

The purpose of this report is to enable the Planning Committee to consider the question of whether enforcement action should be taken with respect to the retention of a mobile home on the site. This report follows a report to the Planning Committee meeting of 18th August 2015 when it was agreed:

- To provide the opportunity for the owners make an application to remove or vary the occupancy condition attached to planning permission N21428.
- In the event of such an application not being received within three months that the issue of the expediency of enforcement action with respect to the current breach be brought back to Planning Committee for reconsideration.
- In the event of such an application being submitted that it be brought to the Planning Committee for determination and that officers make arrangements for a site visit to be held prior to its consideration by the Planning Committee.

Members should note notwithstanding being provided with an opportunity to submit an application, no planning application has been received from the owners of the site.

The site lies within the North Staffordshire Green Belt, within the Rural Area, and within a Landscape Maintenance Area all as indicated on the Local Development Framework Proposals Map.

The breach was first identified in September 2013.

RECOMMENDATION

The Head of Business Improvement, Central Services and Partnerships be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 for the removal of the mobile home and associated paraphernalia from the site within six months.

Reason for recommendation and the taking of enforcement action

The mobile home is no longer in use as a dwellinghouse in accordance with the personal planning permission that was granted previously and in the absence of any other permission for the retention of the structure its location on this site is in breach of planning control. The siting of a mobile home on the site constitutes inappropriate development within the Green Belt and the very special circumstances that existed at the time permission was granted no longer exists, and no other very special circumstances have been identified. The continued siting of the mobile home adversely affects the openness of the Green Belt and is contrary to one of the purposes of the Green Belt which is to safeguard the countryside from encroachment. The removal of the mobile home would address the harm arising.

Background Information

In 1986 planning permission was granted, at appeal, for the siting of a mobile home on the site (reference N14847). The Inspector concluded that whilst the planning objections to a permanent dwelling in the Green Belt were sound and clear cut the applicant's personal circumstances provided the very special circumstances necessary to justify the retention of the mobile home. He went on to state that when the applicant no longer had a need to occupy the mobile home, the unit might be removed and there would thus be no permanent effect on the Green Belt. As such a personal permission was granted.

Planning permission was granted in 1992 for the use of a larger mobile home as a dwellinghouse on the site and additional land, subject to the same restrictions on occupancy (reference N21428). At that time the applicant's personal circumstances had not changed and it was considered that in view of the Inspector's earlier conclusions, and given that the increase in size of the mobile home in itself was not sufficient to warrant the refusal of permission, a further personal permission was permissible.

An application to remove the restriction on the occupation of the mobile home, condition 1 of planning permission N21428, was refused in 2007 (reference 07/00146/FUL). A further application to remove the condition submitted the same year was also refused and a subsequent appeal against that decision was dismissed (reference 07/00532/FUL) on the grounds that would create a permanent dwelling in the Green Belt which would be inappropriate development and other considerations put forward at the appeal did not outweigh the harm to justify it on the basis of very special circumstances.

In September 2013 it was brought to the attention of the Council that the occupation of the mobile home had ceased. Monitoring of the site has been undertaken since that time and it would appear that the mobile home has remained unoccupied.

Has a breach of planning control taken place and if so whether it is expedient to take enforcement action, and the nature of that action

As indicated above planning permission was granted for the use of a mobile home as a dwelling, subject to a condition that the permission is for the benefit of a named person and any relatives or dependants living with him. The mobile home is not occupied by anyone at this point in time and as such a breach of the condition has not taken place. The mobile home on the site is not in use as a dwellinghouse, however, and in the absence of any other permission to retain the mobile home on the site for any other purpose there has been a breach of planning control. It is therefore considered that the breach of planning control is an unauthorised use of land for the siting of a mobile home.

In deciding whether it is expedient to take enforcement action, the Local Planning Authority (LPA) is required to have regard to the provisions of the approved development plan for the area, which are detailed below, and to any other material considerations.

Paragraph 207 of the National Planning Policy Framework states that

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”

The decisive issue is always whether it is in the public interest to take enforcement action against an identified breach of planning control. In effect the Committee should consider the matter as if it had before it an application for planning permission – a so called “deemed planning application”.

The issues to be considered

The site is within the North Staffordshire Green Belt, the Rural Area and within a Landscape Maintenance Area, as indicated on the Local Development Framework Proposals Map. In considering this ‘deemed planning application’, the main issues for consideration are as follows:

- Is the use appropriate or inappropriate development in Green Belt terms?
- Is this an appropriate location for a dwelling?
- If inappropriate development in Green Belt terms, do the required very special circumstances exist to justify acceptance of the use?

Is the use appropriate or inappropriate development in Green Belt terms?

In the determination of the previous applications and at appeal it was concluded that the siting of a mobile home on the site for its use as a dwelling was inappropriate development in the Green Belt. The National Planning Policy Framework (NPPF) has been published since such decisions were reached and therefore consideration must be given to whether in consideration of current national policy, a different conclusion should be reached.

Paragraphs 89 and 90 of the NPPF identify certain forms of development that are not inappropriate in Green Belt. The breach of planning control that has been identified as indicated above is not the construction of a building. As such paragraph 89, which identifies exceptions as to when construction

of new buildings should be regarded as inappropriate development, is not relevant. Paragraph 90 identifies other forms of development that are not inappropriate such as reuse of buildings and engineering operations provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. The forms of development identified do not include the change of use of land. It is therefore considered that use of land for the siting of the mobile home is inappropriate development in the Green Belt.

