

## **DELEGATED DECISION REPORT**

<b>Application Reference Number</b>	17NP0036
<b>Description / Site Address</b>	Removal of condition 13 (holiday accommodation use) of planning permission 05NP57 - Change of use to holiday accommodation, rebuilding of adjacent barn and erection of 6.5 metre to hub turbine at High Tipalt, Greenhead, Carlisle, Cumbria, CA8 7JB
<b>Expiry date of publicity / consultations</b>	1 June 2017 (Consultees only)
<b>Last date for decision</b>	27 June 2017

### **Details of Proposal & Site**

This application relates to a property that was a former agricultural building, converted into a unit of holiday accommodation through the approval of application reference 05NP0057.

The property is situated in an isolated rural location, around 3 miles north-east of Greenhead, and is accessed via a track serving only High Tipalt.

This proposal seeks to remove condition 13 of permission 05NP0057, which currently restricts the occupancy of the premises for holiday accommodation, in order to allow for use as a private residential dwelling, or as holiday accommodation.

No physical works or other changes to the existing permission are proposed.

### **Relevant Planning Policy**

#### **National Policies**

- *National Planning Policy Framework (NPPF) (2012)*
- *Planning Practice Guidance*

### Local Policies

- *Northumberland National Park Authority Core Strategy and Development Policies Document (Core Strategy) (2009)*

Policy 1	<i>Delivering Sustainable Development</i>
Policy 3	<i>General Development Principles</i>
Policy 5	<i>General Location of New Development</i>
Policy 7	<i>Conversion of Buildings outside Settlements</i>
Policy 9	<i>Managing Housing Supply</i>
Policy 10	<i>New Housing Development</i>
Policy 11	<i>Affordable Housing</i>
Policy 12	<i>Transport and Accessibility</i>
Policy 15	<i>Sustainable Tourism &amp; Recreation Development</i>
Policy 17	<i>Biodiversity and Geodiversity</i>
Policy 18	<i>Cultural Heritage</i>
Policy 19	<i>Tranquillity</i>
Policy 20	<i>Landscape Quality and Character</i>
Policy 25	<i>Renewable Energy and Energy Efficiency</i>

### Relevant Planning History

05NP0057 – Change of use to holiday accommodation, rebuilding of adjacent barn and erection of 6.5 metres to hub, wind turbine (approved, subject to conditions, 11/01/06)

### Consultation/Representations

**Greenhead Parish Council:** No objections.

**NNPA Access Officer:** The response notes that there is one public bridleway in close proximity to the proposed location and there is a significant area of open access land surrounding the property, but that it is not envisaged that the proposals would impact on this public right of way or other access opportunities in the area.

**A notice was placed at the site**, inviting representations by 1<sup>st</sup> June 2017. **One letter of support** for the proposals was received, summarised below:

- The property has not had much use over the years as a holiday let;
- There are too many holiday lets in the area making it difficult to make an economic return on investment;
- There is a national shortage of housing and the NNPA should play its part in meeting this shortage;
- The NNPA should have a flexible approach to use of accommodation;
- If the property does not have an economic use today it will only fall in to disrepair.

## **Assessment**

The key material planning consideration is the principle of the development. The proposal's effects on cultural heritage, the National Park's other special qualities, public access, amenity, and renewable energy are also relevant considerations.

### **Principle of development**

#### *Context*

The crucial planning consideration is whether the removal of the holiday accommodation restriction, to allow for use of the property as a private residential dwelling, would be acceptable in principle.

The condition was included at the time of the existing approval, in 2006, due to the fact that a private residential dwelling in this location and circumstances was considered to conflict with Local Plan policies at that time. As this planning application to remove the condition has been made, it must be considered against the provisions of the current local planning policy context, having regard to other material planning considerations, including apportioning appropriate weight to the policies within the National Planning Policy Framework.

Naturally, the starting point for determining proposals is the development plan, as set out in section 38(6) of the Planning and Compulsory Purchase Act 2004, and these policies should be given due weight, according to their degree of consistency with the NPPF. It is considered that the development plan for NNPA is consistent with the NPPF and that the local plan policies relevant to this proposal are up to date.

More specifically, the most relevant planning consideration is the policy context relating to the principle of new housing in the open countryside, and those relating to occupancy restrictions for new dwellings.

