



## Planning Services

# COMMITTEE REPORT

### APPEAL UPDATE REPORT

#### APPEALS RECEIVED

**Appeal against the refusal of outline planning permission for a single dwelling with associated access at Chipchase, Vindomora Road, Ebchester, Consett, DH8 0TB (Reference - DM/15/00452/OUT)**

An appeal has been received against the refusal of outline planning permission for the erection of a single dwelling with associated access at the above site. The application was refused under Delegated Powers in June on the following grounds:

*“The outline proposals are not considered sustainable development in the countryside, are poorly related to the existing settlement, and do not have the benefit of special justification, contrary to Policy EN1 of the Derwentside District Local Plan, 1997 (saved Policies 2009, assessed for weight through para.215 of the NPPF), and contrary to part 6 of the NPPF.*

*The outline development proposals are considered inappropriate in terms of its scale, and location, contrary to Policies GDP1, EN1 and EN2 of the Derwentside District Local Plan, 1997 (saved Policies 2009, assessed for weight through para.215 of the NPPF), and contrary to part 6 of the NPPF.”*

A written representation procedure has been agreed and the decision will be reported to Members in due course.

## APPEALS DETERMINED

**Appeal against the refusal of planning permission for the use of a currently unauthorised building as a stable block (resubmission) at land to the rear of 3 Front Street, Burnhope, Durham (reference – DM/14/03811/FPA).**

An appeal against the refusal of planning permission for the above development was received on 24<sup>th</sup> August 2015. The application was refused under delegated powers for the following reasons:

*“The proposal entails the use of a building which is unauthorised and has previously been considered unacceptable due to its significant size and scale. Despite the reduced footprint and height the building remains unacceptable as the position, excessive size and scale, appearance and poor design of the stables would collectively represent an unacceptable development which is not sensitively located, extending into the open countryside beyond the settlement. The development conflicts with the NPPF, Policies GDP1, EN1 and EN2 of the Dewenside District Local Plan and policies 1, 16, 36 and 39 of the emerging County Durham Plan.*

*The applicant has failed to demonstrate that there would not be detrimental effects upon residential amenity and in terms of pollution contrary to the NPPF, NPPG, local plan policies GDP1, EN26 and emerging CDP Policies 18 and 46.”*

The appeal was dealt with by way of written representations and the Inspector in determining the appeal considered that the main issue in the appeal was the effect on the character and appearance of the area.

The Inspector made reference to an extant enforcement notice requiring parts of the building to the north west and southwest to be removed and the building reduced in height to four metres to be the ‘accepted building’. The Officer considered that the accepted building represents a realistic fall-back position however he considered that there is a strong possibility that the overall form would be less satisfactory than a building with a pitched roof, similar to the existing structure.

However the Inspector considered that from views from Edge Lane of the proposal would be more prominent than the accepted building because of its closer proximity to the boundary, its additional length and height. From Burnhope Court the Inspector noted that the proposed development would extend further beyond the neighbouring building than the accepted building and would be of greater height and therefore considered that the proposed building would be prominent on the skyline.

The Inspector found the plans submitted to be inaccurate and incomplete and noted that the correspondence and plans are inconsistent in relation to what is intended. The Inspector considered that it is necessary that the details are fully demonstrated in the interests of certainty and in order to properly assess

the function and appearance of the building and therefore concluded that the plans would form an inadequate basis for a planning permission. It was considered by the Inspector that the submitted plans would result in a building of stark appearance and would not represent good design.

To conclude the Inspector considered that the proposal would result in greater harm than the accepted building to the character and appearance of the area contrary to Derwentside Local Plan Policies EN1 and EN2. Whilst the inadequate plans could be amended to reflect the application correspondence the Inspector was not satisfied that the benefits of an improved design would outweigh this concern. Reference was made to the considerable support locally for the development however the Inspector did not consider this was sufficient to outweigh his concerns and therefore dismissed the appeal.

