

**17. FULL APPLICATION – CHANGE OF USE OF AGRICULTURAL BARN TO 3 NO. LETTING ROOMS – BLEAKLOW FARM, BRAMLEY LANE, HASSOP (NP/DDD/0519/0462); AND**

**SECTION 73 APPLICATION – VARIATION OF CONDITION 1 ON NP/DDD/1117/1128 TO ALLOW THE APPROVED STABLES AND TACK ROOM TO BE USED AS ANCILLARY DOMESTIC ACCOMMODATION – BLEAKLOW FARM, BRAMLEY LANE, HASSOP (NP/DDD/0519/0460)**

**APPLICANT: MR P HUNT**

**Purpose of Report**

1. This report seeks Members' views on how the Authority should respond to two appeals that have been submitted against the non-determination of two planning applications at Bleaklow Farm. Both applications were deferred by the Planning Committee on 9 August 2019. As the 8 week period for determination has passed and the applicant has not agreed an extended period for determination, the applicant is able to appeal against "non-determination" of the applications. Appeals (and costs applications) have been submitted in respect of both applications; as the applications were deferred in August there are no reasons for refusal. This report therefore suggests grounds on which officers can defend both appeals.
2. The application for the change of use of the agricultural building was initially considered at the Planning Committee meeting on 12 July and was deferred to allow further information to be sought about the following:
  - The full extent of the holiday use proposed on the site;
  - The feasibility of an alternative or improved access being provided;
  - Consideration of the amenity impact of the increased use of the highway;

and for the proposal to be considered in conjunction with a further application for ancillary domestic use in the stables on the site. Concerns were also raised about the potential impact of traffic movements if the whole of the site was brought into use as holiday accommodation.

**Background**

3. Both applications were brought to the Committee on 9 August and, after a lengthy discussion, both applications were deferred for the same reasons, as follows:

*“To DEFER the application(s) to allow the following:*

  1. *Further details of overall scheme, including access arrangements*
  2. *Clarification on changes to plan for garage/games room*
  3. *Clarification on additional parking and extension of rear curtilage*
  4. *Clarification of extension of curtilage at front of property*
  5. *Intended use of barn”*
4. Members (and local residents who spoke at the Committee) were concerned that the Committee could not determine the applications without understanding the relationship

of the applications to each other and to the previous approvals as, when taken together, they would result in a substantial residential development. Moreover, Members were concerned that the applicant had carried out a number of additional works without planning permission and then when these works were taken into account they added to Members' concerns about the scale and nature of the development.

5. The unauthorised works are:
  - A new stone surfaced access track which approaches the site from Wagers Flat to the west
  - Alterations carried out to the garage/games room
  - An extension of the curtilage to the north of the building, with this being laid out as a surfaced parking area and defined by a drystone wall.
  - An extension of the curtilage and a change in ground levels at the front (south) of the property, with a section of metal estate fence defining the majority of the new boundary
  - The installation of a spiral staircase and a partial second floor in the two storey barn in the middle of the building complex, whereas the previous approvals had shown this building remaining in agricultural use.
  
6. The house that is under construction has planning permission to be used as an open market private dwelling, which is C3 use as defined by the use class order. When questioned about the applicant's intentions, the applicant's agent has confirmed that it is the owner's intention to use the property within the scope of the C3 use class for which it has permission. Officers met the applicant and his agent on site after the August Planning Committee meeting (28 August) and discussed the Planning Committee's concerns and they repeated the applicant's intention to use the buildings as a single dwelling with ancillary accommodation and letting rooms as proposed in the applications. Officers expressed their concerns about the extent of unauthorised development on the site. The applicant gave an undertaking not to carry out any further works, other than some minor works in one of the buildings which is the subject of one of the applications. **However, no additional information has been provided in response to the reasons for deferral at the meeting in August.**
  
7. The covering report to the Planning Committee on 9 August set out the opposition in planning law relating to the definition of a C3 dwelling and how Authorities can determine whether a material change of use has taken place. A copy of that report is attached as an appendix to this report, so that advice is not repeated here.
  
8. Officers consider that the appeals and the related costs applications can be defended on the following grounds. Whilst there is inevitably a possibility that the Planning Inspector will disagree with Authority's position and may allow the appeals, this would still leave the Authority in a position to deal with the unauthorised works as these would fall outside the Inspector's jurisdiction on the appeals. With regard to the applications for costs, these do not automatically follow the decision on the planning merits of the applications – it is possible that the Inspector could allow the appeals but dismiss the costs application. The costs application will only be allowed if the Inspector considers that the Authority has behaved unreasonably in failing to determine the applications.
  
9. The basis of the appellant's claims is that the Authority had sufficient information to determine the appeal and so acted unreasonably in delaying making a decision. The costs applications refer to the decisions of Planning Committee to defer the applications at the Planning Committee meeting on 9 August 2019. The reasons why Members resolved to defer the application are set out in the published minutes of the meeting (see above), were discussed with the applicant and his agent at the site meeting on 28 August and are set out in full in the appellant's costs claim. As such, there is no doubt that the reasons for deferral have been properly explained to the appellant. There is certainly no

unreasonable behaviour in terms of failing to give the appellant a proper explanation for the deferral. The committee minutes provide the necessary “proper explanation” referred to in paragraph 048 of the National Planning Practice Guidance, which provides advice on these matters. The area of disagreement is not the lack of explanation but the requirement for the additional information and areas of clarification requested by the Authority.

