



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER: 6

APPEAL UPDATE REPORT

APPEALS RECEIVED

An appeal has been received against the refusal of planning permission for a partly retrospective general purpose agricultural building at 5 Front Street, Burnhope (DM/16/02733/FPA).

The application was refused under delegated powers on 9th March 2017 on the following grounds –

'The principle of agricultural development on the application site is considered to be contrary to criterion (a) of Policy AG3 and Policy EN1 of the Derwentside District Local Plan as the applicant's agricultural enterprise has not yet been demonstrated and the proposal would not be of benefit to the rural economy.'

'The location of the building, in terms of its effects on the landscape, would conflict with criterion (b) of Policy AG3, and Policy EN1 of the Derwentside District Local Plan as it is considered the building would have an intrusive effect and would not maintain or enhance the landscape character of the site.'

The appeal will be dealt with under the written representations procedure and Members will be updated with regard to the decision in due course.

An appeal has been received against the refusal of outline planning permission for a dwelling at Old County View, Hett Hills, Pelton Fell, Chester-le-Street (DM/16/04069/OUT).

The application was refused under delegated powers on 16th February 2017 on the following grounds –

'The principle of residential development on the application site is considered to be contrary to Paragraph 55 of the NPPF and Policy HP6 of the Chester-le-Street District Local Plan by virtue of the site's unsustainable location in the

countryside outside of any settlement boundary, not well related to existing settlement patterns, and with no special circumstances for the proposal demonstrated.'

'The proposal to remove one Yew Tree protected by a Tree Preservation Order has not been justified within the context of Policy NE11 of the Chester-le-Street District Local Plan, in that the tree is not considered to pose a threat to other trees, nor has it been shown that it is causing structural damage with no remedial action possible and no evidence shown to say that the tree is a threat to life or limb. Additionally, the applicant has failed to demonstrate that the development would not adversely affect the habitat of a protected species, namely bats, contrary to Part 11 of the NPPF.'

The appeal will be dealt with under the written representations procedure and Members will be updated with regard to the decision in due course.

APPEALS DETERMINED

Appeal against the refusal of planning permission for the erection of a Residential Development of 52 Dwellings with new access and associated works, on land to the west of Briardene, Cadger Bank, Lanchester.

An appeal against the refusal of Planning Permission for the above development was received on 19th December 2016 following refusal by the Northern Area Planning Committee on 30th June 2016. The application was refused for the following reason:

'The local planning authority considers that substantial harm will be caused to the significance of a designated heritage asset of the highest significance, namely the Scheduled Monument of Longovicium Roman Fort by reason of adverse impacts upon its setting including the destruction of archaeological remains of the extended vicus complex that are themselves non-designated heritage assets. The proposal fails to demonstrate that substantial public benefits would arise, or that the harm to the designated asset is necessary in order to achieve any such benefits. The proposal does not constitute sustainable development and is contrary to policy EN19 of the Derwentside District Local Plan 1997 and to paragraphs 133 and 135 of Part 12 of the National Planning Policy Framework.'

The appeal was dealt with by way of a Hearing.

The Inspector in determining the appeal considered that the main issue was the effect of the proposal on the significance of the Longovicium Roman Fort, a Scheduled Ancient Monument (SAM). The proposed development would have taken place outside but adjacent the SAM. It was agreed by all parties that the site was in the setting of the heritage asset

The status of the relevant 'saved' policies in the 1997 Development Plan were examined and weighted, along with the advice in the NPPF, this requiring a balancing exercise of harm vs benefits, where harm of a heritage asset is found. The Council's lack of an up-to-date housing supply and the implications for the status of the 'saved' housing policies was assessed, concluded as rendering the housing and countryside policies restricting housing out-of-date, and engaging the 'presumption in favour' of sustainable housing development. Acknowledging the efforts of the Parish Council in preparing a Neighbourhood Plan, it was noted that this was not yet at a stage where it could be attributed material weight.

The Inspector concluded the site contributed to the asset in two ways – it reflected the remote setting of the fort and vicus (civilian settlement), and the tranquil character of the site enhanced the experience of the asset by providing it a reflective environment, separate from the modern settlement.

Survey work had indicated that the site included archaeological interest outside the SAM, the Framework advising that this should be considered of equal value of those within the designated area. Whilst Historic England had recently declined to extend the SAM to cover the site, the buried remains on it were concluded to contribute positively to its significance. The development would have resulted in the loss of all buried remains and caused harm to the significance of the SAM contrary to Policy EN19 of the Local Plan. The Inspector found that the identified harm was 'less than substantial' as it did not result in the destruction of the whole of the Monument's setting as open views would still be present around it. It was clarified however, less than substantial harm does not mean less than substantial objection.

Residents and representatives from the community indicated at the meeting that contrary to the Officer's report and the County Council's formal refusal reason, issues including the effect on the Conservation Area, accessibility from the site to the village centre, the character of the countryside, drainage, highways capacity, parking and pressure on services were all areas of concern they believed justified additional grounds for refusal of the scheme. The Inspector addressed each of these in detail and concurred with the Council that the effect of development on each of these topics was acceptable, limited or could be adequately mitigated through imposition of conditions.