### *Principle & location of new housing*

Core Strategy Policy 5 identifies a number of local centres within the National Park, which are the focus for new local needs development within the Park. Policy 5 also identifies other smaller villages and hamlets where development can take place, where it contributes to the provision or protection of village services. Similarly, Policy 9 seeks to direct housing development to the most sustainable settlements. Core Strategy Policy 10 states that new housing will only be allowed in settlements with adequate services. This approach is one of the Core Strategy's fundamental objectives in promoting sustainable development in the National Park, as this policy approach enables housing to be located where it will enhance or maintain the vitality of rural communities. These policies are considered to be up to date, as this approach is consistent with the NPPF. Of particular relevance is NPPF paragraph 55, which also takes this approach to achieving sustainable development, by locating housing where it will enhance or maintain the vitality of rural communities, and advising that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

The application site is situated within an open countryside location, outside of the settlements that are listed as the focus for local needs development within the National Park, or where local needs development can be supported in Core Strategy Policy 5. The supporting text<sup>1</sup> to Core Strategy Policy 5, states that this approach *“will help to protect the special qualities of the Park as it will ensure the majority of development is focused in areas which have already undergone a broad assessment of suitability and will help maintain services in these areas”*.

In open countryside locations, development is limited, under Core Strategy Policy 5, to the re-use of existing buildings. While the proposal would re-use an existing building, it is not supported by the Core Strategy policies, as a change in the use of the property to open market residential development is not supported. The change of use of buildings to create open market local needs residential development is only then supported by Policy 7 *“where the applicant has demonstrated that the building cannot be developed for an employment or tourism use”*. It is not considered that the

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<sup>1</sup> Core Strategy supporting text paragraph 6.21

applicant has demonstrated that the building cannot be developed for an employment or tourism use.

In these circumstances, the onus is on applicants to provide robust evidence to demonstrate that the building cannot be used for tourism or employment use, or affordable housing (where a need exists). The supporting text<sup>2</sup> to Policy 7 asks for demonstration *“that the property has been advertised locally and regionally on the open market at least 3 times over a 9 month period, at roughly equal intervals over that time, at a realistic price which reflects its value as an employment enterprise and that no reasonable offer has been refused”*. No evidence has been provided to suggest or demonstrate that any marketing of the property to be run as a holiday let, or any other employment or tourism use, has been carried out. Accordingly, it has not been demonstrated that the building cannot be used for tourism or employment use.

It is considered that the applicant has not demonstrated that the building cannot remain in an employment or tourism use, and that the removal of condition 13 of 05NP0057 to allow use of the building as a permanent residential dwelling, would be contrary to Core Strategy Policy 7.

The applicant’s supporting statement argues that *“there is a conflict between the approach adopted by Policy S7 [this is presumably referring to Core Strategy Policy 7] and the NPPF and as such the NPPF should take precedence.”* While there is no specific requirement within the NPPF to demonstrate that a building in the open countryside cannot be developed for employment/tourism use, this does not mean that NNPA Core Strategy Policy 7 has a material degree of conflict with the NPPF, as Core Strategy Policy 7, the other Core Strategy policies, and NPPF policies all have a consistent approach that seeks to avoid isolated homes in the open countryside.

There is no requirement for every detail in local policies to have to be explicitly repeated within national policy for them to be valid and up to date policy considerations that should be given full weight in decision making. The very nature of local planning policies are for them to set out specific priorities, aims and policy requirements, in order to deliver development that is appropriate for the local area. These specific local requirements do not need to be repeated in national policy, the local policies simply need to be generally consistent with the overall aims of the

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<sup>2</sup> Core Strategy supporting text paragraph 6.23

National Planning Policy Framework to be afforded full weight, which the NNPA Core Strategy policies are.

Policy 7 is consistent with the NPPF, and in particular paragraph 55, which also seeks to restrict isolated residential uses in the open countryside, except in special circumstances that are not applicable to this case. The applicant's statement suggests that there are special circumstances as the development would re-use redundant or disused buildings, however, this argument is not accepted by the LPA. The property appears to be in a good condition, and no evidence has been provided to demonstrate that the buildings are either redundant or disused. The proposals would not result in any enhancement of the property's immediate setting.

Paragraph 55 of the National Planning Policy Framework advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- Or where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting;
- Or the exceptional quality or innovative nature of the design of the dwelling.

None of these special circumstances set out in NPPF paragraph 55 are applicable to this proposal.

It is acknowledged that paragraph 49 of the NPPF requires housing applications to be considered in the context of the presumption in favour of sustainable development, and the application is considered in this context. However, the fact that allowing the proposal would result in an isolated dwelling in the open countryside, in an unsustainable location for housing, contrary to the aims of the Core Strategy policies, and paragraph 55 of the NPPF, it is considered that the application is not supported by local or national planning policies. The proposed removal of the condition is therefore not supported by the LPA.

