
6. FULL APPLICATION – ERECTION OF LOCAL NEEDS DWELLING ON LAND NORTH OF LAPWING FARM, ACROSS THE LEA, MEERBROOK (NP/SM/0814/0847, P2412, 361358 398817, 02/01/2015/CF/BJT)

APPLICANT: MR BEN BARLOW

Background

This application was originally considered at the meeting of the Authority's Planning Committee in October last year. Notwithstanding an officer recommendation of refusal, a decision on this application was deferred at the meeting. The decision was deferred to facilitate further discussions on the siting of the proposed development, issues relating to affordable local needs housing and the practicalities of entering into a legal agreement to address affordable housing provision and/or tying the proposed newly-built house to the adjoining farm.

Subsequently, the applicant submitted a draft legal agreement containing the Authority's typical obligations relating to affordable housing to meet local need, but also providing a mechanism for subdivision of the proposed house to two smaller local needs dwellings when the family circumstances change. The obligations set out in this agreement therefore addressed concerns over the size of the proposed house, which would accommodate seven people in the first instance, but would provide two semi-detached houses when two of the intended first occupants find alternative accommodation.

Alternative sites for the proposed development were also looked at following the Planning Committee in October last year because the application site is not only outside the main group of residential properties at Meerbrook, but it is also remote from the existing farm house and associated buildings at Lapwing Hall Farm. It was agreed that a site adjacent to the existing farm house would be more suitable for the proposed house, but this would require a fresh application.

However, neither the application site nor the alternative site are within or on the edge of a named settlement as defined in Core Strategy policy DS1 and therefore officers consider the proposed house on either site would represent an unsustainable form of development that is contrary to policies DS1 and GSP1 of the Core Strategy, contrary to saved Local Plan policy LH1, and contrary to national policies in the National Planning Policy Framework. Consequently, officers continue to recommend that the application be refused on these grounds; however, a motion to approve the application was moved and seconded put to the vote and carried at the Planning Committee in December 2014.

The Officer recommendation at the December meeting was as follows:

“That the application be REFUSED for the following reasons:

- 1. The application site is not within or on the edge of a named settlement as defined in Core Strategy policy DS1 and therefore the proposals would represent an unsustainable form of development that is contrary to policies GSP1 and HC1 of the Core Strategy, contrary to saved Local Plan policy LH1, and contrary to national policies in the National Planning Policy Framework”.**

The reasons given for approval of the application were as follows:

- the desirability of maintaining and sustaining the viability of a rural community;
- the very limited opportunities to provide affordable housing within Leekfrith Parish and the adjoining Parishes;
- the need for the housing proposed in this application has been identified in a very recent Parish Needs Survey; and

- subdivision of the proposed house would provide additional housing to meet local need in the future.

The motion to approve the application was subject to prior entry into a s.106 legal agreement containing obligations relating to affordability and local occupancy criteria, and a mechanism to subdivide the house as noted above, and subject to the following conditions:

1. The development hereby permitted shall be commenced within two years of the date of the permission.
2. The development hereby permitted shall not be carried out otherwise in complete accordance with the submitted elevation plans and the amended block plans subject to the following conditions:
3. No development shall take place until a landscaping scheme has been submitted to and agreed in writing by the National Park Authority. The submitted scheme shall include: (i) details of all trees to be retained and protection for those trees during the construction phase of the proposed development; (ii) precise details of all hard and soft landscaping including details of any seeding or planting, surfacing materials and boundary treatments; (iii) precise details of the provision and undergrounding of services; and (iv) precise details of parking provision within the site curtilage. Thereafter, the proposed development shall be carried out in complete accordance with the approved landscaping scheme, which shall be completed prior to the first occupation of the dwelling hereby permitted.
4. No works shall commence on the erection of the newly-built dwelling hereby permitted until samples of the materials to be used in the construction of the external surfaces of the dwelling, including a sample panel of the stonework for the external walls, sample of the stone, quoins, sills, lintels, and surrounds to be used in the construction of the external walls, samples of all roof coverings and rain water goods, and samples of all external door and window frames, have been submitted to and approved in writing by the National Park Authority. Thereafter, the development shall be carried out in accordance with the approved details.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no ancillary outbuildings or other structures incidental to the enjoyment of the dwelling shall be erected.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extensions or alterations to the newly-built dwelling shall be carried out.

