

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL**

**Report to Planning Applications Committee**

**12 March 2020**

<b>TITLE:</b>	<b>PERFORMANCE ON PLANNING APPEALS</b>
<b>CONTACT:</b>	<b>DEVELOPMENT MANAGEMENT TEAM</b>
<b>WARDS INVOLVED:</b>	<b>ALL</b>

**Appendices Attached - None**

1. **Reason for the Report:** To inform members of appeals lodged and decided since the last update to the Planning Applications Committee.

2. **Recommendation**

2.1 That the report be noted.

3. **APPEALS LODGED**

**None received**

4. **APPEAL DECISIONS RECEIVED**

**Application No.** SMD/2018/0566 & SMD/2018/0567

**Location:** Cuckoo-Well-Hollow, Bradley Lane, Threapwood, Alton, ST10 4DG

**Proposal** Removal of Holiday Occupancy conditions

**Level and Date of Decision:** Delegated. 9<sup>th</sup> November 2018

**Recommendation:** Refuse

**Decision:** Refused

**Appeal Decision and Date:** dismissed 14th October 2019

**Method of Decision:** Written Representations

**Major / minor:** Minor

**Inspector:** Kate Mansell BA (Hons) MPhil MRTPI

**Costs awarded:** No

**Main Issues:**

- Whether the chalets would be a suitable location for permanent residential accommodation, having regard to local and national planning policy;
- Whether the chalets would provide suitable living conditions as permanent residential occupation for future occupiers.

**Conclusions:**

The Inspector concluded:

- Whilst the entrance to the appeal is close to a small group of houses, it is some way beyond the small settlement of Bradley in the Moors. The nearest village would be Alton, approximately 2 miles away, which has some limited services. Cheadle, the nearest town, is further at approximately 3 miles. Furthermore, the use of the chalets as permanent dwellings would change the nature and pattern of travel in comparison to short-term holiday lets, not least in the need to access services and facilities, including places of work, schools and health provision for example.
- Bradley Lane is narrow with no street lighting or footway and it is unlikely that anyone would choose to walk or cycle along it. There is no bus service and I consider that future permanent residential occupiers would typically be reliant on a private car to access day-to-day services. I consider the sites to be isolated, in its ordinary meaning<sup>3</sup>, for the purposes of Paragraph 79.
- I appreciate that guidance within the Framework recognises that the opportunities to maximise sustainable transport solutions in rural areas may differ from urban areas, which should be taken into account in decision making. However, this is within the context of promoting sustainable transport rather than in relation to rural housing. In any event, the appellant acknowledges that the appeal sites are relatively isolated in their location
- The proposal would result in unsuitable permanent residential accommodation in the countryside
- I accept that the design and character of these buildings was deemed acceptable in light of their original permissions, albeit subject to their use as holiday chalets. I also acknowledge that all the chalets incorporate heating, sewage provision, water and electricity. These

services would, nevertheless, be necessary for their intended purpose as holiday accommodation.

- I have no evidence before me that Building Regulations approval has been obtained for any of the chalets. Moreover, the letter from a prospective purchaser clarifies that an agreement in principle on a mortgage application was declined after a surveyor for the lender determined that they were not content with the construction of the property. This, in my view, casts reasonable doubt upon their physical worthiness and suitability for permanent residential use.
- whilst the chalets would each provide suitable internal space and a sufficient level of outdoor amenity space for permanent residential occupation, their proximity to one another would be harmful to the living conditions of future occupiers. I am also not persuaded of their physical suitability for permanent residential use

Officer Comment:

- The first step in achieving sustainable development given the current 'climate change emergency' is to locate new development where it minimises the need to travel. It is therefore encouraging to see that the Inspector has supported the Council in resisting this unsustainable development

**Application No.** SMD/2018/0711

**Location:** Highfield, Leek

**Proposal:** outline planning permission with all matters reserved (except access) for the erection of dwellings

**Level and Date of Decision:** Committee. 28<sup>th</sup> January 2019

**Recommendation:** Refuse

**Decision:** Refused

**Appeal Decision and Date:** Dismissed 22<sup>nd</sup> October 2019

**Method of Decision:** Written Representations

**Major / minor:** Minor

**Inspector:** Mr A Thickett BA(Hons) BTP Dip RSA MRTPI

**Costs awarded:** No

**Main Issues:**

- the impact of the proposal on the character and appearance of the area
- the effect of the proposed development on highway safety

**Conclusions:**

The Inspector concluded:

