

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.

This application was reported to Committee on the 26th February but a decision was deferred to allow for the submission of additional information on whether appropriate approvals with respect to rebuilding were sought by the applicant during the construction process and to enable Members to receive in advance, copies of the two previous appeal decisions and the full statutory declaration.

The statutory 8-week period for the determination expired on the 21st January but the applicant has agreed to extend the statutory period until 21st June 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 are unfortunate, it is not considered that the submitted financial information alters the conclusions in relation to the previous application and appeal. 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.

Since the meeting of the Planning Committee on 26th February, the applicant's agent has submitted a letter that summarises the involvement of both the architect (bpArchitecture Ltd) and the applicant in the events to date along with copies of correspondence between parties. A summary is as follows:

- Following the discharge of conditions the architect had limited involvement in the construction work which was left to the responsibility of the applicant's builder.
- The approved scheme included a structural engineer's report which identified that the southern portions of the east and west elevations could be re-built. The report was produced three years prior to works commencing on site.
- Shortly after construction began, the southern half of the western wall came down during a strong wind taking together with a further element of that wall. This section was rebuilt without any liaison with the LPA on account that the majority of the wall was approved for rebuilding in the original scheme.
- When the appointed building inspector visited the site he identified that the remainder of the east and west walls were no longer structurally sound and needed to be rebuilt.
- The architect became involved in the project again when asked to resolve issues with the alterations to the roof and windows that had not been built in accordance with the approved plans. A further planning application was submitted to regularise these matters. During a site visit in September 2017 with the architect and the Council, it became evident that the balance of the east and west walls had been rebuilt.

- A Structural Statement was produced as part of the 2017 application which identified further areas that needed to be rebuilt due to structural instability.
- During the time between the initial collapse of the wall in September 2016 and the discovery of the wider elements of rebuild in September 2017, the applicants had delegated the management of the building to the builder (Mr Mandair's uncle). This was because Mr Mandair was focusing on his business and Ms Toseva was heavily pregnant and busy with work commitments. As a consequence, visits to the site by them were limited. They had previously used Mr Mandair's uncle to complete another building project which had given them confidence in his experience and expertise. They now realise that such confidence was in error given the complexities and nuances involved in the conversion of agricultural buildings. Mr Mandair's uncle was meeting directly the structural engineer and building inspector on site but due to him not being fluent in English he misinterpreted the professional advice given by the structural engineer and went on to rebuild the gable end walls as well on the incorrect assumption that these elements were also structurally unstable.
- It is likely that these rebuilding works were undertaken between the end of October 2016 and the beginning of April 2017 but given that neither of the applicants were regularly on site, it is not possible for them to confirm the exact date.
- It appears that the uncle's motivations for rebuilding the walls were borne out of his desire to deliver the highest quality of development and therefore he opted to rebuild the walls to increase the stability of the building.
- In summary, it is evident that the applicants only became aware of the full extent of the rebuilding at the same time as it was discovered by the architect and the Council. At that point they immediately put the project on hold with the view of only completing the scheme once they have received the appropriate permissions. It is evidently clear that the applicants have at no point sought to purposely conceal the extent of rebuilding of the walls of the barn. Instead through a series of unfortunate events which are at no fault of their own, the applicants are in a position where they risk planning permission being refused to retain their future family home.

While the applicant's agent has sought to demonstrate that the applicants never sought to wilfully conceal works that were unauthorised which is not disputed, and while the applicant's circumstances are unfortunate, it remains your Officer's view that the case advanced does not amount to the 'very special circumstances' required to outweigh the harm by reason of the inappropriate development in the Green Belt.

Copies of the two previous appeal decisions and the full statutory declaration have been sent to Members.

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 \(2019\)](#)

[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 information submitted in support of this application 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>

The appeal decision for application **Ref. 13/00755/FUL** is available to view via the following link:

<http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00190862.pdf>

The appeal decision for application **Ref. 17/00326/FUL** is available to view via the following link:

<http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00254194.pdf>

Background Papers

Planning File
Development Plan

Date report prepared

5th June 2019