

This is an application for full planning permission for the retention of buildings to form two dwellings.

The barn is located within the Green Belt and an Area of Landscape Enhancement as indicated by the Local Development Framework Proposals Map.

The statutory 8-week period for the determination expires on the 21st January but the applicant has agreed to extend the statutory period until 28th February 2019.

RECOMMENDATIONS

- A. REFUSE the application on the grounds that the proposed development represents inappropriate development within the Green Belt, as it is not for any of the exemptions as listed in the National Planning Policy Framework. Very special circumstances do not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. The development therefore does not accord with the aims and objectives of the National Planning Policy Framework.**

- B. The Council's solicitor be authorised to issue enforcement action 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 to secure removal of the building within 12 months.**

Reason for Recommendations

The proposed development represents inappropriate development within the Green Belt. Very special circumstances do not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. The development therefore does not accord with the aims and objectives of the National Planning Policy Framework. Enforcement action is therefore justified.

Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application

It is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework and it is considered that the applicant is unable to overcome the principal concerns in respect of this development.

KEY ISSUES

This is an application for full planning permission for the retention of the rebuilding of a barn following partial demolition and reconstruction, to provide two dwellings. The barn is located within the Green Belt and an Area of Landscape Enhancement as indicated by the Local Development Framework Proposals Map.

Full planning permission was granted at appeal for the conversion of the barn to two residential market housing units (Ref. 13/00755/FUL). An application was subsequently submitted in 2017 to retain alterations to the approved scheme (Ref. 17/00326/FUL) but it was evident that a substantial proportion of the building had been demolished and rebuilt. Such extensive rebuilding was considered to amount to a replacement building and therefore that application was refused on the grounds that the development comprised inappropriate development within the Green Belt and very special circumstances did not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. An appeal against the Council's decision was subsequently dismissed with the Inspector also considering the development to comprise inappropriate development in the Green Belt.

In addition to retention of the barn as two dwellings, the current proposal seeks to retain alterations which have not been carried out in accordance with the approved plans comprising an increase in the roof height and additional and altered windows. It also proposes alterations to the style of the windows and the addition of sun tunnels. The increase in the roof height and the additional windows were considered to be acceptable by both the Council in determining Application 17/00326/FUL and the Inspector in dismissing the appeal. It is not considered necessary to assess those alterations now and the additional sun tunnels and amended window style are considered acceptable.

The key issues in the determination of this application are therefore:

- Does the proposal constitute appropriate or inappropriate development in the Green Belt?
- If the development is considered to be inappropriate development, do the required very special circumstances exist?
- If planning permission is refused, should enforcement action be taken?

Is the development appropriate or inappropriate development within the Green Belt?

Paragraph 133 of the revised National Planning Policy Framework (NPPF) details that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

Given the amount of the building that has been demolished and rebuilt, this is considered tantamount to a replacement of the original building. The NPPF states in Paragraph 145 that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt. A number of exceptions to this are identified and exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

In this case, the new building is not in the same use as the building that it replaces and therefore, the starting point is that the proposal represents inappropriate development in the Green Belt, which should not be approved unless very special circumstances can be demonstrated.

Do the required very special circumstances exist that would overcome the harm caused by inappropriate development in the Green Belt?

As concluded above, the proposal constitutes inappropriate development in the Green Belt and paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. It states 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.

In relation to the previous application, the applicant advanced a case of ‘very special circumstances’ in the form of a Supporting Statement and Inspection Reports from the Building Inspectors appointed to oversee the works. A summary of the case made is as follows:

- The appearance of the building is substantially the same as originally approved with no change in footprint or material increase in height.
- The retention of the building, re-constructed using the original brickwork, would result in a building in keeping with its surroundings which would enhance the character and quality of the landscape.
- The retention of the building would be a significant improvement in visual terms when compared with the alternative of a partly constructed building with no useful function should the elements of rebuilding be required to be removed by way of enforcement action.
- The incomplete building would be likely to have an adverse impact on the successful use of the approved holiday lets.
- The provision of two houses would make a small contribution towards the Council’s five year housing supply.

- Residential use of the barn would contribute to the local economy through additional retail and leisure spending.
- The circumstances surrounding the previous application including the works carried out by the previous builder, the delays in discharging conditions and the apparent structural deterioration of the building over time which appears to have resulted in a requirement for additional re-construction over and above that previously permitted.