- I find that the proposed development would be at odds with the rural setting of the site and the loss of trees would have an adverse effect on the landscape. I conclude, therefore, that the proposed development would have an adverse impact on the character and appearance of the area and conflict with Policies SS1, DC1, DC3 and R1 of the Staffordshire Moorlands Core Strategy 2014.
- Although within walking distance of the town it is likely that prospective residents would drive to work, shops, school etc. The shortfall in visibility is such that I consider the increase in vehicle movements that would be generated by the proposed dwellings would have a detrimental impact on highway safety. The proposal, therefore conflicts with Policy T1 of the Core Strategy.
- The Council cannot demonstrate a 5 year land supply and accepts that, as a result, policies restricting development outside settlement boundaries are out of date. The National Planning Policy Framework advises that where the most relevant development plan policies are deemed to be out of date, planning permission should be granted for sustainable development unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework. In my view, the limited benefits of building two houses here, both in relation to the supply of housing and to the local economy are demonstrably outweighed by the harm described above.

**Officer Comment:**

This is another pleasing decision where the Inspector has supported the officer recommendation and committee decision to refuse. Of note is the conclusion that the benefits associated with a single dwelling do not outweigh the harm to highway safety and the character and appearance of the area which has been identified.

**Application No.** SMD/2018/0788

**Location:** Land Adjacent to Prospect House Farm, Sutherland Road, Longsdon

**Proposal** erection of a single dwelling and detached garage

**Level and Date of Decision:** Committee. 19<sup>th</sup> December 2018

**Recommendation:** Approve

**Decision:** Refused

**Appeal Decision and Date:** Allowed 1<sup>st</sup> November 2019

**Method of Decision:** Written Representations

**Major / minor:** Minor

**Inspector:** Paul Cooper MSc MRPTI

**Costs awarded:** No

**Main Issues:**

- The effect of the development on the character and appearance of the area; and
- The effect of the development on the living conditions of neighbouring residents, with particular emphasis on loss of privacy and overbearing impact.

**Conclusions:**

The Inspector concluded:

- The proposed house would be of a scale commensurate with other properties in the locality, with a relatively traditional design, and use of appropriate materials. The dwelling would be positioned slightly forward of the existing dwellings on that side of Sutherland Road, but given the variations in terms of the design of those properties, I do not consider that the proposal would fail to integrate with its surroundings, and the character and appearance of the street scene would not be materially affected by the presence of the new dwelling, once constructed. Subject to the details of materials and landscaping being appropriate, the proposal would be of a pleasant appearance, and add further interest to the street scene.
- The proximity of the proposed dwelling to the highway boundary in order to overcome the drainage infrastructure issue has resulted in the proposals becoming contrary to the minimum distance requirements set out in the Council's Space About Dwellings Supplementary Planning Document (the SPD) in relation to habitable room windows.
- In order to overcome this, revised plans were submitted to demonstrate an amended internal layout, so that no principal rooms as defined in the SPD, namely living room, dining room, kitchen and first and second bedrooms are facing toward the properties on the opposite side of Sutherland Road. From the evidence in front of me, it would appear that the third bedroom window would use clear glazing, but a third bedroom is not defined as a principal room in the SPD.

- When the application was heard at Committee, Council Members considered the rooms indicated as a play room and a snug at ground floor level and the window of the third bedroom at first floor level should also be considered as habitable rooms and as such, considered. I find that this interpretation goes against the advice given in the SPD, and as such, having assessed the revised layout, I consider that the distances from the dwellings concerned would not cause a loss of privacy to the properties or harm the living conditions of the existing properties by means of any overbearing impact as a result of the proposals.

**Officer Comment:**

The Committee will understandably be disappointed that the Inspector did not concur with their view regarding habitable rooms, it demonstrates that applications must be considered in the light of a literal reading of the precise wording of the policy and assists with correct interpretation of the SPD.

**Application No.** SMD/2019/0100

**Location:** Frinsmoor Croft, Ashbourne Road, Rue Hill, Cauldon Low, ST10 3HD.

**Proposal** removal of condition 2 (holiday let restriction) relating to SM94-1109

**Level and Date of Decision:** Delegated. 17<sup>th</sup> April 2019

**Recommendation:** Refuse

**Decision:** Refused

**Appeal Decision and Date:** Dismissed 8<sup>th</sup> November 2019

**Method of Decision:** Written Representations

**Major / minor:** Minor

**Inspector:** Kate Mansell BA (hons) MPhil MRTPI

**Costs awarded:** No

**Main Issues:**

- Whether the removal of condition 2 would result in a suitable location for permanent residential accommodation having regard to local and national planning policy.
- The effect of removing the condition on the supply of tourism accommodation in the area.
- The effect of removing the condition on the character and appearance of the host building and the surrounding area.

