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| Agenda Item A7 | Committee Date 18 September 2017 | Application Number 17/00899/VLA |
| Application Site Far Lodge Postern Gate Road Quernmore Lancaster | Proposal Variation of legal agreement attached to planning permission 99/00304/CU to remove holiday let restrictions on cottages | |
| Name of Applicant Mr D Gardner | Name of Agent Mr D Ratcliffe | |
| Decision Target Date 13 September 2017 | Reason For Delay Deferred for site visit at previous Planning Committee | |
| Case Officer | Mrs Eleanor Fawcett | |
| Departure | No | |
| Summary of Recommendation | Refusal | |

(i) Procedural Matters

This form of development would normally be dealt with under the Scheme of Delegation. However, a request has been made by Councillor Helme for the application to be reported to the Planning Committee on the basis that the proposal supports a rural enterprise and the local school. The application was deferred at the August Planning Committee to allow a site visit to be undertaken.

1.0 The Site and its Surroundings

1.1 The application relates to two holiday cottages located within a farm complex in the parish of Quernmore, approximately 4 kilometres from the eastern edge of Lancaster. The units are within a former barn constructed of stone with a slate roof. The building abuts the access track and yard and has a small patio and garden area to the rear and a gravel parking area to the north. There are two residential properties within the farm group, one of which is Grade II Listed and is located to the east of the site. To the south are a number of mostly modern farm buildings and associated yard areas, and to the north east is an industrial building which has consent as a water bottling plant.

1.2 The properties are accessed by a track to the north, off Postern Gate Road. There is also an access off Wyresdale Road to the south. The site is located within the Countryside Area, as identified on the Local Plan Proposals Map, and the Forest of Bowland Area of Outstanding Natural Beauty.

2.0 The Proposal

2.1 This application seeks to discharge the legal agreement attached to planning application 99/00304/CU for the conversion of the barn to two holiday cottages. The agreement contains several stipulations to ensure that the units are occupied as short term holiday accommodation and do not become permanent dwellings and also links them to the farm business. The removal of the obligation would allow the units to be sold separately as unrestricted dwellings.

3.0 Site History

3.1 Similar proposals to the current one, to allow unrestricted occupation of the two units, have been

refused in both 2015 and 2016 for the following reasons:

1. *The site is located within the open countryside, divorced from any services and as such is not considered to be sustainable in terms of its location. It is not considered that there are any special circumstances, in this instance, to justify two new dwellings in this isolated, unsustainable location, which would result from the discharge of the planning obligation. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 6, Policy SC1 of Lancaster District Core Strategy and Policies DM20 and DM42 of the Development Management Development Plan Document.*
2. *Given the close proximity of the application site to an existing farm operation, the proposal fails to provide an acceptable level of amenity for the future occupiers of the dwellings. The proposal is therefore contrary to the aims and objectives of the National planning Policy Framework, in particular the Core Planning Principles and Section 7, and Policy DM35 of the Development Management Development Plan Document.*
3. *As a result of the topography of the land, and the likely increase in domestic paraphernalia from a permanent residential use of the two dwellings, the proposal will have a detrimental impact on the rural character of the area and the Forest of Bowland AONB. It is therefore contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 11, Saved policies E3 and E4 of the Lancaster District Local Plan, Policy SC5 of Lancaster District Core Strategy and Policies DM28, DM35 and DM42 of the Development Management Development Plan Document.*

3.2 The relevant site history is set out below:

| Application Number | Proposal | Decision |
|--------------------|--|----------|
| 16/00059/VLA | Variation of the Section 106 Agreement attached to application no. 99/00304/CU to allow the cottages to be used as permanent residential units | Refused |
| 14/01339/FUL | Change of use of two holiday cottages to unrestricted residential occupancy | Refused |
| 06/01503/FUL | Retrospective application for the retention of an extension to previously approved water bottling plant | Approved |
| 05/00651/FUL | Erection of a water bottling plant | Approved |
| 99/00304/CU | Change of use and conversion of barn to form two holiday cottages | Approved |

4.0 Consultation Responses

4.1 Given the nature of the application, no consultations were required.

5.0 Neighbour Representations

5.1 The site notice expires on 11 August 2017. Any comments will be reported verbally.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

Paragraphs 7, 14 and 17 – Sustainable Development and Core Principles
 Paragraph 32 – Access and Transport
 Paragraphs 49 and 50 – Delivering Housing
 Paragraphs 56, 58 and 60 – Requiring Good Design
 Paragraph 115 – Areas of Outstanding Natural Beauty
 Paragraphs 131 – 134 – Designated heritage assets

6.2 Local Planning Policy Overview – Current Position

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 Core Strategy (adopted July 2008)

