

Bolsover District Council

Planning Committee

16 January 2019

Report: Appeal Decisions: April 2015 – December 2018

Report of the Planning Manager (Development Control)

Purpose of the Report

- To report the Planning Service's performance on appeal against the Government's quality of decision making targets.

1 Report Details

Background

- 1.1 In November 2016 the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) produced guidance entitled "Improving Planning Performance which included guidance on speed of planning decisions and quality of planning decisions. This report relates to the quality of decision making targets.
- 1.2 Since 2016, the Government has assessed the quality of decision making by local planning authorities with reference to the percentage of allowed appeals compared to the total number of decisions made by the authority on minor and major applications (i.e. no of allowed appeals ÷ total no of determined applications x 100 = performance %) over two assessment periods from April 2015 to March 2017 and from April 2016 to March 2018.
- 1.3 If 10 per cent of an authority's total number of decisions on applications made during the second assessment period are overturned at appeal then that authority will be considered for designation as an under-performing authority, which could mean that applicants would be able to apply for planning permission directly to the Planning Inspectorate rather than to a Council that has been put into 'special measures' because it has under-performed against Government targets.
- 1.4 However, this measurement is taken nine months after the specified assessment period (i.e. at the end of December) to allow appeals against refused applications made during the relevant period to be determined by the Planning Inspectorate – for example an appeal made in respect of an application refused in March 2018 might not get determined until much later in the year.

- 1.5 Therefore, this report provides an update on this Council's performance on quality of decision making now the second of the two assessment periods has closed.
- 1.6 This report also includes three appendices, which summarises the key issues raised in the appeals determined over the two assessment periods to provide members with an appropriate oversight of the quality of delegated decisions on both minor and major applications.

2 Conclusions and Reasons for Recommendation

- 2.1 During the first appeal monitoring period (April 2015 to March 2017) no decisions made by the Council to refuse major planning applications were overturned at appeal. Using the Government's method of measuring performance: 0.3% of all the Council's decisions on minor applications were overturned at appeal.
- 2.2 During the second monitoring period (April 2016 to March 2018); 3.5% of all the Council's decisions on major applications were overturned at appeal (i.e. two appeals were allowed) and 1.2% of decisions on minor applications were overturned at appeal.
- 2.3 The Council is therefore well below the 10% threshold set by the Government for quality performance and this indicates the Council's current decision making on planning applications is sound.
- 2.4 However, there are opportunities to learn from the reasoning behind appeals allowed by the Planning Inspectorate and a summary of the appeal decisions from the two assessment periods are included as Appendices A, B and C.
- 2.5 In these respects, Government has recently announced a third assessment period from April 2017 to March 2019, which means that the two recently allowed appeal decisions (Glapwell Nurseries and Ball Hill) will continue to count against the Council's performance on major applications over this assessment period and the next if this monitoring regime continues into 2020.
- 2.6 Therefore, it is important to understand how Planning Inspectors apply weight and national policies to the Council's planning decisions to reduce the risk of further overturns of decisions made at officer level or at Planning Committee. In particular, performance at appeal on major applications is particularly sensitive because of the relatively low numbers of major applications determined each quarter.

3 Consultation and Equality Impact

- 3.1 Consultations are carried out with each application and appeal. Consultations on this report of appeal decisions was not considered necessary because the report is primarily being presented to members to share information.
- 3.2 Appeal decisions do not need an equality impact assessment in their own right but by monitoring appeal decisions it allows us to check that equalities are considered correctly in every application. There have been no appeal decisions reporting equalities have been incorrectly addressed.

4 Alternative Options and Reasons for Rejection

- 4.1 An alternative option would be to not publish appeal decisions to members. Appeal decisions were reported in the past but haven't been reported for some time. It is however considered useful to report decisions again due to the threat of intervention if the Council does not meet the nationally set targets so officers and members of the Planning Committee have a common understanding of the key issues raised at appeal and so that members are able to maintain appropriate oversight over the quality of delegated decisions.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Costs can be awarded against the council if an appeal is lost and the council has acted unreasonably.
- 5.1.2 The council can be put into special measures if it does not meet its quality of performance targets.

5.2 Legal Implications including Data Protection

- 5.2.1 Appeal documents are publicly available to view online. Responsibility for data is PINS during the appeal process.
- 5.2.2 Appeal decisions are open to legal challenge but only on procedural matters.

5.3 Human Resources Implications

- 5.3.1 Appeal work is factored into normal officer workload and if original application report is thorough it reduces the additional work created by a written representations appeal. Additional workload may be created if the appeal is a hearing or public enquiry.

6 Recommendations

- 6.1 This report be noted.
- 6.2 Appeal decisions and performance against performance target be reported to Committee members every 6 months.

7 Decision Information

<p>Is the decision a Key Decision? (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)</p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No

District Wards Affected	No
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Appendix A	Planning Appeal Decisions relating to decisions made in the First Monitoring Period between April 2015 and March 2017.
Appendix B	Planning Appeal Decisions relating to decisions made in the Second Monitoring Period between April 2017 and March 2018.
Appendix C:	Planning Enforcement Appeal Decisions from April 2015 to date.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
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Report Reference –

Appendix A:

Planning Appeal Decisions relating to decisions made in the First Monitoring Period (April 2015-March 2017)

Major Development

APP/R1010/W/15/3138391: Land adjacent former Hilltop Farm, A617, New Houghton: Outline Application with all Matters Reserved for Residential Development.

Main Issues

The main issue for consideration was whether the proposed development would provide a suitable site for housing, having regard to the principles of sustainable development, including any effect on the character and appearance of the best and most versatile agricultural land.

Conclusions

The site was a demolished farm within an area of open countryside and in an area allocated in the Local Plan as an important open break. The Inspector considered that the proposal for 180 houses and related infrastructure, including roundabout would reduce the open character of the site substantially causing harm to the landscape character of the area.

At the time of the appeal the council did not have a 5yr supply of housing and as such the inspector considered that the presumption in favour of the sustainable development set out in the NPPF and therefore Policy GEN 10 of the Bolsover District Local Plan acted as a constraint to development and was therefore considered out of date in accordance with paragraph 49 of the NPPF and that in accordance with paragraph 14 of the NPPF, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole.

The Inspector considered that the provision of 180 houses in an area with a lack of housing supply would have considerable economic and social benefits in line with the NPPF and that this represented a strong need for development which would justify the loss of the best and most versatile agricultural land in accordance with Policy ENV 2 of the Local Plan.

However, the inspector considered the site to be too far from local facilities to be considered to be a sustainable location. He also considered that the development would erode the gap between New Houghton and Glapwell and would have an adverse effect on the character and appearance of the local area. In view of this, even though Policy GEN 10 was considered out of date, he still gave weight to this policy as, although it restrained development, it also has a strategic purpose which seeks to prevent the coalescence of settlements and protect the setting of settlements which the proposal would adversely affect. This was considered contrary to the core planning principles in paragraph 17 of the NPPF.