### **Conclusions:**

The Inspector concluded:

- In the previous appeal, the Inspector considered the site to be isolated in the context of the Framework's definition and, from my observations, the physical circumstances of the site are unchanged. It is close to a small group of houses, but the site remains in an area of open countryside to the east of Cauldon Lowe. Waterhouses, the nearest village with limited services, would be approximately 4 miles away. It would principally be accessed via the A52 and A523. Along much of the A52 at least, I saw that there was no footpath or street lighting, making it unlikely that anyone would walk or cycle this distance.
- Furthermore, whilst there is a bus stop close to the site entrance with connections to Ashbourne and Leek, I have nothing before me to demonstrate that the bus service would provide a realistic alternative to the private car. The use of the building as a permanent dwelling would also change the nature and pattern of travel in comparison to a short-term holiday let, not least in the need to reach services and facilities, including places of work, schools and health provision. I consider that future permanent residential occupiers would typically be reliant on a private car to access day-to-day services. Consequently, I also consider the site to be isolated for the purposes of Paragraph 79 of the Framework.
- I therefore conclude that the removal of Condition 2 would result in unsuitable permanent residential accommodation in the countryside.
- From my observations, the site has particular rural qualities that may well be attractive to staying visitors. Consequently, whilst there may be some economic benefits arising also from permanent occupation, I am not persuaded that there is no prospect of the building being used for its lawful planning purpose as holiday accommodation, nor that it could be viable in its economic contribution to the supply of tourist accommodation locally.

I therefore conclude that the removal of Condition 2 would harm the supply of tourism accommodation in the area.

### **Officer Comment:**

- The first step in achieving sustainable development given the current 'climate change emergency' is to locate new development where it minimises the need to travel. It is therefore encouraging to see that the

Inspector has supported the Council in resisting this unsustainable development

- It is also encouraging that the Inspector has supported the Council on the matter of loss of rural tourist accommodation and adverse economic impacts.

**Application No.** SMD/2019/0291

**Location:** The Fox, Beat Lane, Rushton Spencer, SK11 0RU.

**Proposal** single storey extension to the rear and side

**Level and Date of Decision:** Delegated. 12<sup>th</sup> July 2019

**Recommendation:** Refuse

**Decision:** Refused

**Appeal Decision and Date:** Allowed 11<sup>th</sup> November 2019

**Method of Decision:** Written Representations

**Major / minor:** Minor

**Inspector:** C Preston BA (hons) BPI MRTPI

**Costs awarded:** No

**Main Issues:**

The main issue is the effect of the proposed extension on the character and appearance of the host building and street scene.

**Conclusions:**

The Inspector concluded:

- The proposal would not dominate the existing building. The extension is set back from the principal elevation and the roof height, set below eaves level, would ensure it reads as a subordinate addition. The height of the proposal would be considerably lower than the main section of the two-storey building. The contemporary design of the scheme would be of contrast to the existing dwelling and therefore would provide a clear distinction between old and new. The historic integrity and character of the building would be retained.
- whilst the proposal would result in the loss of part of the gable end of the single storey element, the design and position of the extension is such that the scheme would conserve the prevailing character of the building and the rural character of the area
- even if the building is a non-designated heritage asset, as suggested by the Council, the proposal would have a neutral impact and would not cause harm to the host building for the reasons set out above.

Consequently, no public benefits are required to justify the proposal, having regard to paragraph 196 of the Framework.

- The proposed extension would not have a significant adverse visual effect upon the character and appearance of the host building and street scene.

**Officer Comment:**

Whilst this is a disappointing decision, matters of design are always subjective and open to interpretation and the Inspector reached a different conclusion in terms of the balance of considerations to officers in this particular case.