**Appeal against the refusal of outline planning permission for the erection of a detached dwelling house and garage including access matters at Howden Bank Works, Howden Bank, Lanchester, DH7 0QW (Reference - DM/14/02421/OUT)**

An appeal against the refusal of Outline Planning Permission for the above development was received on 27 February 2015. The application was refused via delegated powers for the following reasons:

*“The principle of residential development on the application site is considered to be contrary to Paragraph 55 of the NPPF, Policy EN1 of the Derwentside District Local Plan and Policy 35 of the emerging County Durham Plan by virtue of the site’s location in the countryside outside of any settlement boundary, with no special circumstances for the proposal demonstrated. Additionally, it is not considered that such a proposal would benefit the rural economy or would be well related to existing settlement patterns.”*

The appeal was dealt with by way of written representations and the Inspector in determining the appeal considered that the main issue in the appeal was whether the proposal would amount to a sustainable form of development.

The Inspector concurred with the findings of the Council in that the site is located beyond the extent of established settlements, therefore in the countryside, and would not relate well to existing settlement patterns, contrary to Policy EN1 of the Derwentside District Local Plan. It was also noted the scheme would not accord with any of the special circumstances supporting isolated new homes in the countryside, as set out in Paragraph 55 of the NPPF.

Finally, the Inspector noted that the walking distance required, and gradient to negotiate, in order to reach bus stops on Howden Bank, would not discourage the use of the private car from the site, thereby not promoting reasonable and viable access to sustainable transport modes.

The Inspector concluded that upon consideration of all matters put before him, they were insufficient to outweigh his concerns and the appeal was dismissed.

**Appeal against the refusal of outline planning permission for the erection of a detached dwelling house and garage including access matters at Howden Bank Works, Howden Bank, Lanchester, DH7 0QW (Reference - DM/14/02421/OUT)**

An appeal against the refusal of Planning Permission for the above development was received on 8<sup>th</sup> June 2015. The application was refused under delegated powers for the following reasons:

*“The dwelling is in an unsustainable location in open countryside contrary to the NPPF and Derwentside Local Plan Policy HO5 and emerging County Durham Plan Policies 1, 2 and 35.*

*The applicant has failed to demonstrate that there are special circumstances for the erection of the proposed dwelling in this unsustainable countryside location contrary to paragraph 55 of the NPPF which seeks to restrict new isolated homes in the countryside.*

*The design of the dwelling would not be in keeping with the character of the area and other dwellings in the vicinity contrary to Derwentside Local Plan Policy GDP1 and emerging CDP Policy 16.*

*The height of the dwelling and the associated earthworks would harm the visual amenity of the local landscape contrary to Derwentside Local Plan Policies GDP1, EN1 and emerging CDP Policy 39.*

*The applicant has failed to demonstrate a non designated heritage asset would not be compromised by the earthworks involved to facilitate the dwelling contrary to emerging CDP Policy 44.*

*The development is inappropriate within this proposed Greenbelt as it does not qualify as being an exception development contrary to policy 14 of the emerging CDP and Paragraph 89 of the NPPF.’*

The appeal was dealt with by way of written representations and the Inspector in determining the appeal considered that the main issue in the appeal was whether the proposal would amount to a sustainable form of development.

The Inspector concurred with the findings of the Council in that the site is located beyond the extent of established settlements, therefore it was considered to be in the countryside, and that it would not relate well to existing settlement patterns, contrary to Policy EN1 of the Derwentside District Local Plan. Whilst the Inspector considered there were matters that provide weight in favour of the proposal in terms of its public transport links it was not however considered that the proposal would find full support from paragraph 55 of the NPPF as it would not be a sustainable location for a new development.

The Inspector considered that the proposed dwelling would impose itself on the landscape rather than sit comfortably within it and due to its scale and prominence it was considered that it would detract from the character of the area and would

represent poor design contrary to Policy GDP1 of the Derwentside District Local Plan and the NPPF.

Given the lack of evidence of harm to the significance of the waggon way and of the public benefits of the proposal the Officer did not find conflict with the heritage objectives of the NPPF.

The Inspector did not consider that an extant permission for a large garage, the presence of an existing garage on the site and a neighbouring residential development provided significant weight in favour of the proposal.

The Inspector concluded that upon consideration of all matters put before him, they were insufficient to outweigh his concerns and the appeal was dismissed.

