



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS RECEIVED

An appeal has been received against the refusal of 'Change of Use from Private to Business Use' of a private stable, East of Greenland Lodge, Hamsteels Lane, Esh, Durham, DH7 9RS (DM/15/01109/FPA).

This application relates to a stable building justified and approved for private use, subsequently approved and implemented extended for the same purpose, but never brought into use. The applicant has sought to now run a livery business from the structure through an application for Change of Use. Officers refused the application under delegated powers, concerned at the non-sustainable location for an operation requiring staffing and security and the potential effects on an adjacent residential property.

The applicants have requested a written representations procedure for the appeal, the outcome of which will be reported to Members in due course.

An appeal against the refusal of a 'Temporary two year licence for a static home (caravan)' at Mill House, Mill Lane, Plawsworth, Plawsworth Gate, Chester-le-Street, DH2 3LG (DM/15/01755/FPA) has been received.

This application relates to the retention of an existing structure variously described as a caravan and a log cabin. The appealed application follows refusal of an application for a Certificate of Lawful Existing Use (not appealed).

The current application was refused on the basis that the structure – not accepted as a caravan by the Council - represented a new dwelling in a Green Belt and open countryside location without benefit of any very special

justification, furthermore, being not well related in sustainability terms to services, transport links and facilities, resulting in a likelihood of a high reliance on private cars.

The applicants have requested a written representations procedure for the appeal, the outcome of which will be reported to Members in due course.

APPEALS DETERMINED

Appeal against the refusal of planning permission for the erection of a new farmhouse with associated garage building to replace existing permitted temporary caravan. (DM/15/00258/FPA) at Dunleyford Farm, Humberhill Lane, Lanchester .

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

“The NPPF is clear that isolated new homes in the countryside should be avoided unless there are special circumstances including the essential need for a worker to live permanently at or near their place of work. It has not yet been demonstrated in this case that the proposal would qualify as an agricultural worker's dwelling or that there is a permanent need for such a dwelling and as such the proposed development would be contrary to both the Framework and Local Plan Policy EN1.

It is not considered that the business is yet of a sufficient magnitude as to be financially viable and would not on its own be able to support the construction of the dwelling and a rural business contrary to Derwentside Local Plan Policy EN1.

The dwelling would not constitute sustainable development in accordance with the Framework that would override the conflict with the Derwentside Local Plan Policy.

The dwelling would not constitute a good design that reflects the rural local character of the area and as a result of this and its visibility in the landscape the development would result in harm to the character and appearance of the countryside contrary to the National Planning Policy Framework and Derwentside Local Plan Policies GDP1 and EN1.”

The appeal was dealt with by way of a hearing and site visit held on the 12 January 2016. The Inspector in determining the appeal considered that the main issues were as follows:

- whether there is an essential need for a rural worker to live permanently on the site; and
- The effect of the proposal on the character and appearance of the local area; and

- Whether the proposal would constitute sustainable development.

The Planning Inspector noted that the Council had accepted that there was a functional need for a worker to be present on site in order to satisfy the welfare requirements of the stock and arable operations. Consequently the Inspector found that the issue turned on whether the long term financial viability of the holding had been adequately substantiated.

The Inspector considered that the submitted accounts fell short of demonstrating that the holding in itself is finally viable and there was no evidence to indicate that this would be the case in the future. The Inspector concluded therefore that an essential need for a rural worker to live permanently at the site had not been adequately demonstrated contrary to paragraph 55 of the NPPF and saved Derwentside Local Plan Policy EN1.

In terms of character and appearance the Inspector considered that the proposed dwelling and its curtilage would be highly prominent and at odds with the more nucleated form of the nearest farmstead. The Inspector considered that proposed dwelling was on poor design and would fail to reinforce local distinctiveness. The Inspector concluded that the proposal would cause significant harm to the character and appearance of the area conflicting with policies EN1 and GDP1 of the Local Plan and paragraph 64 of the Framework.

On the issue of sustainable development the Inspector considered the adverse impacts would not significantly and demonstrably outweigh the benefits and concluded that the development would not amount to a sustainable form of development and would thus be contrary to paragraph 14 of the Framework.

The Inspector dismissed the appeal. An application for an award of costs was submitted but the Inspector refused the application as the Inspector was satisfied that the Council acted reasonably in acting on the best available evidence at the time of the application, and in maintaining and choosing the reasons for refusal.

Appeal against the refusal of 'Outline application for a single dwelling with associated access' at Chipchase, Vindomora Road, Ebchester, Durham, DH8 0TB (DM/15/00452/OUT).

This application, for the erection of a new dwelling in countryside just outside Ebchester was refused under delegated powers on June 2015 for the following reasons:

1. *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 Dertwentside District Local Plan, 1997 (saved Policies 2009, assessed for weight through para.215 of the NPPF), and contrary to part 6 of the NPPF*

- 2. 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*

The main issues were considered by the Inspector to be whether the development constituted sustainable development in locational terms, and the effect on the character and appearance of the area.

Noting the presumption in favour of sustainable development, and the age of the relevant Development Plan policies, the Inspector found nonetheless 'significant resonance' between the policies and the NPPF. With the site 255m from East Law and 200m from Ebchester, the 15 Minute walk to the services the village centre was considered 'off putting', with a high likelihood of reliance on the private car. With intervening fields separating the site from the adjacent villages, the site was considered isolated, and would not 'enhance or maintain the vitality of rural communities'.

Whilst attempts had been made to mitigate the scale of the proposed dwelling, it was not considered to relate well or be subservient to the host property.

Whilst a small contribution to housing land supply was acknowledged, this was not considered to outweigh the harm, and the appeal was dismissed.

Appeal against refusal of 'Demolition of the existing abattoir to erect 2 semidetached dwellings, separate garages, courtyard and associated works' at Whyncliffe Abattoir Ebchester Hill Ebchester Consett, DH8 6RY (DM/15/02128/FPA).

An application for demolition of the existing redundant abattoir buildings and erection of two new dwellings on the resultant brownfield site. Concerned at the less than sustainable nature of the location the application was refused under delegated powers for the following reason in August 2015.

- 1. The proposals are considered isolated residential development in the countryside without benefit of special justification, contrary to the advice set out in Part 6, Para.55 of the NPPF and to Policies GDP1, EN1 and EN2 of the Derwentside District Local Plan 1997 (saved policies 2009).*

The Inspector noted that the Council had taken no issue with the proposal's impact on the local landscape or the highways implications of the proposals. – the contention relating to locational sustainability issues. The Inspector agreed that the site was not in a 'particularly accessible location and that future occupiers would be likely to be dependent on the car', concluding that in this respect, 'the proposal would not represent sustainable development'.

The 5 year housing land supply issue was not considered a determining factor.

The Inspector considered that the development would be environmentally sustainable in other respects, providing for two new dwellings in the area and representing a visual improvement of the site, and with the case, 'finely balanced', gave weight to the presumption in favour of sustainable development in allowing the appeal.

Commentary

Members are aware of the contentious nature of new housing in the countryside, and the need for consistent assessment and decision making. This is particularly relevant for the Planning Inspectorate, as their decisions set the standards and benchmarks that Local Planning Authorities must use and refer to for consistent decision making. That the two Planning Inspectors on the above two cases gave such different weightings to comparable issues in assessing appeals adjacent the same settlement at the same time is of concern to Officers, who are considering whether to contact the Planning Inspectorate to query the potentially somewhat contradictory approaches, between the dismissal and the 'finely balanced' approval.

RECOMMENDATION

That these reports are noted.

Reports prepared by Louisa Ollivere (Planning Officer) and Steve France (Senior Planning Officer).