The benefits of the scheme were identified as the contribution to housing supply, with the family dwellings providing an added social benefit in addressing an identified age imbalance in the population. Limited economic benefits would accrue through the development process, and spending by new residents. Limited weight was also attached to a potential proposed information scheme following additional pre-development archaeology.

Balancing exercise and Conclusion.

The proposal had been identified as causing 'less than substantial harm' to the SAM, and resulting in the loss of non-designated assets that contributed positively to the SAM. The SAM is of national importance and harm to it

therefore carries substantial weight. Limited harm was identified for the character and appearance of the countryside. The identified benefits did not individually or cumulatively outweigh the harm to the SAM.

With policies in the Framework indicating development should be restricted, the proposal was concluded as not 'sustainable' development, and the appeal was dismissed.

Appeal against the refusal of planning permission for the erection of a two storey detached agricultural workers dwelling with adjoining double car port and ancillary hard and soft landscaping features (DM/16/02077/FPA) at Dunleyford Farm, Humberhill Lane, Lanchester .

An appeal against the refusal of Planning Permission for the above development was received on 18th May 2017. The application was refused under delegated powers for the following reason:

'It has not been demonstrated that there is a permanent need for such a dwelling as there is not an established livestock business on site or proposed and as it has not been adequately demonstrated that there would be a financially viable arable and livestock business on the site in the future therefore the proposal is in conflict with both the Framework and Local Plan Policy EN1.'

The appeal was dealt with by way of a hearing and site visit held on the 18th July 2017. The Inspector in determining the appeal considered that the main issue was whether there is an essential need for the proposed dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside.

The Inspector's view was that for an essential need to exist there must be some aspect of the farm operation that demands a residential presence on the holding, and there must be some certainty that the farm business is sufficiently soundly established that this presence will be required for the foreseeable future.

The Inspector considered that the submitted accounts fail to differentiate between the livestock and crop elements of the business and therefore do not demonstrate what the income is from that component of the business which might require a worker to live on the holding.

The Inspector was of the view that in order to establish that there is an essential need for a dwelling that there should be a demonstration that the cattle rearing component of the business is sustainable and would be profitable in itself. The Inspector considered that the profitability or sustainability of the livestock component of the business has not been demonstrated and was of the view that the sale of cattle bred on the holding would be an essential component of the model of livestock business being

established. Without such evidence he considered it would be difficult to demonstrate that a viable business exists or would be likely to endure. The Inspector was also of the view that the limited security in terms of tenure of surrounding grazing land does not lend support for the long term sustainability of the livestock component of the business.

The Inspector concluded that it has not been demonstrated that there is an essential need for a permanent dwelling on the holding and therefore the proposal is considered to be contrary to LP Policy EN1 and does not demonstrate the special circumstances the Framework requires to justify an isolated new home in the countryside.

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 citing its reason for refusal, in not seeking further views from an independent Agricultural adviser in relation to additional information submitted and in relation and in terms of being helpful suggesting alternative solutions to the purported need for an on site presence.

Appeal against the refusal of planning permission for the erection of a detached two storey dwelling on land to rear of 3 Lintz Terrace (DM/16/03550/FPA)

An appeal against the refusal of Planning Permission for the above development was received on 7th March 2017. The application was refused under delegated powers for the following reason:

'The development would not be in keeping with the existing pattern and form of development in the locality and would have an adverse impact on the character and appearance of the area. The proposal is therefore contrary to Part 7 of the NPPF and Saved Policies HO5(a) and GPD1(a) of the Derwentside Local Plan (1997).'

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

The Inspector's view was that the application site represented a transition area between the built form of the terrace and the wider countryside to the north. In particular, the pattern of development of Lintz Terrace is characterised by a strong road frontage with subsidiary buildings behind.

The Inspector considered that the proposed dwelling would appear as incongruous tandem development located in a detached ancillary garden area to the rear of the terrace. In addition, the awkward arrangement of the dwelling to the rear of an existing garage for a neighbouring property would add to this incongruity.

The Inspector took into account the comments within the Appellants statement with regard to the bulk and massing of the dwelling however, the Inspector found that it would still appear as a substantial building at odds with the immediate pattern of development.

The Inspector noted that the dwelling would add to the supply and mix of housing in the area, albeit limited. It would also generate employment and investment in the area though limited to the construction period and be accessible to local services which would add support to these services, again this would be limited.

The Inspector considered a recent decision of the Council for a detached property highlighted by the Appellant. The Inspector found that the circumstances of that case were not directly comparable to the case under consideration, which is to be considered on its own merits. It did not represent an inconsistency in decision making by the Council.

The Inspector concluded that that the proposal would harm the character and appearance of the area. It would therefore conflict with saved Policies HO5 and GDP1 of the Derwentside Local Plan 1997 which seek to ensure that tandem housing development is acceptable and appropriate to the existing pattern and form of development as well as being in keeping with the character and appearance of the area. The Inspector dismissed the appeal.

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