

Agenda Item A11	Committee Date 16 October 2017	Application Number 17/00950/OUT
Application Site Gunnerthwaite Locka Lane Arkholme Carnforth	Proposal Outline application for the erection of an agricultural workers dwelling	
Name of Applicant Mr & Mrs Barker	Name of Agent Mr David Hall	
Decision Target Date 28 September 2017	Reason For Delay Committee Cycle	
Case Officer	Ms Charlotte Seward	
Departure	Yes	
Summary of Recommendation	Approval	

1.0 The Site and its Surroundings

- 1.1 Gunnerthwaite Farm is in an isolated farm which is within the District's designated Countryside Area. It is situated at the junction of a number of Public Rights of Way and the farmhouse is Grade II Listed. The Farm is approximately 3km from Arkholme, 3.5km from Borwick and 4km from Priest Hutton.
- 1.2 The proposal site is occupied by two very derelict agricultural workers bungalows which subject to a fire in 2013. The condition of the site is such that the remains could not be occupied. The building remaining is limited to part of the rear wall and a section of the side walls, but there is no roof or floor.
- 1.3 The site is constrained by 1:30 surface water flood risk to its northern and eastern boundaries, with the eastern half of the site having a 1:1000 surface water flood risk. The site is also at risk from ground water flooding (25%-50%). There are several trees on the site boundaries and there are 2 ponds within 250m of the site.

2.0 The Proposal

- 2.1 This outline application seeks permission for a single dwelling for an agricultural worker. At this stage all matters are reserved.

3.0 Site History

- 3.1 Outline planning permission was granted for a pair of semi-detached bungalows in 1972, which was subject to a condition restricting the occupation of the dwellings to persons employed or last employed, locally in agriculture. A Reserved Matters application was granted consent a year later:

Application Number	Proposal	Decision
2/5/4295	Outline application for erection of one pair of semi-detached bungalows and garages	Permitted

2/5/4381	Details for 1 pair of semi –detached bungalows and garages	Permitted
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4.0 Consultation Responses

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
Arkhholme with Cawood Parish Council	No objections
County Highways	No objections. Advice note required in relation to the Public Right of Way
Natural England	No comments – refer to standing advice.
Environmental Health	No objection subject to contaminated land conditions
ADAS	Objection due to no functional need. There is insufficient credible evidence to demonstrate a justified need for an additional agricultural workers dwelling on this farm unit.

5.0 Neighbour Representations

5.1 No comments received.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

The National Planning Policy Framework indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 14). The following paragraphs of the NPPF are relevant to the determination of this proposal:

Paragraph 17 - 12 core land-use planning principles
Paragraph 29 - sustainable transport
Paragraph 49 and 50 - housing
Paragraph 55 - Isolated new homes
Paragraphs 56, 58 and 60 - good design
Paragraphs 117 to 119 - protected species

6.2 Local Planning Policy Overview

At the 14 December 2016 meeting of its Full Council, the local authority resolved to undertake public consultation on:

- (i) The Strategic Policies and Land Allocations Development Plan Document (DPD); and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. Public consultation took place from 27 January 2017 to 24 March 2017. Whilst the consultation responses are currently being fully considered, the local authority remains in a position to make swift progress in moving towards the latter stages of: reviewing the draft documents to take account of consultation outcomes, formal publication and submission to Government, and, then independent Examination of the Local Plan. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in 2018.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2016, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

6.3 Lancaster District Local Plan saved policies

E4 - Countryside Area

6.4 Lancaster District Core Strategy

SC1 - Sustainable Development
SC4 - Meeting the District's Housing Requirements
SC5 - Achieving Quality in Design

6.5 Development Management DPD

DM20 - Enhancing Accessibility and Transport Linkages
DM27 - The Protection and Enhancement of Biodiversity
DM29 - Protection of Trees, Hedgerows and Woodland
DM35 - Key Design Principles
DM41 - New Residential Development
DM42 - Managing Rural Housing Growth
DM43 - Accommodation for Agricultural and Forestry Workers
Appendix C: Criteria for Housing Development for Rural Enterprise Workers

6.6 Other planning policy/guidance documents

National Planning Practice Guidance (NPPG)

7.0 Comment and Analysis

7.1 The main issues are:

- Principle of the development
- Ecology
- Foul and surface water drainage
- Other matters (access, design and landscape impacts, trees, contamination)

7.2 Principle of the development

7.2.1 Within its immediate setting, the location of the proposed dwelling is on the site of the now derelict agricultural workers' bungalows. The site would be cleared and a new 3 or 4 bed two storey house is intended to be built on the site. The flat topography of the site, its proximity to the existing farm buildings and its access on to the existing access track mean that the proposed location would be able to accommodate a new dwelling that would be well related to the existing farmstead.

