

6. FULL APPLICATION – RE-DEVELOPMENT OF BUSINESS PARK TO CREATE HERITAGE CENTRE WITH CRAFT SHOP/CAFÉ WITH ASSOCIATED RETAILING, TWO TIED WORKER ACCOMMODATION UNITS, TOURIST ACCOMMODATION SPACE, TRAINING ROOM/ COMMUNITY FACILITY, CAFÉ AND OFFICE SPACE AT, ROCKMILL BUSINESS PARK, THE DALE, STONEY MIDDLETON (NP/DDD/0713/0582, P.3289, 28.04.2016, 422427 375647/JRS)

APPLICANT: MR COLIN AND DAVID HALL

Background

This application for the construction of a heritage centre, two tied worker accommodation units and tourist accommodation (along with ancillary craft shop, café, community and office space) was considered at the Authority's Planning Committee in December 2013 (the Officer's report is attached as Appendix 1).

The minutes of the meeting (attached as Appendix 2) state that Members considered that the benefits of the development outweighed any landscape concerns arising from the proposed car parking, and that the development would enhance the dale and become a gateway to the village.

The Committee therefore resolved to approve planning permission subject to prior entry into a S.106 legal agreement regarding Rockmill and Cupola sites to be developed concurrently and retained in the same ownership; community benefits; highway works; control of occupancy of the managers' dwellings, and subject to planning conditions, with delegated authority to the Director of Planning to finalise detailed conditions following consultation with the Chair and Vice Chair of the Planning Committee.

In the time since the Committee resolved to approve planning permission Officers and the Applicants have been working together towards completing the S.106 legal agreement and finalising detailed conditions in consultation with the Chair and Vice Chair of the Planning Committee (the amended conditions are attached as Appendix 3).

However, during this process the Applicant has proposed changes to the S.106 legal agreement which fall outside of the scope of the resolution from Planning Committee. Therefore this report has been written to brief Members of the proposed changes so that a decision can be taken as to whether or not the development remains acceptable.

Proposal

The applicant proposes two changes to the S.106 legal agreement which are detailed below.

For the purposes of this report the two buildings proposed as part of this development are referred to as 'the heritage centre' and 'the accommodation centre' respectively.

Occupation of the worker accommodation

The draft legal agreement restricts the occupancy of the two worker accommodation units to 'Centre Managers' which are defined in the agreement as a full time employee or manager engaged upon the business operation carried out in the Mill Building (the accommodation centre) or in the management thereof.

The applicants propose to vary the wording of the occupancy restriction to allow the worker accommodation units to be occupied by a full time employee or manager of either the heritage centre or the accommodation centre.

The applicants have also indicated that they would be willing to further restrict the occupancy of the worker accommodation flats to be affordable housing to meet eligible local need in the eventuality that the accommodation is not required by a qualifying worker at any given time.

Retention of the development within the same ownership

The draft legal agreement requires the freehold of the whole of the land, including the Mill Building (the accommodation centre), the Cupola Building (the heritage centre) and the Managers Accommodation (the worker accommodation units) to be vested in a common owner and constitute a single planning unit for planning purposes.

The draft legal agreement also prevents the applicants from granting or assigning a lease of the Mill Building (the accommodation centre) or any part of it separately from the Managers Accommodation (the worker accommodation units), and not to grant or assign a lease of the Managers Accommodation or any part of it separately from the Mill building.

The applicants propose to delete the restriction on granting or assigning a lease of the accommodation centre separate from the worker accommodation units.

RECOMMENDATION:

That the application be APPROVED subject to prior entry into a S.106 legal agreement requiring the accommodation centre and heritage centre to be developed concurrently, provision of community space, highway works and control of occupancy of the worker accommodation units; and

Subject to the imposition of planning conditions within Appendix 3 with delegated authority to the Director of Conservation and Planning to finalise detailed conditions following consultation with the Chair and Vice Chair of the Planning Committee.

Main Policies

Relevant Core Strategy policies: GSP4, DS1, HC1 and HC2

Relevant Local Plan policies: None directly relevant to proposals.