Standing Orders

However, before the vote on the motion to approve the current application at the meeting in December, the Director of Planning advised that Standing Order 1.48 would apply to any decision made to approve the current application. This is because it was considered the Planning Committee was proposing to make a decision which would be a departure from policy contrary to the officer recommendation of refusal.

Therefore, the final determination of this application was deferred for a second time to allow officers to prepare this report for the Authority's Planning Committee in January 2015. In accordance with Standing Order 1.48, this report covers:

- (i) the policy implications e.g. whether the decision is a major departure from the

- development plan or other key policy;
- (ii) the budget implications;
 - (iii) a risk assessment;
 - (iv) an assessment of the robustness of the provisional reasons, including recommendations on any conditions;

Assessment

(i) Policy Implications

A decision to grant permission for the current application is considered to be a major departure from the Development Plan. This is because the proposed affordable house to meet local need would not be located within or on the edge of a named settlement contrary to the provisions of Core Strategy policy DS1 and saved Local Plan policy LH1. These policies aim to promote a sustainable distribution and level of growth and support the effective conservation and enhancement of the National Park by securing delivery of new housing within villages that have existing services, better infrastructure and more capacity for development.

In these respects, the new house would be sited in open countryside some 700m away from the main group of residential properties at Meerbrook and remote from the existing farm house and buildings at Lapwing Hall Farm. Therefore, the proposals also conflict with the provisions of paragraph 55 of the National Planning Policy Framework ('the Framework'), which says local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling.

In this case, the design of the new house would be in keeping with the local building tradition but would not be especially innovative and would not be of the exceptional quality anticipated by the Framework. The development would not make use of a redundant building or secure the future of a heritage asset and the applicant's agent has confirmed that there is insufficient justification to demonstrate that there is an essential need for a second dwelling for an agricultural or other essential rural worker at Lapwing Hall Farm. Therefore, the circumstances in which permission for the house proposed in this application would not amount to the 'special circumstances' whereby a new isolated home in the countryside might be justified by the Framework.

In all other respects, housing policies in the Framework are consistent with the Development Plan because they promote sustainable development in rural areas and seek to enhance and maintain the vitality of rural communities by promoting new housing development in existing settlements. Therefore, any approval of the current application would not only be a substantial departure from local and national housing policies; it would also be a substantial departure from the principles of promoting sustainable development as set out in policies DS1 and GSP1 of the Core Strategy and throughout national planning policies in the Framework.

Throughout the preparation of the Core Strategy parishes were specifically asked on two occasions for their view as to whether the proposed list of named settlements was appropriate, seeking views as to whether additional settlements should be added or indeed removed. No response was received from Leekfrith parish and consequently the existing assessment that the parish, (including the settlement of Meerbrook) had insufficient capacity in principle for further development was maintained into the adopted plan.

Nevertheless the Core Strategy does identify the South West Peak as having a very different pattern of settlement, being more fragmented and dispersed than the many nucleated settlements of the White Peak. Moreover, the Spatial Portrait contained within the Core Strategy identifies the South West Peak as the area with the poorest overall access to services and with wards containing the highest levels of second and holiday homes.

A group of parishes on the south west edge of the National Park in Staffordshire, (including Onecote, Heathylee, Leekfrith, Heaton) and stretching north into the Cheshire area (including Wincle, Bosley, Wildboarclough and Macclesfield Forest) contain no named settlements and must address housing needs either by looking to adjoining parishes, or by creating new dwellings in support of agricultural or other rural worker needs, or by seeking opportunities based on the conversion of traditional buildings. Officers are monitoring the success of this strategy in terms of finding the right balance between protection of this wilder, and less developed region of the Peak District National Park and the ability of the area to address the social and economic needs of local communities.

Members should be aware that work is now progressing in both Leekfrith and Onecote parishes to prepare a neighbourhood plan in order to find localised policy responses which can reasonably address the kind of needs being assessed in the case near Meerbrook. In the context of the Core Strategy officers will be working with these communities to reopen the scope for smaller hamlets in these areas to promote themselves as suitable areas for development. Allied to new work emerging on the adaptation of historic farmsteads and hamlets, officers believe there is scope for neighbourhood planning to find proper plan-led approaches to addressing the needs of remote rural communities.