7.2.2 However, in the wider context, the proposal is in an isolated location, divorced by some distance from any of the villages in the north Lune Valley area. Paragraph 55 of the National Planning Policy Framework states that isolated dwellings in countryside should be avoided unless there are special circumstances which justify this exception. The listed exceptions includes where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Council's local planning policy DM42 reflects this position.

7.2.3 Policy DM43 together with Appendix C of the Development Management DPD set out the criteria that must be met to allow for permanent dwellings for agricultural workers to be supported. This includes:

- i. There is a clearly identified existing functional need which passes the policy test relating to functional need set out in Appendix C of this DPD;
- ii. The need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- iii. The unit and agricultural / forestry activity concerned have been established for at least three years and passes the policy test relating to financial soundness set out in Appendix C of this DPD;
- iv. The functional need could not be fulfilled by another dwelling on the agricultural unit, or any other accommodation in the area which is suitable and available for occupation by the workers concerned; and
- v. New dwelling(s) are sited to minimise the impact on the surrounding area, well designed and well-related to existing agricultural buildings or other dwellings

The following assesses the financial and functional tests.

- 7.2.4 Dwellings in the open countryside are only allowed by exception where it can be clearly demonstrated that there is an existing essential need for an additional dwelling on site for the proper functioning of the enterprise. This application has been submitted with financial accounts for the last three years and a planning statement that forms a statement of justification in relation to the functional need for the additional worker to reside on the farm. In addition to this further information has been supplied on request. From assessment of the submitted with 3 years of Profit and Loss accounts, it is clear that this enterprise has been in operation at the site for at least three years. ADAS (the Council's agricultural advisor) has advised that based on these accounts it would appear that the business has been profitable over the last three years and that is no reason to question the likelihood of it remaining so. Furthermore, it is advised that there is no reason to believe that the financing of the dwelling would impact on the financial viability of the farm. As such on this basis it is considered that the agricultural enterprise is both established and sound and therefore meets Policy Test B in Appendix C relating to DM43.
- 7.2.5 From assessment of the planning statement provided the following information has been gleaned. This statement advises that Mr Baker is employed full time on the farm and Mrs Baker is employed part time. Mr and Mrs Baker have occupied the 4/5 bed farm house since 2008. Mr Baker Junior is the only other full time worker on the farm and currently lives with his family in a property that he owns in Arkholme. It is stated that Mr and Mrs Baker have advised to be 60 and 65 but nowhere near retirement as such it is expected that the needs of the farm will be met by Mr and Mrs Baker together with the son into the future. It is advised that contractors are employed on an occasional basis for specialist work, but all other work is carried out by Mr and Mrs Baker and Mr Baker Junior.
- 7.2.6 The stated justification for the current requirement for an additional worker to be resident on site as opposed to their current location in an owned house in Arkholme is stated as being for care of stock, responding to emergencies and for additional security for farm equipment and stock. Following assessment of this planning statement in conjunction with ADAS it was determined that there was insufficient evidence to evidence a need for an additional dwelling at the farm. As a result further information was requested from the applicant in relation to a Standard Man Days Calculation, further details in relation to the needs of the stock, particularly in relation to lambing and calving, and information on the suitability of available alternative accommodation in the locality and why this is deemed unsuitable. The applicant supplied further information in response to this request. The Standard Man Days Calculation submitted suggested a need for 2.9 full time workers for the agricultural business. No further information in relation to the needs of the stock was provided. Indeed no further information about the need for day and night throughout most of the year has been provided. In relation to available alternatives it is stated that there are no vacant agricultural workers dwellings locally. A supporting letter from NFU was provided authored by a person who specialises in commercial and agricultural insurance. The letter suggests the business is intended to be expanded but no information has been provided in this regard from the agent or applicant. A personal statement from Mrs Baker was also provided which stated that Mr and Mrs Baker needed the support of Mr Baker Junior on site and that the journey to and from the farm was providing difficulty for Mr Baker in relation to his family life. The additional information together with the original information provided has been assessed in conjunction with ADAS and determined to provide no credible evidence to support a justified need for an additional agricultural workers dwelling on this farm unit.
- 7.2.7 It is clear that there is sufficient work for Mr and Mrs Baker and Mr Baker Junior to work for the farm