National Planning Policy Framework

The National Planning Policy Framework (the Framework) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. The Government's intention is that the document should be considered to be a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF with regard to the issues that are raised.'

Paragraph 203 in the Framework says that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

In regard to planning obligations, paragraph 204 says that they should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Finally, paragraph 205 says that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

Development Plan

GSP4 A says that to aid the achievement of its spatial outcomes, the National Park Authority will consider the benefit that a development can bring directly and/or to its setting, including, where consistent with government guidance, using planning conditions and planning obligations.

HC2 C says that new housing for key workers in agriculture, forestry or other rural enterprises will be tied to the land holding or rural enterprise for which it is declared to be needed.

Assessment

Occupation of the worker accommodation

Officers consider that the functional justification for both worker accommodation units was understood to be in relation operation of the accommodation centre rather than the heritage centre and that the Committee resolved to approve planning permission on that basis.

However, the applicants have put forward the case that the financial and functional appraisal accepted as part of the original outline planning permission approved in 2013 (the 2013 permission) referred to various situations which could arise at either the accommodation centre or the heritage centre that would require either an owner or manager to be permanently available at the site. The applicants therefore consider that in determining the application the Authority accepted that the functional need related to the development as a whole rather than just the accommodation centre.

Following the 2013 outline permission the applicants carried out development appraisals and concluded that the development was not viable which lead to the submission of the current application, which, amongst other things, relocated the heritage centre into a smaller independent building with the two worker accommodation units sited above on the first and second floor. A new financial and functional appraisal was submitted which stated that the heritage centre would not be viable without the worker accommodation units above.

The applicants consider that in approving the proposed worker accommodation units on a separate site to the accommodation centre that the Authority accepted that the functional requirement for the accommodation related to the development as a whole.

The applicants also refer to the Officer's committee report which while still making clear that Officers considered that the functional requirement for two owners or workers to be on site was not proven, and further diminished by their relocation to the heritage centre, that Officers acknowledged that the development had previously been accepted in principle by the Authority on an exceptional basis due to the public benefits that would be delivered.

The applicants therefore consider that the Authority approved planning permission on the basis that the heritage centre would not be viable without the two units of worker accommodation and that the Authority has accepted that the functional requirement for the worker accommodation relates to the whole development and not solely the accommodation centre.

It is clear that the application proposes worker accommodation and that no justification has been put forward or accepted for the market dwellings as part of the development. It is therefore considered clear that it is necessary for the occupation worker accommodation units to be restricted. However, having had regard to the case put forward by the applicant, Officers consider that in approving the worker accommodation units above the heritage centre that it is reasonable to conclude that the functional need has been accepted as for the development as a whole.

It is therefore considered that it is not necessary to restrict the occupancy of the worker accommodation units to the heritage centre only and it is recommended that the occupancy restriction within the legal agreement is varied to allow occupation by either a full time employee or manager engaged upon the business operation carried out in the accommodation centre or the heritage centre or in the management thereof.

Retention of the development within the same ownership

In resolving to approve planning permission the Committee considered it necessary to retain the two sites within the same ownership. The reason for this is principally related to the approved worker accommodation units which, as discussed above, are only considered to be acceptable based upon the Authority's decision that the application has demonstrated an essential functional need.

In these circumstances GSP4 and HC2 together say that the Committee will tie new housing for rural enterprises to the rural enterprise for which it is declared to be needed.

The draft legal agreement therefore requires the whole development to be retained within common ownership and also prevents the separate lease of the accommodation centre and the worker accommodation units.

The applicants consider that in preventing the separate lease of the worker accommodation units the draft legal agreement goes beyond what the Committee considered to be necessary to make the development acceptable in planning terms because the agreement already requires that the whole site is retained in common ownership which reflects the resolution of Planning Committee.