10. As the two applications are part of a comprehensive redevelopment of the site, officers considers it reasonable to respond to both appeals and cost claims in a single response as they raise similar issues and reflect the wider concern that the Authority is being asked to determine applications in isolation, without being given or understanding the wider context. The appellant’s approach has been to present each part of the redevelopment separately and to suggest that, in isolation, they are acceptable, but the Planning Committee had reasonable concerns that, when taken together, the whole scheme could have significant impacts. These concerns are underlined by the fact that a number of unauthorised developments have taken place which appear to be part of the overall development and which could result in the scale and nature of the development being materially different from that which has been approved and is being presented by the appellant. These concerns were also expressed by several local residents.
11. Planning Committee Members raised concerns about highways and amenity impacts arising from the development. Although Members stopped short of concluding that the application should be refused at that stage, Members clearly considered that more information was required in order to be able to properly understand and assess the highways and amenity impacts arising from the proposed development. The Planning Committee resolution reflects and should have left the appellant and his agent in no doubt as to the additional information and clarification that was required. This was not unreasonable behaviour; on the contrary, it could be seen by third parties as unreasonable behaviour for the Authority to determine the two applications without any reference to each other and to the wider context of the developments on site.
12. As noted above, in addition to work commencing on the developments that are to subject of the applications (and now appeals), several other developments have taken place on site. The applicant has suggested that these matters are not relevant to the appeal scheme. However, in assessing the highways and amenity impacts of the proposed developments (conversion of barn to three letting rooms and the use of the building previously approved for stabling as ancillary accommodation) it is clearly necessary and appropriate to consider the cumulative impacts with the redevelopment of the site as a whole. The significantly sized new parking area to the north of the site and the new access track in particular are relevant and it was not unreasonable for Committee members to require more information in order to properly understand and assess the potential impacts of the development.
13. Members also questioned the use of another barn (which is not subject to an application at the moment but is set within the site) that lies just to the north of the main house. Under the existing planning permission this barn cannot be used for any purpose other than agricultural use but a spiral staircase has been placed in the barn and a mezzanine floor area had been constructed. This raised concerns that the appellant was intending to use the barn for purposes other than agriculture. This could potentially lead to different highways and amenity impacts to the approved position. It was not unreasonable for Committee members to seek clarification about this issue to properly understand and assess the impacts of the proposed letting rooms in the context of the redevelopment of the site as whole. The Authority’s policies seek to protect the special qualities of the National Park, including the quiet enjoyment of the Park by visitors, and the amenity of local residents where this may be harmed by intrusive development, whether this be from the development itself or the wider impacts such as traffic. Development Management

DPD policy DMT5, part C, specifically says: “*Development that would increase vehicular traffic on footpaths, bridleways or byways open to all traffic to the detriment of their enjoyment by walkers and riders will not be permitted unless there are overriding social, economic or environmental conservation benefits arising from the proposal*”.

14. Consequently, officers consider that points 1, 3, 4 and 5 as listed in the published minutes are all reasonable requests for additional information and clarification. Had this information been provided then it is quite possible that the Authority would have been able to determine the application by now.
15. In addition to this, as noted above, the Authority’s officers met with the appellant and his planning consultant on site on 30 August to discuss these concerns and to seek clarification about the relationship between the various elements of the applications and the unauthorised works, but no additional information was forthcoming. Officers accept that point 2 (clarification on changes to plan for garage/games room) has already been addressed through the submission of an amended plan.
16. Overall therefore, taking into account the anomalies between the approved development and the works that have been observed ‘on the ground’ and need to consider the proposed development in the context of cumulative impacts with the overall redevelopment scheme, Officers consider that the requests for additional information and clarification were reasonable and were required to allow Committee members to properly understand and assess the highways and amenity impacts of the proposed development. As such, there has been no unreasonable behaviour on the part of the Authority.
17. The Planning Officer’s reports to the meeting on 9 August recommend approval of both applications, but they do set out the difficulties of assessing whether or not there is a material change of use from a C3 dwelling to another use, in this case holiday accommodation. When taken together with the unauthorised works, the overall development of the site raises issues that the applicant has not addressed, despite the matters which require clarification being clearly set out in the minutes of the meeting, which the applicant’s planning consultant attended. In these circumstances officers consider that the appeals can be defended and the cost applications opposed, on the grounds set out above and in the recommendation below.

#### **RECOMMENDATION:**

**That the Authority adopts the following grounds for defending the appeals in respect of applications NP/DDD/0519/0462 and NP/DDD/0519/0460:**

1. **The applicant has submitted two applications to the Authority for developments which increase the number of rooms at Bleaklow Farm, including some which are explicitly for letting accommodation. When taken together with approved developments on the site and with other development that the applicant has undertaken without planning permission, notably extension of the curtilage to provide a substantial car parking area, a new vehicular access, and internal works to an existing agricultural building, the Authority has concerns about the cumulative impact of the development. These concerns relate to the potential for materially greater traffic movements to the site, with a consequential adverse impact on the quiet enjoyment and amenity of users of the surrounding highway network and on the amenity of the residents of the hamlet of Rowland. This would be contrary to Core Strategy policies GSP1, GSP2 and GSP3 and Development Management DPD policies DMC3 and DMT5.**

2. **In response to these concerns the Authority deferred consideration of the planning applications to seek clarification from the applicant but no additional information has been submitted. In the absence of this information the Authority has been unable to fully assess the potential impacts of the developments**

### **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

Report Author: John Scott, Director of Conservation and Planning