In dismissing the appeal the Inspector considered that these circumstances could only be attributed limited weight and did not amount to very special circumstances to justify the development.

The applicant's agent has now submitted personal financial information to seek to demonstrate the financial loss that the applicants will face which will have a significant detrimental impact on the family as a whole in the event of not being able to complete and occupy their home, re-mortgage and pay off substantial unsecured debt. It is asserted that a combination of the circumstances surrounding the previous applications and appeal as referred to above combined with the financial impact of not being able to complete the development amounts to very special circumstances.

It is stated that the applicant has invested significant sums of money into the property to provide a family home. The total cost has arisen from purchasing the site, construction works, fencing hire and professional fees. In addition, the applicant has had to rent alternative accommodation. If the scheme cannot be completed the value of the property would be close to being worthless and the applicants would not be able to recoup any of their investment.

The applicant's agent refers to the case of *Wychavon District Council v Secretary of State 2009* which was a case concerning the loss of a home occupied by gypsies located in the Green Belt. The issue of 'very special circumstances' was considered and the applicant's agent asserts that a number of the conclusions reached can be applied to the current application.

Whilst the applicant's circumstances and the potential financial impact is unfortunate, it is not considered that the submitted financial information alters the conclusions in relation to the previous application and appeal and it remains your Officer's view that the very special circumstances necessary to justify the development do not exist. Although it is acknowledged that in the *Wychavon* case referred to above the loss of a family home was considered capable of being a 'very special' factor, the circumstances here are not directly comparable in that the applicants would not be left without a home should this application not be approved and the proposal involves the formation of two dwellings with no indication that the second home was ever to have been the applicants' families home.

To conclude, while the applicant's circumstances are unfortunate, it is not considered that the case advanced amounts to the 'very special circumstances' required to outweigh the harm by reason of the inappropriate development in the Green Belt.

If planning permission is refused, should enforcement action be taken?

The development has been partially completed and given the conclusions of this report, it is necessary to consider the expediency of taking enforcement action against the breach of planning control.

As indicated above the development is harmful to the Green Belt by virtue of it being inappropriate development. Such harm is sufficient for a conclusion to be reached that it is expedient to take enforcement action.

In terms of the action required, given the extent of the works that have been carried out, very little, if any, of the original building remains with the Inspector in the previous appeal noting that all of the external walls and the roof having been re-built. What is on site is a new building. It is therefore considered that there is no alternative but to require the demolition of the structure in its entirety and given that what is there is a new building such action would be appropriate. The building is part of a larger 'L' shaped building but subject to details regarding the finishing of the newly exposed elevations, it is considered that the part of the building not within the ownership of the applicant, can be retained without any adverse impact on the visual amenity of the area.

The applicants are currently residing elsewhere and therefore, it is not the case that they need to find alternative accommodation. It is considered therefore that 12 months is a reasonable period for demolition of the building and the making good of the site and the remaining building.

APPENDIX

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

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

Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy H9: Conversion of Rural Buildings for Living Accommodation
Policy E12: The Conversion of Rural Buildings
Policy N17: Landscape Character - General Considerations
Policy N20: Area of Landscape Enhancement

Other material considerations include:

[National Planning Policy Framework \(2018\)](#)

[Planning Practice Guidance \(2014\)](#)

[Supplementary Planning Guidance](#)

[Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD \(2010\)](#)

Relevant Planning History

12/00270/FUL	Erection of two storey side extension and alterations and additions	Approved
12/00518/FUL	Render to external walls, replacement front porch and side canopy	Approved
13/00754/FUL	Change of use and conversion of shorter arm of existing brick and tiled barn into 3 residential holiday accommodation units	Approved
13/00755/FUL	Change of use of former barn to two residential market housing units	Refused and allowed on appeal
17/00326/FUL	Rebuilding of a barn for residential use	Refused and dismissed on appeal

Views of Consultees

Audley Rural Parish Council comments that the buildings should comply with the enforcement issue regarding roof height prior to being approved.

Representations

One letter of objection has been received expressing concerns regarding the number of errors in the application. It is stated that much of the work detailed to be carried out is to areas not owned by the applicants and the drawings should be corrected to reflect only work to be carried out on their property. Much of the work already carried out is not in accordance with the original approved drawings. Members of the Planning Committee should visit the site to view the situation.

Applicant/agent's submission

The application has been supported by a Planning Statement. This document is available for inspection on the Council's website by searching under the application reference number 18/00937/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00937/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

8th February 2019