enterprise, however there is no clear evidence as to why Mr Baker Junior would need to live on the farm rather than his existing house which he owns within Arkholme. The distance between the farmstead and Arkhome is 2.4mile drive which enables a person to respond to night calls or emergencies within an acceptable timescale. Mr Barker Junior has purchased this house and therefore has been able to meet his housing need on the open market without requirement for an agricultural worker's dwelling, demonstrating that there are suitable and available dwellings to meet the functional needs of the farm. From the information submitted work generated by the agricultural enterprise has remained constant while Mr and Mrs Baker have run the farm since 2000. If there was a compelling animal welfare requirement for a full time worker to be resident on the farm temporary accommodation on the site would have been sought with immediate effect following the fire. Furthermore, despite further requests for evidence in relation to the welfare needs of the animals no further information has been provided. From the information submitted the occupancy of the now derelict bungalows in relation to the agricultural enterprise has been for short term farm or itinerant workers, and it is clear from the information submitted that the only additional employment required at the site in relation to the farm is for agricultural contractors for specialist jobs.

- 7.2.8 Argument has been presented within the planning statement which suggests that security for the farm would be a justification for the proposal, although no evidence in relation to security treats or breaches has been provided. Whilst it is acknowledged in policy that security is an important issue in the assessment of need for agricultural workers dwellings it is clearly stated that it is not in itself a sufficient reason to justify a dwelling. The orientation of the existing farm house to the stock buildings means that the entrance to the stock and equipment buildings is within sight of the house. Whilst it is acknowledged that the track may not be visible from ground floor windows, this issue could be potential mitigated by other security measures.
- 7.2.9 Argument has also been presented in relation the impact of the current living arrangements in relation to personal convenience and impact on family life. In the assessment of an agricultural worker's dwelling the needs of the agricultural business are paramount. Whilst it is possible to recognise that agricultural work is demanding and the current housing arrangement does present a greater amount of travel to work than would result from a house on the farmstead, the journey is considered to be of a short distance with a travel time of less than 8 minutes. Personal circumstances do not outweigh the lack of evidenced justification for the dwelling to be on the farmstead.
- 7.2.10 Having fully considered the information submitted by the applicant, it has been demonstrated that there is a need for a full time worker for the enterprise but this need can be met adequately by dwellings in the area which are suitable and available for the occupation by the worker concerned. The worker in question has purchased a house within the local area which is within a short distance of the farm, which allows for the welfare requirements of the animals to be adequately met by Mr Baker and Mr Baker Junior and therefore there is no justification of a new dwelling within the open countryside. The reasons of security and personal circumstance do not outweigh the harm from permitting a dwelling in the open countryside without an evidenced justified need for the farm business which already adequately met by the existing farm. In conclusion the proposal is contrary to DM43 i) and Iv) and Policy Test A in Appendix C of the Development Management DPD.
- 7.2.11 Having failed the functional test, there is no justification for an agricultural worker's dwelling and given that the proposal does not satisfy any of the other exceptions listed in paragraph 55 of the NPPF, it means that there is no policy reason for approving this application. However, there is the issue of the 2 derelict bungalows. Within the information submitted with the application argument has been made that the now derelict agricultural workers dwellings are not classed as abandoned and therefore material weight should be given to the potential lawful fall back position of the alleged existing dwellings. However, Officers have advised the agent to submit an application for a lawful development certificate (ELDC) with robust evidence that a lawful use still exists. If the ELDC application was successful, then this would have established a lawful use against which this application could have been assessed. Whilst the agent has provided some further information as part of this application relating to the date of the fire, personal circumstances (a death and marriage in the immediate family) of the applicants, and delays in securing the insurance monies in association with the fire, he was unwilling to submit an ELDC. Therefore the lawful position has not been established. This leaves the Local Planning Authority with a decision to either refuse the current application and to reiterate their advice to the agent to submit an ELDC (though the applicants may decide to appeal the decision instead), or to surmise based on the agent's unsubstantiated outline of events that a lawful use does exist. In choosing the former, it could fall to