**Appeal against the refusal of planning permission for a building to provide stables and store fodder and change of use of land from agricultural to equestrian at Lambton Gardens, Burnopfield, Newcastle Upon Tyne (DM/15/00667)**

An appeal against the refusal of Planning Permission for the above development was received on 27<sup>th</sup> July 2015. The application was refused under delegated powers for the following reasons:

*“The proposal entails the construction and use of an excessively sized building for the size of the site which would be harmful to the intrinsic landscape character of the area due to its design, unjustified size and lack of screening contrary to the NPPF and Derwentside Local Plan Policies GDP1 and EN1.*

*There is insufficient information in relation to waste storage to assess whether pollution from the site can be adequately controlled to prevent harm to local residential amenity contrary to the NPPF and Derwentside Local Plan Policies GDP1 and EN26.”*

The appeal was dealt with by way of written representations and the Inspector in determining the appeal considered that the main issue in the appeal were the effect of the proposal on the living conditions of neighbouring residents with particular regard to odour and the effect of the proposal on the character and appearance of the landscape.

The Inspector noted the close proximity of several residential properties, footpaths and a play area and the lack of detail with regard to levels of manure, likely odour from the site and mitigation measures for controlling odour. Therefore the Inspector considered that the proposal would have a harmful effect on the living conditions of neighbouring residents at Lambton Gardens and that the proposal would be in conflict with saved policies GDP1 and EN26 of the Derwentside Local Plan.

With regard to the effects on the landscape the Inspector considered that whilst the building would be visible the Inspector did not consider that it would appear as an obtrusive feature and that the effect would be the landscape character and appearance would be maintained. Therefore the Inspector found that the proposal would not have a

harmful effect on the character and appearance of the landscape and would be in accordance with saved Derwentside Local Plan and the National Planning Policy Framework.

The Inspector concluded that the harm to the living conditions of neighbouring residents is the prevailing consideration and therefore dismissed the appeal.

A costs application in relation to the Appeal was refused as the Inspector considered that the Appellants had not demonstrated that the Council had acted unreasonably in reaching the decision.

**Appeal against two of the conditions attached to Committee approval DM/14/02461/FPA for the use of Blackdene Woods near Plawsworth as a paintballing site.**

The applicants appealed against conditions granting the operation for a temporary period of three years and restricting the use to 75 days per year, with no Sunday use or consecutive days.

With the main issue identified as the effect of noise on nearby residents, the surrounding residences were noted as including the judges' residence at Southill Hall. The Inspector was not convinced that the methodology and conclusions applicant's noise assessment was adequate, the report being likely to underestimate the site specific noise likely to be generated by the development, with short irregular spikes of random sound, in his experience, both more intrusive and harder to quantify. Issues were also raised with the assessment of background sounds – in this instance high speed trains crossing the viaduct above the site.

It was noted that relaxing the restrictions on Sunday operation to protect the judges' residence would be outweighed on the effect on other residential properties.

In terms of the temporary consent, whilst noting that it is rarely justifiable to grant a second temporary consent, an appropriate trial run is required to assess the effect of development on an area. As there is no evidence that the site would be used as previously, a further temporary site was considered justified despite the appellant considering this compromised the attractiveness of the approval to potential operators.

It was concluded that both conditions met the tests set out in paragraph 206 of the NPPF, and were necessary and reasonable.

The appeal was therefore dismissed.

**Appeal against the refusal of planning permission for the erection of a summer house in rear garden at The Stables, Tanfield, Stanley, DH9 9PX (Reference - DM/15/01195/FPA)**

An appeal against the refusal of Planning Permission for the above development was received on 6 October 2015. The application was refused under delegated powers for the following reason:

*“In the opinion of the Local Planning Authority, the erection of the proposed summer house by reason of its scale, form and location results in an intrusive form of development out of keeping with the character of the surrounding area contrary to policy GDPI of the Local Plan. It is therefore considered that the proposal would detract from the character and appearance of this part of the Tanfield Conservation Area, which is characterised by low walls, with open views to wooded areas within gardens to north and land to south of the application site, and is contrary to the 1997 Derwentside District Local Plan (as saved 2007) and National Planning Policy Framework which seeks to protect existing landscape and historic features and ensure that new developments impacting on heritage assets make a positive contribution to local character and distinctiveness.*

*In the opinion of the Local Planning Authority, the proposal is considered to have significant adverse impacts on the setting of the Grade I and II\* listed structures at Tanfield Hall, as the proposed building would block key views of Tanfield Hall and given its location, would interfere with the historic layout and hierarchy of buildings and would be contrary to the 1997 Derwentside District Local Plan (as saved 2007) and National Planning Policy Framework which seeks to retain the special character attributed to the setting of Listed Buildings.”*

The appeal was dealt with by way of written representations and the Inspector in determining the appeal considered that the main issues in the appeal were whether the proposal would preserve or enhance the character or appearance of the Tanfield Conservation Area and whether the proposal would preserve the setting of the Grade II\* Listed Building Tanfield Hall and the Grade I Listed walls and gates of Tanfield Hall.