Such an approach can ensure conformity with the principles of the Core Strategy and therefore achieve greater consistency and accountability overall in decision making. As such officers believe a neighbourhood plan approach to be the best solution in tackling the issues raised in the case, and not by allowing ad hoc developments in unsustainable locations.

(ii) Budget Implications

It is not considered that a decision to approve this application would have any significant budget implications as the only costs arising would be officer time processing the decision notice and the necessary legal agreement.

(iii) Risk Assessment

There is an expectation amongst local communities and other communities of interest that the Authority applies policies in the Development Plan neutrally, fairly and consistently, especially where they are up-to-date, relate specifically to the development concerned and are otherwise consistent with more recent national planning policies in the Framework as they are in this case. In these respects, the applicant's case has an unusual and highly emotional aspect to it, but a highly personalised decision to make a departure from policies based on the applicant's personal circumstances would carry a significant risk to the Authority's reputation.

The current application otherwise arises from the applicant's genuine need for affordable housing but in the context of pending enforcement action that has now been taken against the unauthorised chalet on the application site. Therefore, if the Authority sought to act as the local housing authority through its planning function by 're-housing' the applicant and his family in a

newly-built home then there is a risk that any approval for this application could inadvertently encourage further breaches of planning control by other young families desperate for affordable housing. In the alternative, any approval for the current application based on a desire to remedy the existing breach of planning controls (already subject of an Enforcement Notice) would undermine public confidence in the planning system.

However, there are already a number of young families living in various forms of unauthorised accommodation within the National Park. It is also recognised that there are many young people and young families are unable to afford to buy a house within the National Park on the open market. Therefore, the applicant's circumstances are not particularly exceptional and many of the arguments that support this application could be easily repeated elsewhere. In these respects, distinguishing the applicant's case from others simply by the number of children involved would carry a significant risk to the Authority's reputation especially with regard to the fairness and consistency of its decision making.

Moreover, housing policies in the Core Strategy have only been relatively recently adopted (October 2011) and are consistent with the more recent national planning policies in the Framework, which came into effect in March 2012. Therefore, a departure from local and national policies would not be made as an exception where policies are out of date, or otherwise silent or absent in this case. Consequently, there is a risk that the Authority's ability to apply adopted housing policies consistently would be undermined and its reputation for applying its own policies neutrally, fairly and consistently would be harmed unless any departure is properly justified on proper planning grounds.

Finally, the current policy context and housing policies that promote new affordable housing to meet local needs within or on the edge of settlements has been established over a long period of time. For example, current development Plan policies are consistent with the former Structure Plan (adopted in 1994) and national planning policies in the Framework are consistent with PPG7 revised in 1997 and its successor PPS7 published in 2004 (Planning Practice Guidance 7: The Countryside, Environmental Quality and Economic and Social Development and Planning Policy Statement 7: Sustainable Development in Rural Areas).

Therefore, by approving this application, there is a risk that the decision could be seen as incongruous with the long established landscape conservation objectives of avoiding isolated new homes in the countryside and incongruous with the fundamental principles of sustainability underpinning housing policy in the National Park for over twenty years.

(iv) Robustness of Provisional Reasons for Approval and Suggested Conditions

The provisional reasons given for approval of the application were as follows:

- the desirability of maintaining and sustaining the viability of a rural community;
- the very limited opportunities to provide affordable housing within Leekfrith Parish and the adjoining Parishes;
- the need for the housing proposed in this application has been identified in a very recent Parish Needs Survey; and
- subdivision of the proposed house would provide additional housing to meet local need in the future.

These reasons were supported by the conclusions set out in the previous report that the design of the house would be acceptable, parking and access provision would be adequate, and the proposed house would have a limited impact on the character, appearance and amenities of the local area.

In the first instance, it is considered that these provisional reasons for approval comprise valid planning considerations that can be given weight in the determination of the current application. However, whilst the first two reasons reflect the conclusions in the Core Strategy that South West Peak communities need some housing and this challenge is heightened by knowledge that development sites are scarce, these arguments are too easily repeated elsewhere in the National Park to robustly justify a departure in their own right. The third and fourth reasons for approval however better distinguish this application from others and offer a stronger basis for a departure in this case.

