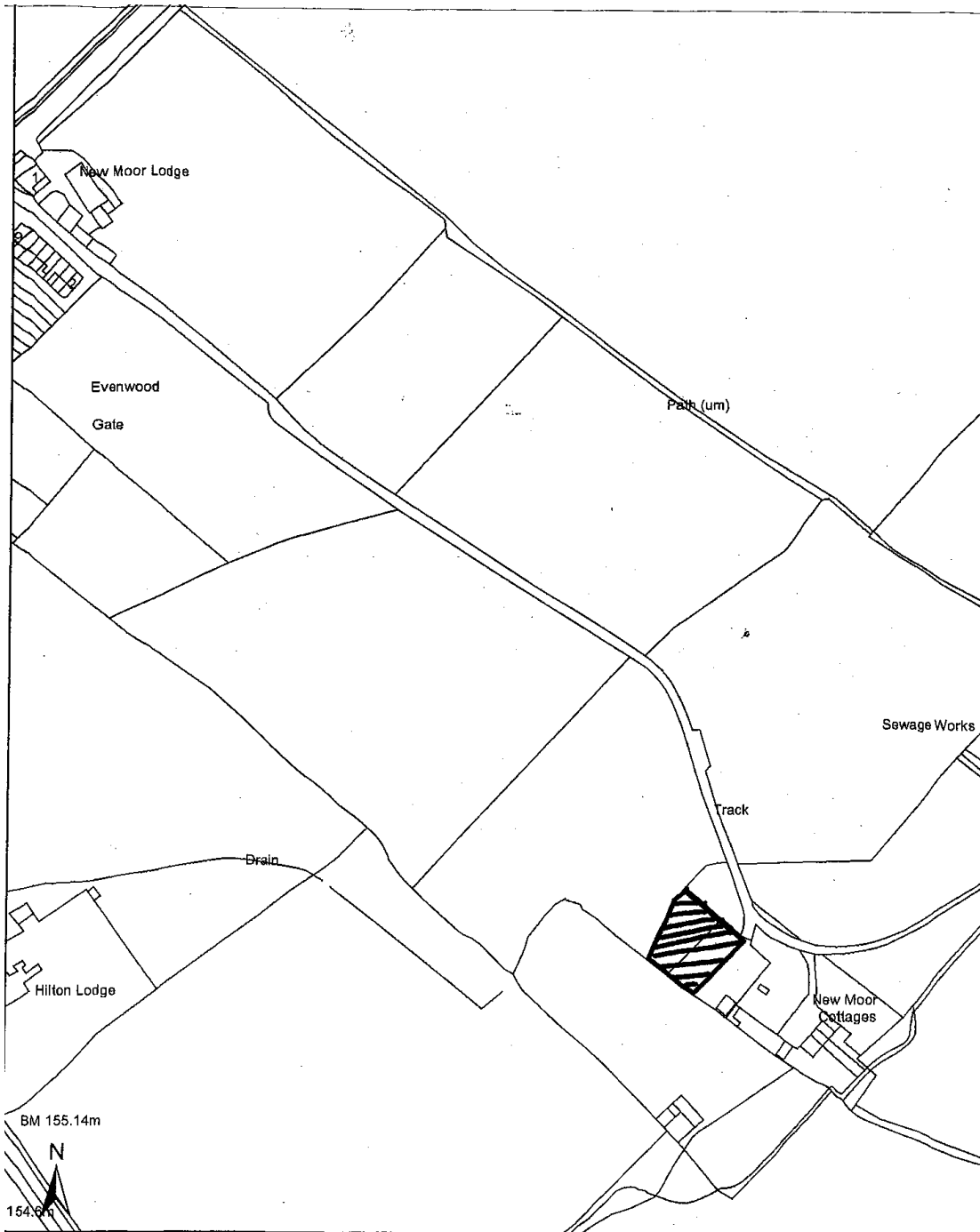
Ground (g) that the period of time to comply with the enforcement notice [52 weeks] is not reasonable –

9. The Inspector concluded that the period specified within the Notice to undertake the works provides the appellant with sufficient time to look for alternative accommodation and does not allow the unauthorised use to continue for longer than is necessary given the unsustainable location of the site, the impact of the development on the open countryside and highway safety. These are legitimate concerns in the public interest. The period of 52 weeks strikes the appropriate balance between these two conflicting interests and is a reasonable compliance period because of the type and nature of the works required by the notice's terms. This would not place a disproportionate burden on the appellant or result in a violation of his rights under Article 8 of the ECHR. Therefore ground (g) fails.

10. No costs applications were made.

## **RECOMMENDATION**

1. That the decision is noted.



**Appeal against the issue of an enforcement notice relating to the unauthorised erection of a bungalow and garage/storage building**



**Planning Services**

<b>Site</b>	<b>Newmoor Yard Cottage, Evenwood Gate</b>	
<b>Date</b>	<b>20/06/2013</b>	<b>Scale</b> 1:2500

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