The Inspector noted that the Tanfield Conservation Area retains a gentle, rural feel, with its significance deriving from the spatial pattern of the historical buildings, set back from the road within an open wooded area with low boundary walls and limited modern built form. The appeal property is considered to make a positive contribution to the character and appearance of the conservation area given its setting and relationship to Tanfield Hall. The proposed summer house was considered by the Inspector to introduce a significant modern addition within the surrounding area, interrupting the established pattern of historical built form, featuring strongly in key views from the south, east and west when entering the village. The proposal was deemed an intrusive form of development, making a negative contribution to the conservation area. Although the harm was considered to be less than substantial, the Inspector was of the view that no evidence was available to suggest that the proposal would result in any public benefit that would outweigh the harm identified. The proposals were therefore considered to fail to preserve or enhance the character and

appearance of the Tanfield Conservation Area, contrary to the policies of the Framework.

The Inspector noted that the past layout and hierarchy of the buildings associated with Tanfield Hall have been well preserved through sympathetic residential conversion of the appeal site and neighbouring property and little subsequent incursion of the built form. The Inspector observed that whilst the proposed summer house would not substantially block key views of Tanfield Hall, the gates and walls, given the scale and prominence, the proposal would be read as a substantial protrusion into those key views and distract from the aesthetic and historical qualities of the heritage assets.

The Inspector further pointed out that the proposal would be read as a formal addition to the wider complex of Tanfield Hall and would disrupt the historical pattern and hierarchy of the buildings. It would introduce modern residential features in the setting of Tanfield Hall and its gates and walls, which would be incongruous within the historical context of the structures. The proposal would be harmful to the setting of the listed buildings and there is no evidence to suggest that the proposal would result in any public benefit that would outweigh the harm identified. The proposal was considered to fail to preserve the setting of the Grade II\* Listed Building Tanfield Hall and the Grade I Listed walls and gates of Tanfield Hall, contrary to saved policy EN17 of the Derwentside District Local Plan and policies in the NPPF.

The Inspector dismissed the appeal.

### **Appeal against the Council's decision to issue and enforcement on land to the north of Acorn House, Lanchester Garden Centre, Bargate Bank, Lanchester.**

The notice related to unauthorised operational development consisting of the laying of strip foundations, the erection of blockwork to a height of approximately 650 – 700mm above the existing ground level and the laying of sub base materials within the blockwork boundaries.

In December 2104 an enforcement notice was issued relating to the unauthorised development described above.

The notice was subsequently appealed and on the 11<sup>th</sup> December 2015 and the Inspector dismissed the appeal with a variation regarding the periods for compliance with the requirements of the notice.

The effect of this decision is that the notice restarts on the 11<sup>th</sup> December 2015 and requires the following works to be undertaken:

1. Take down all the existing blockwork currently erected on top of the foundations (as at C below). Permanently remove all blocks from the unauthorised development site.
2. Permanently remove all the sub base materials that have been laid within the boundary of the raised blockwork.



3. Excavate all the concrete foundations laid to the north of Acorn House.
4. Where the foundations have been excavated infill all the trenches with earth.
5. Level the ground within the unauthorised development area and lay top soil to a depth of 10cm.
6. Sow the unauthorised development area with all-purpose hard wearing grass seed and return the area to grass as previously existed.

The time frame for compliance has been extended from one calendar month to six calendar months for points 1 – 5 above and from six calendar months to eleven calendar months for point 6 above.

Enforcement Officers will monitor the site to ensure that the requirements of the notice are completed within the given time scales.

#### RECOMMENDATION

The reports are noted.

Reports prepared by Steve France (Senior Planning Officer), Louisa Ollivere (Planning Officer), Nick Graham (Planning Officer) and Jennifer Jennings (Planning Officer). John Laidlaw (Senior Planning Enforcement Officer)