the Local Planning Authority to prove that the bungalows had been abandoned should the applicant choose to appeal a refusal of this application, especially given that the applicants and their agent would have additional time in the interim to compile further evidence. Abandonment is a legal concept used by the courts to describe the circumstances in which rights to resume a use which has been lawfully carried on in the past may be lost because of the cessation of that use. The assertion in this case is that the use of the site for two agricultural worker's dwellings at this site could be lawfully resumed without requiring planning permission for the use.

- 7.2.12 Assessment of whether there is a lawful use of the site for two agricultural workers dwellings is a matter that reasonably should be considered as part of an application for a Certificate of Lawful Existing Use. In the absence of this, it leaves the Local Planning Authority in a difficult position, but in weighing up all the matters arising from this proposal it is considered by Officers that the likelihood of the Local Planning Authority being able to refute the agent's claims that there is a lawful fallback position by proving that there is a case of abandonment bungalows would be difficult. However, this means that the recommendation before Members is a weak one insofar as the lawful use of the bungalows has not been established, and Officers have to surmise that one exists without one being formally established. Given that the recommendation is one of approval contrary to the Development Plan it has to be advertised as a Departure.

7.3 Ecology

- 7.3.1 The proposed site for the dwelling lies within 250m of two ponds, which from a site visit were confirmed to hold water and aquatic plants suggesting that this may be suitable Great Crested Newt (GCN) Habitat. GCNs are European Protected Species under the Habitats Regulations 2010. As such, in accordance with the regulations and national and local policy an assessment of the habitat and the presence of GCN is required to consider the potential impact that the development may have on them. No assessment was submitted with the application, so this was requested and a report containing the results of a Habitat Suitability Index (HIS) Assessment and Rapid Risk Assessment (RRA) Tool has subsequently been provided. Natural England has been consulted as part of this application but they have advised no comment and referred the Local Planning Authority to their Standing Advice.

- 7.3.2 Natural England guidance in relation to GCN survey method statement guidance states that HIS can only be used without a survey in limited circumstances where an offence is highly unlikely, which would include where the development is less than 100m from the pond. In this case the development is between 190 and 250m from the ponds and as such on this basis it is reasonable for the Local Planning Authority to make a determination on the application without a GCN survey. The HIS assessment for both ponds has shown a score of 0.51. Any score which is between 0.5-0.59 is considered to be below average suitability for GCN – a score of less than 0.5 indicates poor suitability. The RRA tool has identified that the development of the site is highly unlikely to result in an offence under the Habitats Regulations 2010. Reasonable avoidance measures and habitat improvement work have been proposed to ensure that the risk to GCN is negligible and that there will be habitat enhancement as a result of the proposal. Subject to a condition requiring the implementation of the reasonable avoidance measures (recommendation 7 of the GCN assessment by Envirotech dated 28 September 2017) it is considered that the proposal would not result in an offence on GCN and therefore is in accordance with Habitats Regulation 2010, paragraph 117 of the NPPF and the Policy DM27 of the Development Management DPD.

7.4 Foul and Surface Water Drainage

- 7.4.1 No details of how foul drainage will be disposed of have been provided. Equally no information has been submitted advising how the now derelict agricultural workers dwellings were served. A pre-commencement condition would be required to be imposed on any permission granted to ensure that the environment is protected from pollution (in accordance with 109 and 120 of the NPPF and Policy DM35 of the Development Management DPD).
- 7.4.2 As for surface water drainage, the submission states that it would be disposed of by a soakaway, but half the site and land to the north and east is known to have a flood risk from surface water. Furthermore there is a risk from ground water flooding. Therefore a soakaway is likely to be insufficient, but there are other technical solutions available to address surface water drainage. As with foul drainage a pre-commencement condition would be required to ensure that the surface

water drainage is designed in accordance with the NPPG hierarchy and meets Policy DM39 of the Development Management DPD.