The Inspector concluded that the adverse impacts of the proposal significantly and demonstrably outweighed the benefits of the proposal and therefore the development would not provide a suitable site for housing, having regard to the principles of sustainable development, including any effect on the character and appearance of the best and most versatile agricultural land.

The appeal was dismissed.

Recommendations

None. The council now has a five year supply of housing and even when it didn't, although not entirely in line with every requirement in the NPPF, the policies in question were considered broadly in line with the core principles of the framework.

APP/R1010/W/16/3147350: Land to the East of Duchess Street, Whitwell: Outline Application with all Matters Reserved for Residential Development of 15 Dwellings.

Main Issues

The main issues in this case are:

- The effect of the proposal on the character, appearance and openness of the countryside
- Whether the proposal would result in the loss of the best and most versatile agricultural land.

Conclusions

The site is outside the settlement framework in an area of open countryside designated as an important open area under Policy GEN 10 of the Bolsover District Local Plan. In accordance with the NPPF, this policy was not considered up to date as the council did not have a five year supply of housing and the policy restricted the location of housing.

In accordance with paragraph 14 of the NPPF the contribution 15 houses made to the supply of housing land was considered to weigh heavily in support of the appeal.

However, the inspector considered that the development would have an adverse effect on the character and appearance of the open area. In view of this, even though Policy GEN 10 was considered out of date, he still gave some weight to this policy as, although it restrained development, it also has a strategic purpose which seeks to prevent the coalescence of settlements and protect the setting of settlements which the proposal would adversely affect. This was considered contrary to the core planning principles in paragraph 17 of the NPPF.

The inspector considered that in this case, the need for housing in the area would be a material consideration which would outweigh the loss of grade 2 agricultural land and this would be consistent with Policy ENV 2 of the Local Plan and that the site was situated in a sustainable location.

The inspector also referred to paragraph 8 of the NPPF which states that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system and considered the proposal would bring social benefits in terms of making a contribution, albeit limited, to new housing provision and bring modest economic benefits. The Inspector attached significant weight to this.

However, the Inspector concluded that the proposal was considered to reduce in the openness of the Important Open Break and harm the character and appearance of the area. The proposal would not therefore meet the environmental dimension of sustainable

development. In addition the NPPF confirms that good design is a key aspect of sustainable development and a proposal should therefore improve the character of an area. On this basis he considered the proposal would not constitute a sustainable form of development and as such a presumption in favour of development did not apply and the harm to the environment would significantly and demonstrably outweigh the benefits of the proposal.

The appeal was dismissed.

Recommendations

None. The Council now has a five year supply of housing so the policies which were considered out of date in this appeal would now be given more weight in accordance with the NPPF.

APP/R1010/W/16/3164521:Land West of Cragg Lane, Newton: Outline Application with All Matters Reserved Residential Development of 80 Dwellings

Main Issues

The main issue in this case was the effect of the development on the character and appearance of the area which is in the setting of the Newton Conservation Area (NCA), the Old Blackwell Conservation Area (OBCA) and listed buildings and unlisted buildings of merit nearby.

Conclusions

The Inspector considered that the significance of both NCA and OBCA and the listed buildings and other traditional buildings within them derived from the special architectural and historic interest of Newton and Old Blackwell as agricultural settlements set in a rural landscape.

The construction of 80 dwellings was considered to introduce a significant block of modern development directly adjacent to a part of Newton where there is a high concentration of traditional buildings on a main route into the village and would have an urbanising and effect on the settlement edge. The Inspector considered that this would harm the landscape setting and agricultural significance of the NCA and the heritage assets within it.

The Inspector also considered that the development would harm views across the rural landscape between Old Blackwell and Newton and from the Grade II Listed Church, harming the setting of the Listed Building and OBCA.

The Inspector concluded that the proposal would harm the character and appearance of the area and would fail to preserve the settings of the NCA, OBCA and the heritage assets within them and as such would be contrary to the provisions of paragraph 132 of the NPPF and policies CON 1, CON 4, and CON 10 of the Bolsover District Local Plan.

The Inspector considered the harm arising from the development to be less than substantial and in accordance with paragraphs 133 and 134 of the NPPF and therefore the degree of harm is required to be balanced against any public benefits the development would bring. Considerable weight was attached to the benefit of 80 new dwellings contributing to the housing supply and the associated economic and social benefits it may bring. However the Inspector did not consider the benefits, even though they were public,

and substantial, did not outweigh the great weight attached to the harm identified to the setting of the designated heritage assets and the character and appearance of the area.

The Inspector acknowledged that the council considered that it had a five year supply of housing but went on to say that in this case, even if the council did not have a five year supply of housing, the harm identified to the setting of the designated heritage assets and the character and appearance of the area would still outweigh the benefits provided by the development.

The appeal was dismissed.

Recommendations

None. The existing policy on Development affecting the setting of Listed Buildings and Conservation Areas are in line with the guidance in the NPPF and the Council gave correct weight to the harm caused by the development.

APP/R1010/W/16/31650: Lodge Farm, 126 Shuttlewood Road, Bolsover: Outline Application with All Matters Reserved for Residential Development of 64 Houses.

Main Issues

The main issues in this case were:

- Whether there is a 5 year supply of housing land in the district;
- The effect of the proposal on the character and appearance of the local area;
- The effect of the proposal on heritage assets, in particular the setting of Bolsover Castle;
- The effect of the proposal on highway Safety;
- If any harm is identified, whether there are any material factors which would outweigh the harm identified in this case.

The application was refused by Planning Committee in accordance with the officer recommendation.

Conclusions

The Inspector considered Policy CON 10 to be consistent with chapter 12 of the NPPF. He also considered Policies GEN 2, GEN 11, GEN 8 and ENV 3 insofar as they seek to protect the countryside from unnecessary development, to be broadly in accordance with the core planning principles in the NPPF which recognises the intrinsic character and beauty of the countryside.

Paragraph 49 of the NPPF advises that housing applications should be considered in the context of a presumption in favour of sustainable development but that relevant policies for the supply of housing should not be considered up to date if the council cannot demonstrate a 5 year supply of housing land.

The Inspector assessed the available housing supply and how this was calculated. The Inspector concluded that the council could demonstrate a 5 year supply of housing land. The presumption in favour of sustainable development in paragraph 14 of the NPPF therefore didn't apply and the proposal was to be determined in accordance with the development plan unless material considerations indicated otherwise.

The Inspector considered the proposal would have a significantly harmful impact on the character and appearance of the countryside and would therefore fail to respect the character of the local area contrary to Policy GEN 2 of the Bolsover District Local Plan. The Inspector went on to say that the proposal would fail to recognise the intrinsic character and beauty of the countryside explicit within the NPPF's core principles and attached substantial weight to the harm to the character and appearance of the area.

The Inspector considered the proposal would impact on the setting of Bolsover Castle. It was considered that the proposal would have only limited effect but given the significance of the heritage asset (Grade I listed building and scheduled ancient monument) the effect of the proposal would amount to less than substantial harm which carries considerable importance and weight. Paragraph 134 of the NPPF requires that less than substantial harm to a heritage asset is weighed against the public benefits of a scheme.

The Inspector gave moderate weight to the provision of housing and limited weight to the economic benefits provided and limited weight to ecological improvements proposed. The Inspector concluded that if considered solely in relation to the effect on heritage assets, these combined benefits would be sufficient to outweigh the extent of "less than substantial harm" identified to the setting of Bolsover Castle and the proposal would comply with national policy in relation to heritage assets outlined in the NPPF and the Local Plan Policies.

However, the Inspector concluded that the harm to the setting of Bolsover Castle as a heritage asset, together with the harm to the character and appearance of the area would outweigh the moderate benefits of the development. The proposal was therefore not considered to be sustainable development with no material considerations which warranted a decision other than in accordance with the development plan. The proposal was concluded to be contrary to Policies GEN 2, GEN 8, GEN 11 and ENV 3 of the Bolsover District Local Plan.

The appeal was dismissed.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. The Inspector accepted the council has a five year supply of housing

Minor Development

APP/R1010/D/15/3035699: 397 Worksop Road, Mastin Moor Chesterfield: Two Storey Extension with New Loft Conversion Above

Main Issues

The main issues were:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the *National Planning Policy Framework* (the Framework) and development plan policy.
- The effect on the openness of the Green Belt.
- The effect of the proposal on the character and appearance of the host property and surrounding area of Mastin Moor.
- If the development is inappropriate whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Conclusion

The Inspector concluded that the extension would be a disproportionate addition over and above the size of the original building and therefore would be inappropriate development in the Green Belt contrary to the Framework and BDLP policies GEN 9 and HOU8 and that there would also be a loss of openness in the Green Belt. Together these factors constituted a significant material harm to the Green Belt to which substantial weight was attached. He also concluded that there was also other harm to the character and appearance of the property and its surroundings.

The appeal was dismissed

Recommendations

None.

The existing Green Belt Policy is in line with the Guidance in the NPPF.

APP/R1010/D/15/3136537: 27 High Street, Whitwell: Retention of the Installation of Exterior Cladding.

Main Issues

The main issue was the effect of the proposal on the character and appearance of the appeal property and on the Whitwell Conservation Area.

Conclusion

The Inspector concluded that the development harmed the character and appearance of the Conservation Area contrary to the requirement of Policy CON 1 of the Bolsover District Local Plan and that Policy CON 1 is consistent with the policies in Section 12 of the framework on conserving and enhancing the historic environment and as such should be given full weight.

The Inspector considered that the public benefits of the external insulation works did not outweigh the harm caused.

The appeal was dismissed.

Recommendations

None. The existing policy on Development in Conservation Areas are in line with the guidance in the NPPF.

APP/R1010/W/15/3131645: Former Clowne Tennis Club, Rood Lane, Clowne:Re-development of Land for Seven, Three Bed Dormer Bungalows with New Access Road off Court View.

Main Issues

The main issue was the effect of the development on highway safety.

The application was refused by Planning Committee against officer recommendation due to the impact on highway safety but this was not supported by the Highway Authority and the recommendation to Committee was to approve the proposal.

Conclusion

The Inspector concluded that the concerns over highway safety were unsustainable. He concluded that the proposal would result in an efficient and effective use of the site and was supported by the sustainability objectives of the National Planning policy Framework and found that there were no material issues which weighed significantly against it.

The appeal was allowed subject to conditions.

Recommendations

Careful consideration of the proposal is required and if the Highway Authority do not support refusal of a proposal on Highway Safety grounds this is likely to be given significant weight by the Planning Inspector.

APP/R1010/W/16/3149092: Crich View Farm, Tibshelf Road, Stainsby Common: Outline Application with all Matters Reserved for Residential Development of Two Dwellings.

Main Issues

The main issues are the:

- The effect of the development on highway safety
- Whether or not the proposal, given its rural location, would constitute a sustainable location for access to facilities and services

Conclusions

The council did not have a five year supply of deliverable housing. In the absence of a five year supply, policies ENV 3 and HOU 9 which seek to confine residential development to settlement frameworks were considered out of date in accordance with paragraph 49 of the NPPF and in accordance with that paragraph there should be a presumption in favour of sustainable development. The inspector considered that the site was not isolated residential development as considered in paragraph 55 of the NPPF and that the site was close enough to facilities, services and employment in Holmewood and to bus stops giving access to other settlements to be considered a sustainable location.

However, the Inspector considered the restricted visibility from the proposed access onto a busy, 50mph road meant that the proposal would result in increased risk to the safety of

highway users and as such would cause significant harm to highway safety. The proposal was therefore considered to conflict with policy GEN 1 of the Local Plan.

The Inspector therefore concluded that, when assessed against the Framework as a whole, the harm to highway safety would significantly and demonstrably outweigh the limited benefits of the scheme, including the contribution to housing supply and the sustainable location and as such the scheme was not regarded as sustainable development overall.

The appeal was dismissed

Recommendations

None. The Council now has a five year supply of housing so the policies which were considered out of date in this appeal would now be given more weight in accordance with the NPPF.

APP/R1010/W/16/3149755: Hickinwood Farm Yard and Barn, Hickinwood Lane, Clowne: Notification of Prior Approval for Change of Use of an Agricultural Building to Commercial (B1) Use.

Main Issues

The application was for prior approval under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development)(England)Order 2015 (GPDO) for change of use of a building to a commercial use. Class R allows for changes of use from agricultural buildings to B1 use subject to specific requirements and restrictions. The main issues were:

- Whether the proposal would be permitted development in respect of Class R of the GPDO, subject to the prior approval of certain matters.
- Is so, whether or not prior approval is required having regard to the assessment of transport and highways impacts of the development, noise impacts of the development, contamination risks on the site and flooding risks on the site.

Conclusions

Compliance with Class R requires that the building was solely used for an agricultural unit on 3rd July 2012 or in the case of a building which was not in use on that date when it was last in use. Schedule 2 Part 3, paragraph x of the GPDO sets out that an established 'agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture.

The inspector concluded that the evidence supplied did not demonstrate that the building was used solely for an agricultural use as part of an established agricultural unit on 3rd July 2012 or remained unused on that date, so that its last use prior to 3rd July 2012 was solely for an agricultural use as part of an established agricultural unit. The change of use therefore was not development permitted by the GPDO and there was no need to consider the prior approval matters as it would not alter the outcome of the appeal.

The appeal was dismissed.

Recommendations

None.

APP/R1010/W/16/3155405: Land East of 28 Church Road, Stanfree, Chesterfield: Outline Application with all Matters Reserved for Residential Development of Seven Dwellings

Main Issues

Given that the site was for residential development outside settlement frameworks when the council did not have a 5 year supply of deliverable housing the main issues were:

- Whether the occupants of the proposed dwellings would have reasonable access to services and facilities
- The effect of the proposal on the character and appearance of the area.
- Whether the proposal would contribute to the achievement of sustainable development.

Conclusions

The Inspector considered that Stanfree had little in the way of services and facilities and bus services were limited and there would therefore occupiers of the dwellings would need to rely on private car use to meet their daily needs.

The Inspector considered that proposal would detract harmfully from the rural character and appearance of the area contrary to Policies ENV 3 and HOU 9 of the Local Plan.

The Inspector also considered that the number of houses would be relatively small and therefore whilst the scheme would contribute positively to the increasing the supply of housing, this benefit would be small and would not be sufficient to encourage the provision of new local services

The Inspector concluded that the adverse impacts of permitting housing to encroach into open countryside in an area with few services or facilities making occupiers be reliant on the private car would not be outweighed by the benefits of the proposal and on balance the development would not contribute to the achievement of sustainable development.

The appeal was dismissed.

Recommendations

None. The Council correctly assessed the sustainability of the development. The Council also now has a five year supply of housing so the policies which were considered in this appeal would also now be given more weight in accordance with the NPPF.

APP/R1010/W/17/316977 : Cedar Farm, Chesterfield Road, Tibshelf: Conversion of Agricultural Barn and Store to One Residential Unit.

Main Issues

The application was for prior approval under Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development)(England)Order 2015 (GPDO) for change of use of a building to a residential use. Class Q allows for changes of use from agricultural buildings to residential use subject to specific requirements and restrictions. The main issues were:

- Whether the proposal would be permitted development in respect of Class Q of the GPDO, subject to the prior approval of certain matters.
- Is so, whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellingshouses.)

Conclusions

The Inspector concluded that the works required to the building to allow it to be used as a dwelling did not include new structural elements, just the over-cladding or partial replacement of existing blockwork with brick and as such considered the proposal to meet the requirements for prior approval under paragraph Q.2.(1) of the GPDO and therefore the proposal was permitted development.

The Inspector therefore went on to consider the location and siting of the building. The dwelling would be sited within, and share an access with, the working farmyard. It would be close to a cow shed and an area of open storage used for storing agricultural machinery and equipment, hay bales and hardcore would be directly in front elevation and amenity space of the proposed dwelling. To access the storage area it would be necessary to pass directly in front of the proposed dwelling and as the site is a working farm the equipment would be used frequently and at unsociable hours. The Inspector considered that this would lead to noise and disturbance for future residents of the dwelling and that there was a potential for odour nuisance from the cow shed.

The Inspector acknowledged that the dwelling would be occupied by appellant and his family but this couldn't be controlled and if the appellant sold the dwelling, future occupiers would be subject to the noise disturbance and odour.

The Inspector concluded that the siting of the building within the yard of a working farm, in close proximity to the agricultural machinery storage area and a cowshed would make it undesirable for the building to change from agricultural use to a dwelling.

The appeal was dismissed.

Recommendations

None.

APP/R1010/W/17/3166898: 125 Dale Close, Langwith: Use of Dwelling as Base for Private Hire Business

Main Issues

The main issues in this case are:

- The effect of the proposal on the living conditions of neighbouring occupiers with regard to on-street parking, noise, disturbance and visual amenity and
- Highway Safety.

Conclusions

The house is a semi-detached property at the head of a cul-de-sac in a residential area with parking for a number of vehicles. The proposed hours of operation were 0700hrs-2330hrs Monday-Friday, 0700-0100 Saturdays and 10.30 to midnight Sundays. There were five vehicles associated with the business.

The Inspector did not consider that the proposal would not materially affect the neighbours living conditions in terms of visual amenity or access to their properties. However the Inspector concluded that as a result of the number of vehicles and hours of operation the proposal in this residential would result in noise and disturbance which would adversely affect the living conditions of neighbouring occupants contrary to Policy GEN 2 of the Bolsover District Local Plan.

The Inspector also concluded that the number of vehicles associated with the dwelling and private hire business would result in increased vehicle movements outside the site and additional on street parking which would have an adverse effect on highway safety contrary to the requirements of Policies GEN 1 and GEN 2 of the Bolsover District Local Plan.

The appeal was dismissed

Recommendations

None

APP/R1010/W/17/3166928: Agricultural Building at Stockley Farm, Palterton: Conversion of Agricultural Barn and Store to One Residential Unit.

Main Issues

The application was for prior approval under Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development)(England)Order 2015 (GPDO) for change of use of a building to a residential use. Class Q allows for changes of use from agricultural buildings to residential use subject to specific requirements and restrictions. The main issues were:

- Transport and highways impacts of the development,
- noise impacts of the development,
- Whether the location and siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling house.

Conclusions

The building is in the middle of a farm yard. Some of the farm buildings are used for storage of bales and agricultural equipment but many of them are unused and in poor repair. Future occupants of the building would be living in close proximity to agricultural uses and would access the dwelling through the farm yard.

The Inspector considered that although existing agricultural activity is low at present this use could be intensified resulting in noise, dust, odour, disturbance and inconvenience for future residents. The Inspector concluded that the proposal would result in an unsatisfactory and therefore objectionable living environment for future occupants of the proposed conversion and as such the proposal would fail to meet the requirements of Schedule 2 Part 3 Class Q.2(b) and (e).

The Inspector also considered that the access to the site had relatively poor visibility and that vehicles travelled along Stockley Lane at Significant speed and the additional vehicle movements as a result of the proposed dwelling would increase highway safety risks. The Inspector concluded that this was a further indication of the unsuitable location of the conversion and the proposal also failed to meet the requirements of Schedule 2 Part 3 Class Q.2(b) and (e).

The appellant had suggested various conditions to tie the conversion to the ownership of the farm but the Inspector considered that the conditions suggested did not meet the six tests for conditions as they would not be precise, reasonable or enforceable and would therefore fail to meet all the tests of the NPPF and the PPG.

The appeal was dismissed.

Recommendations

None

APP/R1010/D/17/3168460: The Laurels, Ruthyn Avenue, Barlborough: Retention of Building for Stable and ancillary facilities

Main Issues

- Whether or not the building constitutes inappropriate development in the Green Belt.
- The effect of the building on the character and appearance of the countryside and
- If the building constitutes inappropriate development in the Green Belt, whether the resultant harm by reason of inappropriateness, and any other harm, are clearly outweighed by other circumstances so as to amount to the very special circumstances necessary to justify its approval.

Conclusions

The Council had expressed concern that the building had been constructed as a dwelling and the nature of the structure made it unsuitable as stables/kennels as described in the application. The Inspector determined the application on the basis that the building was stables and kennels for use in connection with the existing dwelling as described in the application form.

The Inspector considered the building to be inappropriate development in Green Belt as defined in the NPPF and Policy GEN 9 of the Bolsover District Local Plan as it didn't meet any of the exceptions to the presumption against development in the Green Belt set out in the NPPF or Policy GEN 9.

The Inspector also considered the building to have a neutral effect on the character and appearance of the area.

The Inspector concluded that paragraph 87 of the NPPF establishes that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances and paragraph 88 requires substantial weight to be given to that harm. Despite the Inspectors consideration that the building has a neutral effect on the character and appearance of the area, no other substantive conditions were identified which would outweigh the harm identified. Therefore the very special circumstances needed to justify the development did not exist and the development was contrary to the requirements of the NPPF and Policy GEN 9 of the Bolsover District Local Plan.

The appeal was dismissed.

Recommendations

None.

The existing Green Belt Policy is in line with the Guidance in the NPPF. However, applications should be considered as described and not considered for another use even if the type of construction appears unsuitable for the intended use.

APP/R1010/W/17/3172633: Land at Hilcote Lane, Hilcote: Construction and Operation of a 14MW Peaking Power Generation Plant and Ancillary Equipment and Access

Main Issues

The application was for a peaking power generation plant (PPGP). It comprises 7 natural gas fired engine-driven electricity generators housed in acoustically insulated steel containers. The electricity would support the local electricity network. The proposal included a number of transformers, gas kiosk, oil tanks etc and was enclosed by a 4.5m high acoustic fence.

- Whether, in the context of the relevant development plan policy, the proposed development would be acceptable on the site and
- The effect of the development on the character and appearance of the area.

Conclusions

The site is outside the defined settlement framework boundary. Policy ENV 3 of the Bolsover District Local Plan indicates outside settlement frameworks planning permission will only be granted in certain specific circumstances. One of these circumstances is whether the development is necessary in such a location or is required for the exploitation of sources of renewable energy. Policy ENV 3 does not elaborate on what is meant by “for the exploitation of renewable energy developments.”

The appellant indicated that the proposed flexible peaking power generation capacity specifically forms part of the renewable energy infrastructure, being developed to meet the UK’s obligations under the EU Renewable Energy Directive, because renewable energy sources are supplies that are dependent on the times of day and weather conditions. The Inspector considered it was not unreasonable to conclude that the development would constitute development required for the exploitation of sources of renewable energy and therefore met the requirements of Policy ENV 3 in this respect.

The Inspector also considered that the proposal environmentally stable, considered it would not impact on the vitality of Hilcote village and would not lead to unnecessary urbanisation and sprawl in the longer term. The Inspector concluded that the proposed development would meet the requirements of Policy ENV 3.

The Inspector also considered that given the proximity of the site to the motorway and Industrial development the proposal would not appear as an overly incongruous extension of built development into the open countryside so as to cause significant harm to its character or appearance.

The Concluded that the development would not cause substantive harm to the character or appearance of the countryside. It would not conflict with Policy ENV 3 of the Bolsover District Local Plan nor would it conflict with the core planning principle of the NPPF that indicates that planning should take account of the roles and character of different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.

The appeal was allowed subject to a number of conditions.

Recommendations

Careful consideration of the individual character of the countryside is required in each case. Supporting text in the emerging Local Plan should give clarity to what is meant by “for the exploitation of renewable energy developments.”

APP/R1010/W/17/3171022: Hickinwood Farm Yard and Barn, Hickinwood Lane, Clowne: Notification of Prior Approval for Change of Use of an Agricultural Building to Commercial (B1) Use.

Main Issues

The application was a resubmission of an application for prior approval under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development)(England)Order 2015 (GPDO) for change of use of a building to a commercial use. Class R allows for changes of use from agricultural buildings to B1 use subject to specific requirements and restrictions. The original application was refused and dismissed on appeal. The application was re-submitted with the addition of 2 affidavits as additional evidence.

The main issues were:

- Whether the proposal would be permitted development in respect of Class R of the GPDO, subject to the prior approval of certain matters.
- Is so, whether or not prior approval is required having regard to the assessment of transport and highways impacts of the development, noise impacts of the development, contamination risks on the site and flooding risks on the site.

Conclusions

Compliance with Class R requires that the building was solely used for an agricultural unit on 3rd July 2012 or in the case of a building which was not in use on that date when it was last in use. Schedule 2 Part 3, paragraph x of the GPDO sets out that an established ‘agricultural unit’ means agricultural land occupied as a unit for the purposes of agriculture.

The inspector again concluded that the evidence supplied did not demonstrate that the building was used solely for an agricultural use as part of an established agricultural unit on 3rd July 2012 or remained unused on that date, so that its last use prior to 3rd July 2012 was solely for an agricultural use as part of an established agricultural unit. The change of use therefore was not development permitted by the GPDO and there was no need to consider the prior approval matters as it would not alter the outcome of the appeal.

The appeal was dismissed

Recommendations

None.

APP/R1010/W/17/3176077: Land at Featherbed Lane, Bolsover: Extension to Stable Building to Provide Ancillary Facilities.

Main Issues

The main issue is whether the proposal is consistent with the objectives of local and national planning policies relating to development in rural areas, including the effect upon the character and appearance of the area.

Conclusions

The application was for an extension to a previously approved block of three stables and a tack room. The extension included a window and was to provide a mess room including kitchen area and toilet.

The site is in an area of open countryside. The Inspector considered the keeping of horses to be a use which requires a rural location and this was accepted by the council in the granting of the stable block.

The council had expressed concern that the proposed facilities were unnecessary for serving a private use where only three horses were kept. The Inspector disagreed and considered it reasonable for the users of the stables to require washing facilities/ toilet and an area to sit and shelter from inclement weather. The Inspector went on to say that if the users of the stables had such facilities it would reduce the need to travel to and from the site as users would be able to stay longer and therefore there were potential benefits to the environmental sustainability of the proposal in that respect.

The Inspector considered the extension to be of a scale and design in keeping with the approved stable block and that the screening around the site would screen the extension from wider views and as such would not have a harmful effect upon the character and appearance of the area

The Inspector concluded that on this basis the proposal complied with Policies ENV 3 and GEN 2 of the Bolsover District Local Plan and that these policies were consistent with the core planning principle of the NPPF which seeks recognition for the intrinsic character and beauty of the countryside.

The appeal was allowed subject to conditions requiring the proposed window to be removed from the scheme in order to minimise the opportunity for crime and that the extension be used for purposes ancillary to the keeping of horses only and no residential occupation to be carried out.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. However, applications should be considered as described and not considered for another use even if the type of facilities appears to be intended for a different use.

Appendix B:

Planning Appeal Decisions relating to decisions made in the Second Monitoring Period between April 2017 and March 2018

Major Developments

APP/R1010/W/17/3183977: Land at Sunny Bank, Tibshelf: Outline Application With All Matters Reserved Except Access for Residential Development.

Main Issues

The main issues are:

- Whether the development would be in an appropriate location with regard to the development plan, the National Planning Policy Framework and any other material considerations
- The effect on the character and appearance of the Important Open Area (IOA)
- The effect on local biodiversity
- Whether the development would have a safe and suitable road access.

Conclusions

The Inspector considered that in principle the development would not be in an appropriate location as it was outside settlement frameworks and would not maintain the open character if the IOA and as such was contrary to Policies GEN 10 and ENV 3 of the Bolsover District Local Plan.

The Inspector considered that the site was in an area rural in character and that the development would be a significant and prominent encroachment into open countryside and would fail to maintain the open character of the IOA contrary to Policies GEN 2 in relation to the character and appearance of the area and GEN 10 in relation to the IOA.

The Inspector considered there was no evidence to show the site supported protected species or that it was an important wildlife corridor. The Inspector did not consider that the development would have a significant adverse effect on local wildlife and mitigation works could enhance the site's biodiversity and as such the development would not be contrary to Policy ENV which aims to retain locally important habitats.

The Inspector agreed that the site only had access to adoptable roads via a private unmade road and would need to gain consent for the work on the unmade road to bring it up to adoptable standards. The Inspector also agree with the Highway Authority concerns about the visibility at the proposed junction. However the Inspector considered these to be design details which could be resolved and a pre-commencement condition could control this. On this basis the Inspector considered the development could have satisfactory road access and would not be contrary to Policy GEN 1 which is concerned with minimum requirements for development or GEN 2 in respect of highway access and traffic generation.

On balance the Inspector concluded that the council had a 5yr supply of housing but even if it didn't the weight to be given to housing policies remains a matter of planning judgement and that the council's countryside policies are in line with the Framework and the adverse impacts of the proposal would significantly outweigh the benefits when assessed against the Framework when taken as a whole such that the presumption in favour of sustainable development should not be applied.

The Inspector concluded that the development would be contrary to the relevant policies in the development plan and there were no material considerations of such weight as to warrant a decision other than in accordance with the development plan.

The appeal was dismissed.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. The Inspector accepted the council has a five year supply of housing.

APP/R1010/W/17/3188368: Land East of M1, North of Ball Hill, South Normanton: Outline Planning Permission for Site Remodelling, Development of Residential Dwellings, Car Parking, Access and Landscaping, Associated Works. Details of Access Included in the Application, All Other Matters Reserved.

Main Issues

The main issue was whether the site was an appropriate location for residential development with particular regard to protected trees, noise and ground conditions.

The application was refused by Planning Committee against officer recommendation.

Conclusions

The Inspector concluded that the purpose of an outline application for planning permission is to determine whether or not the principle of residential development on a site is acceptable. In this instance, whilst the scale of development, appearance, landscaping and layout were reserved for subsequent consideration, the access to the site was set out in detail. The Council did not object to the location of the proposed access and the Inspector agreed.

The Inspector also concluded that the purpose of indicative site layouts within the outline application process is to suggest how development could be carried out. The Inspector considered that the appellant had demonstrated an iterative process to the identification of the site's main constraints – trees, noise, ground conditions – and how these impacted upon the site's developable area and the proposal sought to retain flexibility regarding numbers of dwellings, given these constraints. The Inspector considered that the appellant had demonstrated that the principle of residential within the site would not be unacceptable, or unacceptably constrain residential development within the site.

The Inspector concluded that subject to conditions, sufficient control existed to allow an appropriate, and appropriately detailed, scheme to be devised fully informed by the site's detailed constraints.

The appeal was allowed subject to conditions.

Recommendations

The existing Policies considered were in line with the Guidance in the NPPF. However, outline applications should be considered as described in principle and only the matters not reserved should be considered in detail. Any indicative plans relating to reserved matters are only indicative and if no details of house numbers are included, even if only a

very small number of dwellings can be accommodated then the application may be considered approvable.

APP/R1010/W/18/3206018: Appletree Inn, Clowne Road, Stanfree: Outline Application with All Matters Reserved for Development of Up to 38 Dwellings including Public Open Space and Other Associated Matters.

Main Issues

The main issues were:

- Whether the proposed development would be sustainable in respect of its location
- The effect of the proposed development upon the character and appearance of the area
- The effect of the development on protected species
- Whether the site could be adequately drained of surface water
- Whether the proposed development would make adequate provision towards public infrastructure

Conclusions

The Inspector considered that the development would not be sustainable in terms of its location as it did not lend itself to sustainable transport choices and most journeys would be undertaken by motor vehicle. This would conflict with paragraph 103 of the NPPF and Policies GEN 8 and ENV 3 of the Bolsover District Local Plan.

The Inspector considered that the site was a field partly surrounded by houses partly surrounded by open countryside and the proposal would result in the built area encroaching into the countryside changing the character of the area from rural to suburban. This was considered not to enhance the natural environment by recognising the intrinsic character and beauty of the countryside and as such was contrary to paragraph 170 of the NPPF.

The Inspector concluded the development would harm the character and appearance of the countryside contrary to Policy GEN 2 of the Bolsover District Local Plan.

The Inspector concluded that the proposal would not harm protected species and as such would not conflict with Policy ENV 5 of the Local Plan or paragraph 174 of the NPPF.

The Inspector also concluded that the site could be adequately drained of surface water and as such complied with paragraph 174 of the NPPF.

In the absence of a legal agreement being put forward the proposal was contrary to Policy HOU 6 of the Local Plan and paragraph 64 of the NPPF which requires affordable housing provision in major housing development.

The appeal was dismissed.

Recommendation

None

The policies considered are in line with the NPPF

APP/R1010/W/18/3198997: Glapwell Nurseries, Glapwell Lane, Glapwell: Outline Application with All Matters Reserved Except Means of Access for Redevelopment and Relocation of Nursery and Garden Centre and Residential Development for up to 65 Dwellings and Ancillary Works

Main Issues

- Whether there is a 5 year supply of housing in the District
- The effect of the development on the character and appearance of the area and
- Whether future occupiers of the development would be unduly reliant on private transport

The application was refused by Planning Committee in accordance with the officer recommendation.

Conclusions

The Council's ability to demonstrate a 5 year supply of deliverable housing sites was the main issue as it affected whether the appeal was to be considered against the 'tilted balance' set out in part d) of Paragraph 11 of the Framework. This states that where a 5 year supply cannot be demonstrated, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The Council asserted that it is able to demonstrate a 5 year supply of deliverable housing sites taking the housing requirement figure of 272 dwellings per annum set out in the emerging local plan. The appellant challenged the inclusion of 13 sites in the supply. The Inspector removed 7 of the sites and reduced the numbers counted on two others.

Despite the removal of these sites from the calculation the Inspector concluded that this left a housing supply of 1450 dwellings which still exceeds the requirement of 1391 and as such confirmed that the Council can demonstrate a five year supply of Housing. The Inspector considered that tilted balance set out in paragraph 11 of the framework therefore did not apply and the development should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Inspector concluded that the appeal site is located in the countryside outside of the Settlement Framework for Glapwell. Policies GEN 8 and ENV 3, seek to restrict new development in the countryside unless it would meet one of a limited number of exceptions. The development would not meet any of these exceptions and would therefore be contrary to those policies. The Inspector also concluded that whilst the Local Plan is quite old, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and as set out above, the Council is also able to demonstrate a 5 year supply of deliverable housing sites.

Set against this, the Inspector concluded that the site would not significantly harm the character and appearance of the area, and would be relatively well served by services, facilities, and public transport. In addition, the Inspector found that the development would provide for the restoration and reuse of the Grade II listed bothy within the site, which is identified in the Council's Heritage at Risk Strategy and that this would be a significant benefit that would put the building into a viable long term use.

The Inspector concluded the development would also provide a significant number of new dwellings, including affordable housing, and would generate economic benefits through the

creation of employment and the purchasing of materials and furnishings. The planning obligation proposed would also provide contributions towards off-site sports facilities, children's play facilities, education, and public art. Moreover, the existing garden centre would be retained and improved.

The Inspector concluded that overall, there was conflict with the development plan but no other significant harm would arise from the development. Moreover, significant benefits would be delivered. In this case, the conflict with the development plan would therefore be outweighed by other material considerations.

The appeal was allowed.

Recommendation

The Policies considered are in line with the NPPF and the Council is still considered to have a 5 year supply of deliverable housing, the Inspector did give different weight to other material considerations and notably in this decision; the Inspector placed very limited weight on the Council's settlement hierarchy study.

Careful consideration also needs to be given to the assessment a site's deliverability in line with the 2018 NPPF before counting it in the Councils supply of deliverable housing noting the Inspector's rigorous dismissal of several sites listed in the Council's five year supply.

Minor Developments

APP/R1010/W/17/3188607: 2 Tibshelf Road, Westhouses: Outline Application with All Matters Reserved for Two Detached/Semi-Detached Houses

Main Issues

The main issues were:

- Whether the development would be in an appropriate location with regard to the Council's development plan and the NPPF,
- The effect of the development on the character and appearance of the area
- Whether the development would be affected by the historic coal mining legacy.

Conclusions

The Inspector considered that Policies ENV 3 and HOU 9 were in line with the NPPF and as the site was outside defined settlement frameworks, new houses would require special justification as set out in these policies. Such justification had not been provided and as such the development would not be in an appropriate location and be contrary to HOU9 and ENV 3.

The Inspector considered that the site would be a logical infill site and the scale and form of development could be controlled in a reserved matters application to ensure the development was in keeping with the established development pattern. On this basis the Inspector concluded the proposal would not have an adverse effect on the character and appearance of the area and would not be contrary to the guidance in the NPPF.

The Inspector also considered that although a coal mining risk assessment had not been submitted, a condition could be imposed to require submission of further investigative reports to address the coal mining issues and subject to such a condition the proposal would be in line with paragraphs 120 and 121 of the NPPF.

The Inspector concluded that although there would be no harm to the character and appearance of the area or the coal mining legacy, the site is outside the settlement framework and therefore contrary to the relevant policies in the Local Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determination of the appeal in accordance with the development plan unless material considerations indicate otherwise and the Inspector did not consider that there were any material considerations of such weight as to warrant a decision other than in accordance with the development plan.

The appeal was dismissed.

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF.

APP/R1010/D/17/3186544: 40 Brunner Avenue, Shirebrook: Single Storey and Two Storey Extension to Side and Rear.

Main Issues

The main issue was the effect of the development on the living conditions of occupiers of 39 Brunner Avenue with particular regard to daylight and outlook.

Conclusions

The Inspector concluded that the proposal would have a significant, harmful impact upon the outlook from and daylight and sunlight received by the nearest ground floor windows of the attached dwelling and would have a significantly enclosing, oppressive, overbearing impact on the outlook from the ground floor windows. This was considered contrary to Policy GEN 2 of the Bolsover District Local Plan which states that planning permission will not be granted for development which creates materially harmful impacts on the local environment unless these impacts are outweighed by the social or economic benefits to the community offered by the development.

The development was supported by the resident of the dwelling affected by the proposal but this support was not considered to be of sufficient social or economic benefit to outweigh the considerable harm identified above.

The appeal was dismissed.

Recommendations

None. The Inspector agreed with the Council's assessment of the impact of the development and Policy GEN 2 of the Local Plan is in line with the NPPF.

APP/R1010/W/17/3184727: Land to the East of Rowthorne Lane, Glapwell: Outline Application with All Matters Reserved for 9 Self-Build Dwellings

Main Issues

The main issues were

- Whether the appeal site would be an appropriate location for residential development having regard for the policies of the development plan, the NPPF and any other material considerations
- The effect on the character and appearance of the Important Open Area (IOA)

Conclusions

Paragraph 49 of the NPPF advises that housing applications should be considered in the context of a presumption in favour of sustainable development but that relevant policies for the supply of housing should not be considered up to date if the council cannot demonstrate a 5 year supply of housing land.

The Inspector assessed the available housing supply and how this was calculated. The Inspector concluded that the council could demonstrate a 5 year supply of housing land. The presumption in favour of sustainable development in paragraph 14 of the NPPF therefore didn't apply and the proposal was to be determined in accordance with the development plan unless material considerations indicated otherwise.

The Inspector considered that the fact that the site was outside settlement frameworks in an area of open countryside and the fact that there was no special justification for the dwellings meant that the site would not be an appropriate location for residential development as the proposals would be contrary to Policies ENV 3 and HOU 9 of the Bolsover District Local Plan.

The Inspector also considered that the development would be detrimental to the character and appearance of the area and would fail to maintain the open character of the Important Open Area which would be contrary to Policies GEN 2 (in relation to character and appearance) and GEN 10 (in relation to maintaining the open character of the area) of the Bolsover District Local Plan.

The Inspector concluded that the proposal would have some limited economic and social benefits but that these modest benefits would not outweigh the harm identified above.

The appeal was dismissed

Recommendations

None.

The existing countryside Policy is in line with the Guidance in the NPPF. The Inspector accepted the council has a five year supply of housing

APP/R1010/W/18/3196271: 156 Station Road, Shirebrook: Change of Use From Storage For Adjacent Shop to Retail Unit and One Self-Contained Flat

Main Issues

The effect on the significance of The Beehive, a visually distinct terrace which was built for Shipstones Brewery and was the first purpose built large retail unit with family accommodation over within the Mansfield District and which is an unlisted building of merit and a non-designated heritage asset.

The application was refused by Planning Committee against officer recommendation due to the impact on the unlisted building of merit.

Conclusions

The building is an unlisted building of merit and a non-designated heritage asset (NDHA.) Such assets have a degree of significance. The Framework advises that the effect of an application on the significance of the NDHA should be taken into account and a balanced judgement required having regard to the scale of harm or loss of significance of the heritage asset.

The Inspector considered that the external appearance of the building would not be materially altered and the retail use operating in the shop unit at the front of the building would not be lost. The capacity for retail use would be reduced by the proposed sub-division to create the flat but no evidence was given to demonstrate that the reduced floor space would render the unit unviable.

