



## Planning Services

# COMMITTEE REPORT

### AGENDA ITEM NUMBER:

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#### APPEAL UPDATE REPORT

#### APPEALS DETERMINED

#### **Appeal against the refusal of planning permission for change of use from A1 (retail) to A5 (hot food takeaway) (DM/15/01794/FPA) at 20 Gill Crescent South, Fencehouses, Houghton-le-Spring.**

An appeal against the refusal of planning permission for the above development was received on 6<sup>th</sup> October 2015. The application was refused under delegated powers for the following reasons:

*“The proposed hot food takeaway would be considered to have an adverse impact upon the amenity of nearby residential properties through disturbance brought by odour, smells and hours of operation. The proposal is therefore contrary to Policy R19 of the saved Chester-le-Street Local Plan and paragraph 123 of the NPPF“.*

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

The Inspector sympathised with the concerns of local residents in relation to the late opening hours of the proposed use as the only one in the vicinity open late into the evening as exacerbating existing problems of anti-social behaviour, whereby noise and disturbance would detract from the living conditions of nearby residents, contrary to Policy R19.

In addition, the limited parking available in the vicinity was cited by the Inspector as being an additional source of noise and disturbance to residents. A lack of detail in regard to internal noise leakage to the adjoining neighbouring property was also noted as a concern by the Inspector.

The Inspector concluded that while much needed investment was requiring the unit and could create jobs, the additional activity generated by a takeaway use in a densely populated, non-commercial location would have unacceptable adverse effect on the living conditions of neighbouring properties, contrary to Policy R19.

The Inspector dismissed the appeal.

**Appeal against the refusal of outline planning permission for the erection of a single dwelling (DM/15/01445/FPA) at Stobbilee Farm, Langley Park, Durham.**

An appeal against the refusal of planning permission for the above development was received on 24<sup>th</sup> February 2016. The application was refused under delegated powers for the following reasons:

*“The proposed development is considered to be unsustainable development contrary to the aims of the NPPF. In addition the proposal is contrary to Paragraph 55 of the NPPF and Policy EN1 of the Derwentside District Local Plan by virtue of the site's location in the countryside outside of the village of Langley Park, 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 an unaccompanied site visit held.

The Inspector assessed the Council's view that the site lay within the open countryside, and following a site visit agreed that this was the case. They concluded that the settlement of Langley Park was constraint by the River Browney to its northern edge and that the site, being beyond the river was outside of the settlement.

The site, the Inspector concluded, was also isolated from the settlement, both in terms of physical separation and views of the site and adjacent pair of dwellings as standing alone amongst the open fields that surround them.

The Inspector noted that while the appellant argued that the new dwelling would be on the site of the former Stobbilee Farmhouse, it did not involve the re-use of a redundant or discussed building. In doing so they also assessed there were no special circumstances for the erection of new dwelling, making the development contrary to paragraph 55 of the NPPF (Isolated homes in the countryside).

In assessing access to services the Inspector attributed significant weight to the appearance and unlit nature of the public footpath and road to the village centre over the exact distances that were stated by both Council and Appellant, concluding that this would deter walking into the village on anything other than a pleasant day.

In conclusion, the Inspector noted that despite the presence of the adjacent pair of dwellings immediately to the south, the appeal site would appear more closely related to the open countryside than to any settlement in terms of Policy EN1. They also found that the proposal had not been satisfactorily demonstrated as to how the proposal would benefit the rural economy, having regard to the location of, and access to, the site and its relationship with the settlement of Langley Park.

The issue of previously developed land was addressed by the Inspector in their summing up, whereby the appellant had argued that the site had previous construction and foundations and other items were still in evidence on the ground. They concluded that while some evidence was witnessed on site, in this case the overriding character and appearance of the site is one where any remains have blended into the landscape. The Inspector therefore afforded limited weight to this aspect.

The Inspector dismissed the appeal.

## **RECOMMENDATION**

That the report be noted.

Reports prepared by Graham Blakey (Senior Planning Officer).