SC1 – Sustainable Development
SC5 – Achieving Quality in Design

6.4 Lancaster District Local Plan - saved policies (adopted 2004)

E3 – Development affecting Areas of Outstanding Natural Beauty
E4 – Countryside Area

6.5 Development Management Development Plan Document (adopted July 2014)

DM8 – The re-use and Conversion of Rural Buildings
DM20 – Enhancing Accessibility and Transport Linkages
DM21 – Walking and Cycling
DM28 – Development and Landscape Impact
DM32 – The Setting of Designated Heritage Assets
DM35 – Key Design Principles
DM41 – New Residential Development
DM42 - Managing Rural Housing Growth

7.0 Comment and Analysis

7.1 The main issues to be considered in the determination of this application are:

- Principle of the development
- Residential amenity
- Design and landscape impact
- Highway impacts
- Listed Building impacts

7.2 Principle of the development

- 7.2.1 Policy SC1 of the Core Strategy requires new development to be as sustainable as possible, in particular it should be convenient to walk, cycle and travel by public transport to homes, workplaces, shops, schools, health centres, recreation, leisure and community facilities. Policy DM20 of the Development Management DPD sets out that proposals should minimise the need to travel, particularly by private car, and maximise the opportunities for the use of walking, cycling and public transport. Policy DM42 sets out settlements where new housing will be supported and that proposals for new homes in isolated locations will not be supported unless clear benefits of development outweigh the dis-benefits.
- 7.2.2 The application site is located in the open countryside, divorced from any of the villages identified in policy DM42. There are very few services close to the site and it is likely that someone living in this location would be significantly reliant on private transport. The submission sets out that the properties are nearer to the school and church than any other property within the village and that it is likely that the future occupants would have children wishing to attend the Primary School. Whilst they are three bedroom units, there is no guarantee that future occupiers would include primary school aged children. Although there may be access to this school on foot and some other schools via a school bus service, all other facilities would need to be accessed via private vehicles. As such, the site is considered to be within an unsustainable location where new residential development would not usually be supported.
- 7.2.3 Paragraph 55 of the NPPF sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and local authorities should avoid new isolated homes in the countryside unless there are special circumstances. One of these is the re-use of redundant or disused buildings where it would lead to an enhancement to the immediate setting. The properties were converted from a barn to form holiday accommodation to support the farm business and are still used as such. Taking into account paragraph 55 of the NPPF, the building cannot be considered to be redundant and would not result in an enhancement to the immediate setting. If anything it would increase the amount of domestic paraphernalia and vehicles associated with the building at present.
- 7.2.4 Information has been submitted to support the discharge of the legal agreement. The main reason for the removal of the restrictions on the occupancy of the units is due to the financial situation of the farming enterprise. The submission sets out that in 2006 a water bottling enterprise was established as a further farm diversification enterprise. This has now gone into Voluntary Administration and is currently in the hands of an appointed Accountancy firm. As a result of the failed diversification project there are significant debts that the Bank are requesting to be repaid or, at the very least, a plan of how they will be repaid in the imminent future. The submission sets out that this will require the sale of assets so that the core family farm can keep trading. It goes on to say that selling land would not be an option as it would make the dairy farm unworkable and no other sector in farming would be able to cover the longer-term debts that the dairy farm carries. However, the sales particulars for the water bottling company set out that there is land adjacent for sale by separate negotiation. The submission goes on to say that the building where the water bottling company was based is going to go on the market, but the funds hopefully realised would still fall a long way short of what is required to pay the debt back to the bank. It appears that the building has already been on the market and has now been removed, possibly pending a sale.
- 7.2.5 The submission sets out that the only assets that are left for the applicant to sell are the holiday cottages. To gain maximum value from this asset, the restrictions would need to be removed to realise a greater value, so they can be sold immediately to repay the debt to the bank. The submission also states that over the past five years the income from the two holiday cottages has fallen, with the occupancy rates dropping from 80% to 48%. It sets out that this is a result of more holiday cottages being available within the immediate area, and visitors favouring other destinations in the north-west (e.g. the Lake District). Additionally, the farm has not had the funds to upgrade the holiday-let accommodation since the cottages were converted. The cottages are serviceable, but visitors are now expecting an increasingly higher standard of accommodation. The drop in income and occupancy prevents the holiday cottages from being in a position to service any debt that will remain following the eventual sale of the water bottling building. However, the online reviews of the accommodation appear quite positive and there are many recent ones. The report concludes that given the financial situation of the family farming business, the survival of the farm requires the cottages to be sold and in order to realise sufficient capital the cottages need to have the holiday restrictions lifted (i.e. the Section 106 agreement removed). Therefore, it has been argued that the legal agreement no longer continues to serve a useful planning purpose.

7.2.6 There has been a recent appeal decision for a similar proposal at Old Waterslack Farm near Silverdale. This was dismissed as the legal agreement was still considered to serve a useful planning purpose, as to allow open market dwellings would not represent sustainable development. This has been referred to in the covering letter to this application, setting out that in arriving at the conclusion to dismiss the appeal it was set out that no evidence had been provided to support the claim that there is limited demand for holiday lets or to show that despite reasonable marketing of the units, occupancy levels were such that the lawful use was unviable. The agent has set out that this information has been submitted with the current application and should the use cease the buildings would by definition become redundant or disused. However, there is no substantive evidence with the application to show that the level of occupancy has dropped or that this has taken place because of a lack of demand in this area. The reason that this was considered by the Inspector was to ascertain whether the buildings were redundant or disused and it is clear with the current proposal that this is not the case. If they are not being maintained to an appropriate standard, as implied in the submission, this does not mean that there is no demand and does not make them disused. In addition, the sale of the properties will provide a one off sum of money but would not support the farm in the long term and may even put constraints on how this operates, including any expansion, because of the very close proximity of what would be two independent residential units to the farm complex. It also does not provide any certainty that the dairy farm business will remain.

7.2.7 Whilst there is sympathy for the applicant's situation, the personal circumstances can only be afforded limited weight. It may be reasonable to remove the restriction linking the holiday units to the farming enterprise, to allow them to be sold off separately, as this is unlikely to result in any additional harm from the current situation. However, the removal of the other restrictions would result in two new dwellings in the open countryside. Although the building currently has a holiday accommodation use, this is less intensive and it is accepted that this type of accommodation is often located in less sustainable locations. In any case, the current use is acceptable in terms of policy. However, the proposal will result in two new dwellings in an isolated rural location, divorced from most services with occupiers significantly reliant on private transport. As such the removal of the planning obligation would result in an unsustainable form of development and is therefore contrary to local and national policy as set out above. Therefore, it is considered that, the legal agreement continues to serve a useful planning purpose. It should also be noted that there have been two other appeals within the District for the removal of holiday occupation restrictions that have also been dismissed, primarily for reasons of sustainability. Therefore it would be inconsistent to take a different view with regards to this proposal.

7.3 Residential amenity

7.3.1 The internal accommodation is appropriate in terms of size, although some of the bedrooms are only served by single roof lights at around 1.6 metres above floor level. Although this is not ideal it is not considered to be a sufficient reason for refusal although it could lead to more pressure for openings in the walls and roof to the detriment of the character of the building. The building does, however, have a very close relationship to an existing farm operation and buildings and abuts the farm access track. It has been set out in a previous application that, in respect of farm traffic, there is very little activity adjacent the cottages and all the farm traffic is contained within the farmyard and access to the farmland is not past the cottages. The only regular traffic adjacent to the cottage is the milk tanker. There are two access tracks serving the farm. However, there is no control over which access the farm vehicles use or anything to prevent them passing the cottages. There are also likely to be large vehicles from the water bottling building, either as part of its existing use or a future similar use which would not have been an issue when originally granted given the association of the existing domestic properties with the farm complex.

7.3.2 Irrespective of the access used for the farm vehicles, the units are also in very close proximity to the farming operation, with the southern property and garden abutting a track used by farm vehicles adjacent to an agricultural building. It is therefore likely that the amenities of the future occupiers would be significantly impacted by the farm operation as a result of vehicle movements and operations at unsociable hours and associated noise and smells. As such, the two independent dwellings are considered to be inappropriate in this location given the relationship with the farm. The submission sets out that over the past 15 years they have never received any complaints from guests who have stayed at the cottages relating to the proximity of the farm or the farming operations. However, it is unlikely that people staying in the accommodation would complain as they

would only be there for a short period and the property is clearly advertised as being on a working farm.

7.4 Design and landscape impact

7.4.1 The previous application on the site, for the change of use to two dwellings, included a larger area to be used as domestic curtilage than that currently used in association with the holiday units. The holiday units currently have a small patio to the rear with one of the units having a small garden beyond this. Looking at the original consent, the block plan seems to show the land to the rear of the patio as field, however, the red edged location plan, and that within the legal agreement, covers a much larger area. The land slopes significantly downwards away from the building and extends to the north, adjacent to the access track. It is bounded by a hedge to the west and post and rail fence to the north. Given that there is some doubt over what land could be used as domestic curtilage, there are significant concerns in relation to the impact of this as a result of the occupancy restriction being removed. The use as permanent residential dwellings is likely to result in an increase in domestic paraphernalia and pressure to use this land as formal curtilage and potential for the erection of new buildings. Given the openness of the land, and its extent, it is considered that the proposal would have a detrimental impact on the rural character of the area which is within the Forest of Bowland AONB.

7.5 Highway Impacts

7.5.1 County Highways raised no objections to the previous application proposal. There is sufficient parking and turning space to the side of the building to serve the two dwellings. The Highway Officer previously set out that the access arrangements and in particular uses of an un-made point of access from Postern Gate Road are currently unsuitable for the applicant's purposes. An increased frequency of use and intensification of vehicle movements through the junction combined with the likelihood of loose materials tracking out from the track onto the adjacent public highway will be detrimental to other highway users. As such, a condition was previously requested to ensure that an appropriate metaled surface is laid extending 5 metres back from the highway.

7.6 Listed Building Impacts

7.6.1 Although the level of use is likely to increase, this is unlikely to have a detrimental impact on the setting of the adjacent Listed building, which is located on the opposite side of the track.

8.0 Planning Obligations

8.1 The application seeks to discharge the existing planning obligation restricting the occupancy to holiday use and the farm operation.

9.0 Conclusions

9.1 The removal of the holiday restrictions on the properties would result in two unrestricted dwellings in open countryside which is not considered to represent sustainable development. The building is not redundant or disused and the proposal would not result in an enhancement to the setting. It is therefore considered that the proposal fails to comply with the exceptional circumstances set out paragraph 55 of the NPPF in order to justify a new dwelling in this isolated location within the countryside. The extremely close proximity of the 2 dwellings to the existing farm operation would be detrimental to the future occupiers of the dwellings and there is also potential harm to the character and appearance of the landscape as a result of increased domestic paraphernalia.

9.2 The Council cannot currently demonstrate a five year supply of deliverable housing sites. As such, in line with paragraph 49 of the NPPF, Policy DM42 may be considered not to be up to date. Paragraph 14 sets out that at the heart of the NPPF is a presumption in favour of sustainable development and where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies indicate development should be restricted.

9.3 There are three dimensions to sustainable development: economic, social and environmental. The proposal would provide some initial money to potentially help support the farm enterprise but the

ongoing income from the holiday accommodation would be lost. There may also be implications on the future operation and expansion of the farming enterprise given the close proximity of two unrelated residential properties. The building is in use as holiday accommodation and therefore there would be no environmental benefits in the short term. There would likely be harm caused to the character and appearance of the AONB from a potential increase in domestic paraphernalia and buildings from the change to a permanent residential use. This may also lead to pressure for additional openings in the building which could harm its traditional character and appearance as a former barn. The proposal would provide two additional dwellings and contribute to the range of housing available in the local area, however, occupants would be significantly reliant on private transport to reach services, with the exception of the primary school and church, and the amenities of the occupiers would be adversely impacted by the proximity to the farm operation. Therefore it is considered that the adverse impacts in terms of a new isolated dwelling in the open countryside, impacts on the amenity of future occupiers and the potential detrimental impact on the character and appearance of the AONB would significantly and demonstrably outweigh the very limited benefits when assessed against the policies in the NPPF taken as a whole. Therefore the proposal is not acceptable in light of the presumption in favour of sustainable development and it is therefore considered that the legal agreement continues to serve a useful planning purpose and hence should not be discharged.

Recommendation

That the legal agreement attached to planning permission 99/00304/CU remains unvaried as it still serves a useful purpose, and the application **BE REFUSED** for the following reasons:

1. The site is located within the open countryside, divorced from most key services and facilities and as such is not considered to be sustainable in terms of its location. It is not considered that there are any special circumstances, in this instance, to justify two new dwellings in this isolated, unsustainable location, which would result from the discharge of the planning obligation. The proposal is therefore contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 6, Policy SC1 of the Lancaster District Core Strategy and Policies DM20 and DM42 of the Development Management Development Plan Document.
2. Given the close proximity of the application site to an existing farm operation, the proposal fails to provide an acceptable level of amenity for the future occupiers of the dwellings. The proposal is therefore contrary to the aims and objectives of the National planning Policy Framework, in particular the Core Planning Principles and Section 7, and Policy DM35 of the Development Management Development Plan Document.
3. As a result of the topography of the land, and the likely increase in domestic paraphernalia from a permanent residential use of the two dwellings, the proposal will have a detrimental impact on the rural character of the area and the Forest of Bowland AONB. It is therefore contrary to the aims and objectives of the National Planning Policy Framework, in particular the Core Planning Principles and Section 11, Saved policies E3 and E4 of the Lancaster District Local Plan, Policy SC5 of Lancaster District Core Strategy and Policies DM28, DM35 and DM42 of the Development Management Development Plan Document.

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 takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a pre-application service, aimed at positively influencing development proposals. Regrettably the applicant has failed to take advantage of this service and the resulting proposal is unacceptable for the reasons prescribed in this report. The applicant is encouraged to utilise the pre-application service prior to the submission of any future planning applications, in order to engage with the local planning authority to attempt to resolve the reasons for refusal.

Background Papers

None