**Application No.** SMD/2017/0829

**Location:** Vacant Land ST11 9RF.

**Proposal** construction of 8 houses

**Level and Date of Decision:** Delegated. 12<sup>th</sup> July 2018

**Recommendation:** Refuse

**Decision:** Refused

**Appeal Decision and Date:** Dismissed 18<sup>th</sup> November 2019

**Method of Decision:** Written Representations

**Major / minor:** Minor

**Inspector:** M Savage BSC (Hons) MCD MRTPI

**Costs awarded:** No

**Main Issues:**

- Whether the appeal site is a suitable location having regard to access to local shops, community facilities and bus services and local and national planning policy; and
- Whether the proposed dwellings would provide satisfactory living conditions for future occupants with respect to noise; and
- Whether the proposed dwellings would provide satisfactory living conditions for future occupants with respect to outlook and outdoor amenity space; and
- The effect of the appeal scheme on the character and appearance of the area; and
- The effect of the appeal scheme on protected species, with particular regard to amphibians, bats, breeding birds, invertebrates and reptiles; and
- The effect of the appeal scheme on highway safety.

## Conclusions:

The Inspector concluded:

- the appeal site is not a suitable location for a new dwelling. It would fail to enhance or maintain the vitality of Cresswell and would conflict with the overall aims of the Core Strategy to locate new development in areas with access to jobs, shops and transport services.
- the proposed dwellings would fail to provide satisfactory living conditions for future occupants with respect to noise,
- It is asserted that the garden size of the proposed dwellings is not inconsistent with those prevalent in the locality, however, this would not justify lesser space standards in the appeal scheme. Plot 1 would have very limited outdoor space to the rear, with the majority of external space to the front and side. Given the need to ensure adequate visibility splays, I consider it highly likely that only low-level fencing would be suitable around much of the side garden of Plot 1. This would result in very limited private amenity space, contrary to Policy DC1 of the Core Strategy.
- The proposed dwellings would front onto the access track, with Plots 1-4 backing onto Cresswell Old Lane and Plots 5-8 backing onto existing development located off Cresswell Old Lane. Dwellings in plots 1-4 would have a staggered layout, with limited setback from the highway. As a consequence, the dwellings would appear a dominant and incongruous feature along Cresswell Old Lane which would unacceptably diminish the rural character of the area.
- The invertebrate survey submitted in support of the appeal scheme identified that a high number of cinnabar moths were recorded on site and that the site meets the criteria of Natural England's 'open mosaic habitat on previously developed land' which is listed as a UK BAP priority habitat. To mitigate for this a series of recommendations are made, including that an area of 1000m<sup>3</sup> is maintained for the population of invertebrates found on site. The area proposed coincides with Plots 1-4 and could not therefore reasonably be secured via condition.
- In respect of birds, as nesting birds, including UK BAP species, were found on site, species specific compensation was recommended, including planting and restoration of hedgerows, shrub and scrub and nest boxes. However, it is likely that substantial sections of hedgerow would need to be removed to facilitate the development. Whilst it may be possible to secure some of the recommendations by condition, given the above, it has not been demonstrated that there would not be significant harm to biodiversity from the proposed development, contrary to Policy NE1 of the Core Strategy and the Framework.
- Although the appellant has provided visibility splays onto Cresswell Lane3 (referred to in the appellant's statement as Cresswell Road), it is not clear how these visibility splays have been arrived at or

whether they take into account the likely speed that vehicles would travel along the road. During my visit I saw that visibility from Cresswell Old Lane onto Cresswell Lane is limited to the north east by a hedgerow and to the south west by the railway line. The appellant asserts that the railway crossing functions to reduce traffic speed on Cresswell Lane, however, I have no substantive evidence of this.

- The appellant has requested that a condition is imposed to secure visibility splays. Whilst vehicle speeds along this section of Cresswell Old Lane are likely to be low due to the curvature of the road and the proximity to the junction with Cresswell Lane, I have no substantive evidence that the visibility splays suggested by the appellant would be sufficient to ensure a safe access onto Cresswell Old Lane.
- Whilst it would be possible to secure further details of an access via condition, I do not consider it would be reasonable to do so in this instance since it has not been demonstrated whether or not satisfactory visibility splays can be achieved on land within the appellant's control. Furthermore, since the hedgerow has both ecological and visual merit, it should be known prior to determination what extent of hedgerow would need to be removed to enable a satisfactory access to be achieved.

**Officer Comment:**

This decision is notable in that there were 6 reasons for refusal and the inspector agreed with the Council in respect of all of them. Also of note is the highway reason for refusal whereby the Inspector accepted the Council's position due to lack of substantive evidence on behalf of the applicant or indicate otherwise which illustrates how success at appeal where such 'technical' matter are in contention is dependent upon production of robust technical evidence. This applies equally to the Appellant as well as the LPA.