Is this an appropriate location for a dwelling?

Policies concerning development within the countryside apply with equal force within the Green Belt. The site lies within the Rural Area of the Borough, outside the Major Urban Area of the North Staffordshire conurbation.

CSS Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. This site is not one of the targeted areas. It goes on to say that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

CSS Policy ASP6 on the Rural Area states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing.

In terms of open market housing, the development plan indicates that unless there are overriding reasons, residential development in villages other than the Rural Service Centres is to be resisted. The adopted strategy is to allow only enough growth to support the provision of essential services in the Rural Service Centres. This site is not one of the identified Rural Service Centres or within a village envelope (as referred to in NLP Policy H1), it lies beyond the Major Urban Area of North Staffordshire, and the proposed dwelling would not serve an identified local housing requirement.

The LPA, by reason of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements (in our case set out within the CSS) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Borough is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF), because that it does not have a full objective assessment of housing need, and its 5 year housing land supply statement is only based on household projections.

The principle of residential development on the site must therefore be assessed against paragraph 49 of the NPPF which states that *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*

Whilst the proposal is contrary to Development Plan policies on the supply of housing, the location of residential development the application could not be resisted on that basis due to relevant policies referred to above being considered out-of-date as a consequence of being unable to demonstrate a five year supply of deliverable housing sites.

As relevant policies are out-of-date it is necessary to address the second bullet point of paragraph 14 of the NPPF:

- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*

- specific policies in this Framework indicate development should be restricted.

A footnote within the NPPF indicates that reference to specific policies includes policies relating to the Green Belt. As indicated above the development is considered to be inappropriate in the Green Belt and as such specific policies of the NPPF indicate that the development should be restricted.

In conclusion, whilst the proposal cannot be said to be contrary to Development Plan policies relating to the location of new residential development it is contrary to specific Green Belt policies of the NPPF and as such there is not a presumption in favour of this development.

If inappropriate development in Green Belt terms, do the required very special circumstances exist to justify approval?

Paragraph 87 of the National Planning Policy Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At paragraph 88 it states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. National policy in this regard is unchanged since previous planning decisions on this matter were reached. In assessing the development it has already been concluded that the permanent presence of the mobile home would adversely affect the openness of the Green Belt and would be contrary to one of the purposes of the Green Belt which is to safeguard the countryside from encroachment. The PPG, which is guidance not policy indicates that unmet housing need is unlikely to outweigh the harm to the Green Belt and any other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt. Whilst the applicant's personal circumstances were previously considered to provide the very special circumstances that were necessary to justify planning permission, given that he is now living elsewhere such circumstances no longer exist. In the absence of any other very special circumstances there is no basis upon which it can be concluded that the development is acceptable and would be given planning permission if an application for its retention was received.

Nature of the action

In light of the breach of planning control it is considered that it would be appropriate to take any necessary enforcement action that requires the removal of the mobile home and associated domestic paraphernalia from the site within six months. It is considered that the action proposed to be taken by the Council is proportionate and in accordance with the provisions of the Human Rights Act.

APPENDIX

Policies and proposals in the approved development plan relevant to this decision:-

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS)

Policy SP1: Spatial Principles of Targeted Regeneration
Policy ASP6: Rural Areas Spatial Policy

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt
Policy H1: Residential development - sustainable location and protection of the countryside
Policy N17: Landscape Character – General Considerations
Policy N19: Landscape Maintenance Area

Other Material Considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)
Planning Practice Guidance (2014)

Supplementary Planning Guidance/Documents

Planning for Landscape Change: Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011

Representations

Prior to the consideration of the report at the meeting of 18th August, Members were sent directly representations made by **Councillor Kearon on behalf of the owners**. In summary the key points made were as follows

- While the owner's wife can live in the property for as long as her husband is alive, it has been made clear to her that she does not have permission to live at the property once he has died and that the planning authority will seek to enforce the requirement for the mobile home to be removed after his death
- The owner suffers from a degenerative spine condition, in the last two years his condition has worsened significantly and he has developed a heart condition for which he has had an operation. Concern about the health of her husband and the prospect of losing her home in the period immediately after his death has had a significant impact on the health and wellbeing of owner's wife. The couple reluctantly decided to seek alternative accommodation so that if the owner were to die before the issues relating to 5 Boggs Cottage were resolved, she would have somewhere to live. The owner and his wife regard 5 Boggs Cottages as their home and strongly wish to live there permanently – they continue to maintain it, spend a proportion of the week there and pay all utility charges on the property
- The description of 5 Boggs Cottages as a mobile home does not do it justice – it is a substantial bungalow style construction with mains water, gas, electricity and sewage. Its removal would not be possible, rather it would have to be demolished and this would leave a very obvious demolition site (of detriment to the Green Belt), and be at the cost of the owner and his wife, who do not have the funds and it is a very stressful situation
- The NPPF indicates that enforcement action is discretionary and LPAs should act proportionally in responding to suspected breaches of planning control” whilst Guidance indicates “ in deciding whether enforcement action is taken LPAs should, where relevant have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action”
- The Committee are asked to use their discretion
- The owner and his wife wish to prepare and submit an application for a proposal that would allow her to continue to live at 5 Boggs Cottages after her husband's death

- With this in mind he asks that the Committee do not agree with the officer recommendation and that when such an application is submitted the Committee carry out a site visit

Date report prepared

15th December 2015