The applicants also consider that in resolving to approve the application with the worker accommodation units the Committee implicitly accepted the argument put forward in the application that the heritage centre would not be viable without the worker units. The applicants state that the lease restriction within the legal agreement effectively removes the workers accommodation units financially from the heritage centre in direct contradiction to the Authority's decision on the planning application.

It is considered that there is a clear policy reason why it is necessary to tie the workers accommodation units to the development. Officers do have concerns that if the accommodation centre were to be leased separately to the workers' accommodation units (which could include a long term lease) that this would be tantamount to separate sale with the key issue being that the accommodation centre would effectively lose control over the workers accommodation units and therefore that there would be no guarantee in planning terms that the accommodation would be made available.

However, Officers do accept that in resolving to approve planning permission the Committee did accept, either implicitly or explicitly, the arguments put forward with the application that the development, including that the development would only be viable if the workers' accommodation units were moved to above the heritage centre. It therefore follows that the lease restriction within the draft legal agreement would potentially jeopardise the viability of the development and the public benefits which led to the decision to approve planning permission.

Officers do remain concerned that removing the restriction from the legal agreement could jeopardise the functional link between the workers' accommodation units and the accommodation centre. However, it is accepted that the occupation of the accommodation units would remain restricted and that this would not depend upon the ownership of the units themselves.

Officers also note that the business enterprise in this case is different in nature to rural enterprises that typically come forward and justify key workers accommodation such as a farm business. In those cases the agricultural business and the location of the worker dwelling is typically dependent upon the surrounding land holding and therefore it is necessary to tie the dwelling to the holding to prevent separate sale which would undermine the agricultural business and potentially result in landscape impact due to the requirement of additional buildings. In this case neither the heritage centre or accommodation centre are reliant on surrounding land and the sale of the accommodation centre separately from the workers' accommodation units would not change the physical relationship between the workers accommodation and the business.

The applicant has acknowledged the Authority's concerns and accepts that it is appropriate to secure the occupancy of the workers' accommodation units in perpetuity. The applicants consider that the occupancy restriction would ensure this and also have made the offer that failing continuous occupation that the accommodation could be utilised to provide affordable housing to meet local need.

The internal floor space of the two workers accommodation units as measured in accordance with the Affordable Housing Supplementary Planning Document (SPD) is 116m² and 117m² respectively. This is above the maximum size guidance for affordable housing set out in the SPD and also above the maximum sizes within the emerging Development Plan Document. However, a significant proportion of this floor space is taken up by the ground floor landings and stairwells up to the flats which is not habitable accommodation. Taking this into account, along with the fact that the dwellings are flats with very limited outside amenity space, it is considered that the dwellings would be of a size and type which would provide intermediate or 'more affordable' housing if subject to an occupancy restriction. The occupation of the accommodation as affordable housing in the eventuality that the accommodation is no longer required by either the heritage or accommodation centre would be in accordance with LH3.

Taking into account the offer to restrict the accommodation to affordable housing (if a suitable worker cannot be found at any given point in time), the arguments put forward by the applicant, the reasons why the Authority considered the development to be acceptable and government policy that local planning authorities should be sufficiently flexible to prevent development being stalled it is considered that the applicant's proposal is acceptable.

It is therefore concluded that it is not necessary to prevent the accommodation centre being leased separately to the workers accommodation provided that the occupation of the workers accommodation units is restricted to meet eligible local need by cascade mechanism in the eventuality that a suitable worker cannot be found at any given point in time.

Conclusion

It is therefore concluded that it is not necessary to restrict the workers accommodation to only workers at the accommodation centre and that the workers accommodation should be restricted to occupation by a manager or worker from the development as a whole.

It is also concluded that it is not necessary to prevent the separate lease of the accommodation centre provided that additional safeguards are included to ensure that the workers accommodation is occupied as affordable housing in the eventuality that the no suitable worker can be found at any given time.

It is therefore recommended that the Committee approve the proposed amendments to the S.106 legal agreement outlined in this report and also note the revised planning conditions which have been agreed by the Director of Conservation and Planning in consultation with the Chair and Vice Chair of Planning Committee.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil