

GEORGE F. WHITE

Planning Statement

Removal of Planning Condition 13 of 05/NP/57
High Tipalt
Greenhead
Brampton

March 2017

Craig Ross

CLIENT NAME	Miss M Almond
CLIENT REF	ALN509665
DATE	March 2017
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APPENDICES

None

Introduction

- 1.1 George F. White (Planning and Development) are instructed by Miss M Almond ('the applicant') to submit a planning application for the removal of Condition 13 of Planning Consent 05/N/57 at High Tipalt, Greenhead, Brampton.
- 1.2 Having regard to section 38 (6) of the Planning and Compulsory Purchase Act 2004, this planning statement considers the application's conformity with the Development Plan, relevant national planning policy and other material considerations.
- 1.3 In addition to this statement, the application also comprised the following set of plans detailing:
 - Site Location Plan

Site and Surroundings

- 2.1 The site and surrounds consist of the existing house and converted Barn. The site is located to the east of Gilsland and north of Greenhead with access via an unclassified road which connects to the B6318.

Proposed Development

3.1 Condition 13 of planning consent 05/NP/0057 reads as follows;

This permission relates to the provision of holiday accommodation. For the purposes of this condition, holiday accommodation is accommodation which shall not be occupied by the same person or group of persons for a period in excess of 12 weeks during any one calendar year.

The accommodation hereby permitted shall not authorise the use of the proposed development for human habitation during the period of 2 consecutive weeks from 6th January each year, or such other consistent time period of 2 weeks as may be agreed in writing by the Local Planning Authority.

In order to facilitate the policing / enforcement of the foregoing, a register of occupiers of the premises to which this planning permission relates shall be made available to the officers of the Local Planning Authority upon request, following 24 hours notice.

Reason: The development is such that is [it] could not be approved for permanent residential accommodation (Policy CD4 & CD5 of the Northumberland National Park Local Plan).

3.2 As can be understood from the above, the condition imposes significant and stringent restrictions on the property to ensure that it is not used for permanent residential accommodation. This includes preventing its occupation for periods in excess of 12 weeks in any calendar year whilst also requiring that the accommodation is 'closed' for human habitation for 2 consecutive weeks, currently starting on the 6th January each year. Finally, to ensure enforcement of such restrictions a register of all occupiers is required to be kept, and presented to the Local Planning Authority upon request.

3.3 Following the grant of planning permission, the applicants undertook the change of use of the building and the various conversion works of the attached barn and have since established a holiday cottage business on the site. However they are finding that the planning condition is imposing unnecessary restrictions on both the property and business and wish it to be removed to allow further flexibility in the future for themselves, the business or should the look to sell the property.

- 3.4 The aim is to continue to run the business, but to also have the option to let the property as longer term let or if needed to sell the property allowing greater flexibility to any future purchaser. The ability to move between markets will enable the property to be put to a viable long term use which is both reactive to market conditions but which is also flexible for the applicants to manage and operate the business going forward or indeed, should they choose to sell the property.

Planning Background

Planning History

- 4.1 Planning Application - 05NP0057, Change of use to holiday accommodation, rebuilding of adjacent barn and erection of 6.5 metres to hub, wind turbine, High Tipalt, Greenhead, Brampton, Carlisle, CA8 7JB - Complete Granted Conditionally

Pre-application

- 4.2 A Pre-application has not been undertaken with the Local Planning Authority. Instead a detailed review of existing and historic National and Local Planning Policy has been undertaken including a review of recent appeal decisions which has informed the compilation of this planning application.

Community Consultation

- 4.3 No community consultation has been undertaken as a result of the type, nature and content of the application.

Planning Policy

- 5.1 Under Section 73 of the 1990 Planning Act an application may be made to the local planning authority for the development of land without complying with conditions subject to which a planning permission was granted. In determining an application under Section 73 the local planning authority must only consider the condition attached.
- 5.2 The reason for the condition imposed is therefore fundamental in the decision making of the local planning authority. The reason given was that *“The development is such that is [it] could not be approved for permanent residential accommodation (Policy CD4 & CD5 of the Northumberland National Park Local Plan)”*. Having reviewed the policies being applied at the time, it is noted that they are not saved and have been replaced by Local Development Framework Core Strategy & Development Policies March 2009.
- 5.3 The planning policy for consideration of the removal of condition must therefore have regard to the National Planning Policy Framework (2012) and the relevant policies of the statutory Development Plan where considered to be in conformity with the NPPF, as well as other material considerations where relevant.
- 5.4 Planning law (section 38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

National Planning Policy Framework (NPPF)

- 5.5 In March 2012, the Government issued the NPPF, setting out its planning policies for England and how these are expected to be applied. The Rt Hon Greg Clark MP, the then Minister for Planning explained in the Ministerial foreword that “people have been put off from getting involved [in planning] because planning policy itself has become so elaborate and forbidding – the preserve of specialists, rather than people in communities”. It is the intention of the NPPF to change this and in doing so the NPPF replaced over a thousand pages of national policy with around fifty pages, written simply and clearly.
- 5.6 The foreword goes on to explain the purpose of planning, which is to achieve sustainable development and defines the following;

Sustainable means ensuring better lives for ourselves without making lives worse for future generations; and

Development means growth.

5.7 Setting this in context the foreword confirms that;

- We must accommodate the new ways by which we earn our living in a competitive world;
- We must house a rising population, which is living longer and wants to make new choices;
- We must respond to the changes that new technologies offer us.
- Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate.

5.8 Sustainable development is therefore about change for the better and positive growth which makes economic, environmental and social progress. The planning system is about helping to make this happen. As a result and in order to fulfil its purpose of helping achieve sustainable development, planning must not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which we live our lives.

Achieving Sustainable Development

5.9 The NPPF (Para 6) establishes that the purpose of the planning system is to contribute to the achievement of sustainable development. It goes on to identify (Para 7) three dimensions to sustainable development which are economic, social and environmental dimensions setting out (Para 8) that these should be sought jointly which results in the planning system adopting a number of roles.

5.10 It identifies (Para 9) that ‘pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in peoples quality of life’ including (amongst others) ‘widening the choice of high quality homes’.

5.11 Para 10 states “plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas”.

The Presumption in Favour of Sustainable Development

5.12 Clearly stating the NPPF's intentions (Para 14) sets out that there is a 'presumption in favour of sustainable development'. For decision – taking this means

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless;
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or
 - Specific policies in the framework indicate development should be restricted

Core Planning Principles

5.13 There are 12 principles set out in the NPPF that underpin both plan-making and decision-taking which fit within the overarching roles that the planning system ought to play.

- Not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- Every effort should be made objectively to identify and then meet the housing needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the community;
- Secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- Recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it;
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Delivering a Wide Choice of High Quality Homes

5.14 A key aim of the NPPF (Para 50) is ensure the delivery of a wide choice of high quality homes, to widen the opportunity for homes ownership and to create sustainable, inclusive, and mixed communities. The NPPF therefore expects local planning authorities to;

- Plan for a mix of housing based on current and future demographic trends and the needs of different groups in the community, such as people wishing to build their own homes; and
- Reflect local demand and identify the type of housing that is required;

5.15 In rural areas the NPPF identifies (Para 54) that local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs. This can be for affordable homes and rural exception sites. In doing so, and to help promote sustainable development in rural areas housing should be located where it will enhance or maintain the viability of rural communities. Paragraph 55 provides an example of this and identifies;

“Where there are groups of smaller settlements, development in one village may support services in a village nearby”.

5.16 Paragraph 55 also states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

Decision-Taking

5.17 The NPPF advises Local planning authorities to approach decision-taking in a positive way to foster the delivery of sustainable development (Para 186) and to “look for solutions rather than problems, seeking to approve applications for sustainable development where possible”.

5.18 Para 187 states, “local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”.

Statutory Development Plan

Local Development Framework Core Strategy & Development Policies – March 2009

5.19 Local Development Framework Core Strategy & Development Policies – March 2009 (Local Plan) is a set of documents containing the policies and programmes which guide the development and use of land in the National Park. Policies within the Local Plan also have clear links to the Northumberland National Park Management Plan. These policies are used to inform decisions on planning applications and appeals. The Local Plan consists of the following documents;

- The Northumberland National Park Core Strategy and Development Policies (adopted in March 2009);
- Statement of Community Involvement (SCI);
- Supplementary Planning Documents (SPDs);
 - The Design Guide SPD (2011)
 - The Landscape SPD (2011)
 - The Otterburn Camp SPD (2007)
- Sustainability Appraisal;
- Local Development Scheme; and
- Annual Monitoring Reports

Material Planning Considerations

5.20 As noted above planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. It is important to consider the term 'other material considerations'. Whatever may have been the genesis of this term; it now must be recognised to have a much wider connotation than originally intended and can cover social and economic considerations.

- 5.21 The wide scope of material considerations is well documented and can be illustrated by the decision of Cranston J in *In R (on the application of Copeland) v Tower Hamlets LBC* [2011] JPL 40 where it was held that promoting social objectives could be a material consideration. Ultimately the courts will determine whether a factor in law is capable of being a material consideration; however the weight to be given to the consideration is a matter for the local planning authority or the Secretary of State.
- 5.22 As a result there are a series of key issues that must be considered to be material planning considerations. As part of this case it is important to consider previous decisions issued by the Local Planning Authority and also the Planning Inspectorate. This will be addressed below with comment and will be used further as part of the assessment of key issues along with examples of other material planning considerations where necessary.

Main Issues

- 6.1 Based upon an assessment of the planning policy and the supporting statements, this section will consider and address the following key issues:

- The Principle of Development;

Principle of Development

- 6.2 The starting point for the removal of this condition is to consider the reason for its imposition. The Local Plan as adopted in April 1996 contained the policies which are referenced within the reason namely, CD4 and CD5, for completeness the policy wording is copied below.

***Policy CD4** - New housing development will be permitted in the following settlements where it is confined to infilling of gaps within an otherwise built up frontage or minor rounding off within the village envelope, as defined on the Proposals Map, which by its scale and location would not adversely affect the general appearance and character of the settlement: Elsdon, Rochester, Falstone, Stonehaugh, Harbottle All proposals will be expected to achieve a high standard of design and conform with Policies CD1 and CD2.*

***Policy CD5** - In the following settlements, housing development will be restricted to the infilling of gaps for only one or two houses which do not adversely affect the general appearance and character of the settlement: Alwinton, Kirknewton, Greenhaugh, Kilham, Holystone, Stannersburn, Ingram, Tasset/ Lanehead All proposals will be expected to achieve a high standard of design and conform with Policies CD1 and CD2.*

- 6.3 It is noted that the policies used to support the reason attached to the occupancy condition referred to new housing and principally new housing that would be located within settlements. However, the accommodation that was provided and restricted to holiday use was created through a conversion scheme for which different policies related.
- 6.4 It is therefore suggested that the policy base to which the restriction relates is not relevant and further is no longer saved. As a result the planning policy for consideration of the removal of condition must therefore have regard to the National Planning Policy Framework (2012) and the relevant policies of the statutory Development Plan where considered to be in conformity with the NPPF, as well as other material considerations where relevant.

- 6.5 Having reviewed the policies of the Local Plan there are issues arising both with regard to their content and also age. Principally the policies are now eight years old and adopted pre NPPF. Policy S7 of the Local Plan provides three scenarios whereby the conversion of buildings within the open countryside will be supported. These scenarios principally relate to the creation of tourism accommodation, affordable housing and open market local needs accommodation.
- 6.6 Taking into account Section 6 of the NPPF there is a need to boost significantly the supply of housing and accordingly at Para 55 to promote sustainable development, homes in the countryside will be supported where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. The NPPF does define housing within the context of Para 55 and therefore housing should be regarded as open market and unrestricted as would be the common understanding. Therefore there is a conflict between the approach adopted by Policy S7 and the NPPF and as such the NPPF should take precedence.
- 6.7 Going back to the wording of the reason attached to the condition it was stated the approval could not be given for permanent accommodation. Clearly and as a result of the deletion of Policies CD4 and CD5, the conflict between the Local Plan and the NPPF and that the NPPF is looking to boost significantly the supply of housing as well as providing a special circumstance under Para 55 which would coincide with the original development proposal, support should be given for the removal of the restrictive planning condition.

Conclusion

- 7.1 The application proposes the removal of a holiday occupancy condition to allow the use of the buildings to be used more flexibly and potentially as full time residential accommodation. The proposal has been assessed against local and national planning policy and causes no conflict in terms of the principle of development. The removal of the current planning condition would not change the existing use which is residential but would allow full time occupation rather than the limited duration as currently permitted. Therefore the proposal represents a sustainable form of development in accordance with the NPPF and as such should be approved without delay. |

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