In particular, the fact that the need for the housing proposed in this application has been identified in a very recent Parish Needs Survey is a very important consideration. This is because the Survey was initiated by the Parish Council and therefore can be seen as confirmation that the local community would be willing to accept newly-built affordable housing to meet local need within the Parish. This would also indicate that circumstances have changed since the adoption of the Core Strategy and distinguish this particular application from others where a new house is proposed but a recent Parish Needs Survey has not been carried out.

However, it is understood that the Parish Needs Survey was commissioned as a forerunner of a 'neighbourhood plan' and any approval for this application would pre-empt further community consultation on where new housing should be located within the Parish. This issue has some relevance because the application site is not only outside the main group of residential properties at Meerbrook but it is also remote from the existing farm house and associated buildings at Lapwing Hall Farm.

Notwithstanding this, the offer of a legal agreement containing a mechanism to subdivide the house once two of the current family (and intended first occupants) have found alternative accommodation is a further important consideration. Firstly, this agreement offsets and outweighs concerns that the proposed house would not be affordable or needed by anyone other than the applicant and his family in their current circumstances. Secondly, the desirability of providing an additional affordable house to meet local need flows directly from the first three reasons for approval i.e. the desirability of maintaining and sustaining the viability of a rural community, the very limited opportunities to provide affordable housing within Leekfrith Parish and the adjoining Parishes, and the Parish Needs Survey also identifies a need for the houses that would be created by subdivision of the house proposed in this application.

Therefore, taken as a whole, the provisional reasons for approval are based on sound planning considerations, and help to distinguish this case from others, but the proposed legal agreement is necessary to make the development acceptable in planning terms. As noted above, the legal agreement would also include obligations regarding to affordability and local occupancy criteria in accordance with the requirements of the Authority's adopted guidance on affordable housing. Therefore, it is considered that the legal agreement would be directly related to the development; and fairly and reasonably related in scale and kind to the development as well as being necessary to make the development acceptable in planning terms both in terms of providing a mechanism for subdivision of the large house proposed in this application, and in terms of maintaining the proposed development as affordable housing to meet local need. Consequently, the requirement to enter into the proposed legal agreement before the permission is issued can be robustly justified.

The Authority's adopted guidance on affordable housing requires a start to be made on the development within two years, if it were to be approved, primarily because of the pace of change in terms of need and cost. A condition specifying the approved plans is necessary in the interests of the proper planning of the local area taking into account the acceptability of the design, siting and layout of the proposed development would support any approval of the current application. Pre-commencement conditions relating to submission of landscaping details and agreement on construction materials, design details and architectural specifications would also be necessary to ensure that the development is completed to an appropriate standard of design if the current application were to be approved. These conditions also reflect guidance in the recently published

Planning Practice Guidance, which says conditions should not be overly prescriptive and a long list of conditions specifying design details should be avoided.

Planning Practice Guidance also says that permitted development rights should not be removed other than in exceptional circumstances. In this case, it is considered necessary to remove permitted development rights for extensions and outbuildings in accordance with the Authority's adopted guidance on affordable housing. If the current application were to be approved, it is considered that managing further extensions to the house and any additional outbuildings is important to ensure the house (or houses following subdivision) remain affordable and within the 'size limits' for affordable housing. It is therefore considered that the exceptional circumstances exist in this case that justify removing permitted development rights, as suggested at December's meeting of the Authority's Planning Committee.

Conclusion

It is therefore concluded that the provisional reasons for approval are based on proper planning considerations, the recent Parish Needs Survey and the offer of a legal agreement help to distinguish this case from others, and the suggested conditions and the requirement for a legal agreement are properly justified.

However, these factors are not considered to offset or outweigh a substantial departure from the Development Plan and national planning policies in the Framework. In this case, the application proposes a new affordable to house to meet local need in an isolated location in open countryside, which is contrary to the fundamental principles of sustainability underpinning housing policy in the National Park.

In these circumstances, the Planning Committee is respectfully urged to reconsider its resolution to approve the current application, and to support the work of the Policy Planning team in working with Leekfrith, Onecote and other interested parishes in this part of the National Park in order to find appropriate, localised policy solutions through the neighbourhood plan route, which would then form a part of the Local Development Plan for the National Park.

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