7.5 Other matters

7.5.1 Access

The proposed plan indicates where the site access on the existing private agricultural track would be made. In this location there is an existing boundary wall and access gates that served the now derelict agricultural workers dwellings. The private track access onto the public highway is within 200m of the site. No objections to the proposal have been raised by County Highways, advising that the proposal would have an insignificant effect on the likelihood of additional traffic generation on surrounding lengths of the public highway network. Furthermore there is sufficient space on site for providing parking and turning space. There is also scope for modifying the access to ensure that there is unobstructed sightline onto the private track.

7.5.2 Design and Landscape/Heritage Impacts

This outline application reserves all matters. The planning statement describes the intention of the applicant to provide a two storey 3 or 4 bed house built of traditional materials. No further detail is provided, but there is scope for this site to be developed with an appropriately designed house. Scale and appearance will be considered at the Reserved Matters stage to ensure that the dwelling relates well to the existing buildings. All of these details would be submitted and assessed at the Reserved Matters stage, which in turn will inform that analysis of the landscape and heritage impacts on the District's Countryside Area and the Listed farmhouse. However, it is worth noting that a new dwelling replacing the exiting burnt out bungalows is likely to enhance the rural setting.

7.5.3 Trees

There are a number of trees on the boundary of the site. The retention of existing trees is important to the ability of the site to accommodate a new dwelling without harm to the landscape. In order to ensure that these trees of an appropriate category are protected during demolition and construction, a Tree Survey is required to identify any trees for retention and an Arboricultural Implication Assessment will be required to identify and mitigate any potential impact on them. Subject to a condition requiring this the impact on trees is in accordance with Policy DM29 of the Development Management DPD.

7.5.4 Contamination

The derelict remains of the agricultural workers bungalows were destroyed by a fire in 2013, which has left a site potentially affected by contamination. The development proposes a sensitive use and no risk assessment of the site has been provided. Consultation with Environmental Health has confirmed that the fire has the potential to have dispersed asbestos or heating oils. In addition the location of the site on a farmstead could have resulted in contamination. The Environmental Health Officer has suggested 4 standard conditions to be applied to any permission granted but Officers deem that only 1 (submission of a risk assessment of the site and the implementation of any remediation measures) meets the tests of being necessary and reasonably related to the proposal in accordance with paragraph 204 of the NPPF.

8.0 Planning Obligations

8.1 There are no planning obligations to consider as part of this application.

9.0 Conclusions

9.1 It is Officers' opinion that the way this proposal should have been progressed was firstly to establish the lawful use of the 2 burnt down cottages. If this could have been demonstrated through a lawful development certificate (ELDC) it would have provided a robust basis for the current proposal. As it is, the outline application lacked adequate detail in this regard, and without the functional need being demonstrated, the proposal failed to meet policy requirements. Whilst the agent has provided some additional information regarding the circumstances surrounding the fire and subsequent related events, these are in an outline form only and have not been substantiated. Therefore in weighing up all the matters arising from this proposal it is considered by Officers that the likelihood of the Local Planning Authority being able to refute the agent's claims that there is a lawful fallback position by proving that there is a case of abandonment bungalows would be difficult. However, this means that the recommendation before Members is a weak one insofar as the lawful use of the bungalows has

not been established, and Officers have to surmise that one exists without one being formally established.

The proposal is a departure from the Development Plan and as such the application has been advertised as such. The associated consultation period expires about 2 weeks after Planning Committee, so if Members are minded to determine this application then it will need to be delegated back to the Chief Officer for the decision to be issued after the expiry of the consultation period.

Recommendation

That Outline Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard outline consent timescale
2. Land contamination condition
3. Foul drainage scheme
4. Surface water drainage scheme
5. Tree Survey and Arboricultural Impact Assessment
6. Agricultural worker's restriction
7. Implementation of the reasonable avoidance measures for Great Crested Newts

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following:

Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Background Papers

None