The Inspector considered that the building was on the edge of the town centre in a primarily residential area where residential development would be appropriate and the development would provide some residential development whilst retaining the retail frontage to safeguard the character and appearance of the building.

The Inspector concluded that the development would not have a harmful effect on the significance of The Beehive and would not conflict with one of the core principles of the Framework which aims to ensure that heritage assets are conserved in a manner appropriate to their significance.

The appeal was allowed and the development permitted subject to conditions relating to compliance with amended plans, details of the window and door in the side wall to be submitted and the retail of the retail unit for A1 retail use.

Recommendations

Careful consideration of the proposal is required and if the Planning Officers do not support refusal on impact on heritage assets; this is likely to be given significant weight by the Planning Inspector

APP/R1010/W/18/3202999: Land and Buildings to the East of Willow Farm, Mansfield Road, Creswell: Refusal of UPVC Window Details Submitted in an application for Approval of Details Reserved by Condition following Approval of Planning Permission For Conversion of Barns to Two Dwellings

Main Issues

The main issue was whether the windows and doors installed preserved or enhanced the character and appearance of the Creswell Conservation Area.

Conclusions

The Inspector considered the farmhouse and barns to comprise a model farmstead which were identified as unlisted buildings of merit and contributed positively to the character and appearance of the conservation area.

The Inspector considered that neither the material nor the chunky moulded profile of the fenestration was typical of the historic barn such that the resulting appearance of the barn now looked more like a dwelling on a modern housing estate and its rural character and appearance had been substantially diminished.

The Inspector also considered that just because this part of the conservation area was not publically prominent, it did not follow that its heritage value should not be protected.

The Inspector concluded that the windows and door harmed the character and appearance of the conservation area contrary to Policies CON 1 and ENV 4 of the Bolsover District Local Plan.

The appeal was dismissed

Recommendation.

None.

The policies considered are in line with the NPPF

APP/R1010/W/18/3205664: Land to the South of 32 Chesterfield Road, New Houghton: Residential Development for One Dwelling

Main Issues

The main issues were the effect of the proposed development upon

- The character and appearance of the area and;
- The provision of open space

Conclusions

The Inspector considered that the back of the building would be very plain and would sit close to the boundary with the open space and due to the prominent and forward position of the proposed dwelling in relation to other houses the dwelling would be an unattractive feature in the street scene.

The Inspector also considered that the gable elevation which faced the cul-de-sac would also be plain especially at first floor and would be unsightly due to the prominent expanse of unbroken brickwork.

The Inspector considered that the combination of the proposed position forward of the general building line and the prominent plain elevations would result in development that would have a harmful effect upon the character and appearance of the area contrary to Policy Gen 2 of the Bolsover District Local Plan and paragraph 127 of the NPPF.

The Inspector accepted the site was designated as open space and recreation in the Local Plan but considered that as the land was owned by the applicant and not maintained for recreation and was previously part of the garden to a house which was previously demolished to build the three houses to the rear of the site, then the proposal would not have a harmful effect upon the provision of open space.

The Inspector concluded that although there was no harm to the provision of open space, there was significant harm to the character and appearance of the area.

The appeal was dismissed.

Recommendation

No recommendation in terms of decision making. The part of Policy GEN 2 considered in this application is in line with guidance in the NPPF.

Consider removal of the site as an open space allocation in the emerging Local Plan.

Appendix C: Planning Enforcement Appeal Decisions from April 2015

The performance of Local Authorities in relation to the outcome of enforcement appeals are not being measured in the same way as planning appeals. However it is considered useful to report the enforcement appeals within the same time period to address any issues or lessons learnt from these appeal decisions.

APP/R1010/C/16/3149450: Land South of 10 Vivian Street, Shuttlewood: Appeal Against an Enforcement Notice Requiring the Ceasing of the Use of the Land for the Stationing of a Caravan and the Removal of a Static Residential Caravan from the Land.

Main issues

The breach of planning control alleged was the use of land for siting a residential static caravan without planning permission. An enforcement notice was issued requiring:

- The use of the land to cease and;
- Permanently remove the caravan from the site

Conclusions

The Inspector amended the notice to allege a material change of use of the land to use for the siting of a static caravan used for human habitation.

The site was used for growing vegetables and flowers outside any domestic cartilage. The appellants stated the caravan was not connected to any services and was used for storage of garden tools and equipment and the living space was used for a rest from gardening activities and not for residential purposes. The burden of proof lied with the appellants.

The council stated the caravan met the tests for definition of a caravan and had all the apparatus for everyday living on undeveloped garden land.

The Inspector agreed that the caravan met the legal definition of a caravan as it was a structure of normal dimensions, designed for human habitation and could still be moved as a single structure. The Inspector considered the fact that some of the fixtures had been removed and that it was not connected to services did not alter that fact.

The Inspector quoted previous case law and considered that it was not possible to know whether a material change of use had occurred without knowing the purpose for which the caravan was used and whether that purpose fitted with the existing land. On this basis he concluded that the stationing of a caravan was not a material change of use in itself.

He concluded that the use of the site was a private garden and the caravan was used for storage and recreation associated with that use and was not used for residential occupation and that that use was incidental to the use as garden land and therefore did not require planning permission.

The Inspector also concluded that the council cannot issue a notice in respect of a breach of control that has not yet taken place and there was no evidence that the caravan was used for residential occupation. This meant the alleged use set out in the enforcement notice had not occurred.

The enforcement notice was quashed.

Recommendations

Care needs to be taken to assess the use of land on the basis it is used at that time and not consider any other use even if the type of facilities appear to be intended for a different use. The alleged change of use/breach of planning control has to be specific and has to have already occurred.

APP/R1010/C/17/3170679: The Laurels, Ruthyn Avenue, Barlborough: Appeal Against Enforcement Notice Requiring Removal of Building for Stable and ancillary facilities and Restoration of Site to Grassed Area.

Main Issues

Planning permission had previously been refused for the retention of the building and an appeal had been dismissed. This was an appeal on ground (a) against the enforcement notice requiring demolition of the building within 3 months and the restoration of the site to a grassed area within 6 months. The main issues were:

- Whether or not the appeal building constitutes inappropriate development in the green belt;
- The effect of the building on the character and appearance of the countryside; and
- If inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify its retention.

Conclusions

The Inspector agreed with the decision on the dismissed planning appeal and considered the building to be inappropriate development in the Green Belt which, by definition, was harmful as set out in the NPPF and attached substantial weight to that harm.

The Inspector concluded the considerations put forward in support of allowing the appeal held very limited weight and did not clearly outweigh all of the substantial harm identified in respect of inappropriateness and therefore the very special circumstances necessary to justify the development did not exist.

It was concluded that the development conflicted with the aims and objectives of Policy GEN 9 of the Bolsover District Local Plan and the NPPF.

The appeal was dismissed, planning permission refused and the enforcement notice upheld.

Recommendations

None.

The existing Green Belt Policy is in line with the Guidance in the NPPF.