*Loss of tourism/visitor accommodation use*

Core Strategy policies also encourage tourism and recreation within the National Park, and support holiday accommodation that provides opportunities for visitors to access and experience the National Park's special qualities. Paragraph 28 of the NPPF also actively supports tourism development such as holiday lets, due to the contribution that such uses make to the rural economy. Allowing the loss of holiday accommodation would be contrary to these local and national policy aims. Weight must also be given to the loss of existing tourism accommodation, which conflicts with local and national planning policy objectives.

### *Housing Occupancy*

Another important consideration in assessing the principle of the development is that weight must be given to the proposed occupancy of any new private residential unit that was to be established.

Core Strategy Policy 10 requires that all new residential units that are created must not be available as a second home. This policy also requires that all new residential development is restricted in perpetuity to those meeting with the provisions of a specified 'local need' criteria, set out in the pretext to Policy 10.

A draft section 106 agreement has been provided with the application to restrict use of the property for either holiday accommodation, or open market local needs development; however, no completed agreement is yet in place. The drafted agreement put forward with the application does not provide assurances to demonstrate that the proposed private dwelling that would be permitted by allowing the removal of the condition would not be available as a second home, which are required.

As the application currently stands, no section 106 agreement has currently been agreed, and the use of the property would not be restricted in perpetuity, as required by Core Strategy Policy 10. It is not considered that the imposition of a planning condition would be sufficient to provide these restrictions in perpetuity.

Restrictions to require that the local needs occupancy is restricted in perpetuity and to prevent use as a second home in perpetuity would be essential, to ensure accordance with Core Strategy Policy 10 and to deliver the objectives of the Core Strategy.

As these restrictions are not currently provided in a suitably worded and completed section 106 agreement, the proposed removal of the condition would conflict with Core Strategy Policy 10. The proposals could not be supported by the LPA for this reason.

#### Cultural heritage

It is noted that the property is located within the Hadrian's Wall World Heritage Site. The proposal seeks to change the nature of the residential occupancy of the property, and does not propose any external alterations, or any changes that could be considered to affect the Outstanding Universal Value of the World Heritage Site. The proposals accord with Core Strategy policy 18 and the NPPF in this respect.

#### Visual Appearance & National Park's special qualities

The proposal would not lead to any physical changes to the building or surroundings and would have a neutral effect on the visual amenity of the area and on the special qualities of the National Park. Removing condition 13 would not necessitate the installation of any additional external lighting, and an external lighting condition is therefore not required in this instance. The proposal accords with Core Strategy policies 1, 3, 17, 19 and 20 in this respect.

#### Public access

There is one public right of way very close to the property; however the proposals would not impact on use or access of this route. The proposals remain in accordance with Core Strategy policies 1, 3 and 12 in this respect.

#### Amenity

The property is in a very isolated location and there are no residential properties at all within close proximity of the site. The removal of the condition would not impact detrimentally upon the amenity of the occupiers of any residential properties. The proposal is therefore considered to accord with Core Strategy Policy 3 and the NPPF in this respect.

#### Renewable energy

Core Strategy Policy 25 requires all new developments, including conversions, to minimise the amount of energy used during construction, achieve high energy efficiency, and utilise renewable energy sources in order to offset at least 10% of the predicted energy requirements of the development. While the proposal seeks to change the nature of the occupancy of the building from holiday accommodation to a permanent residential dwelling, it does not involve any physical works and would not amount to a conversion of the building, for the purposes of assessing the proposal against this policy. Therefore, Policy 25 is not considered to be relevant to this case.

## **Summary**

The removal of condition 13 of 05NP0057 would result in the creation of an isolated dwelling in the open countryside, contrary to Core Strategy Policy 7, and NPPF paragraph 55. No evidence has been provided with the application to demonstrate why the building cannot remain in an employment or tourism use, as required by Core Strategy Policy 7. The proposal would not meet with any of the special circumstances set out in paragraph 55 of the NPPF that could allow housing in an isolated open countryside location.

The proposal also currently fails to provide sufficient legal controls to ensure that the use of the property would be restricted to those meeting the local needs criteria, and preventing use as a second home (except when in use for short-term holiday accommodation) as required by Core Strategy Policy 10.

As the removal of the condition is unacceptable in principle for these reasons, it is recommended that the application is refused.

## **Recommendation**

Refuse planning permission for the following reasons:

1. The proposal would be contrary to NNPA Core Strategy Policy 7 and paragraph 55 of the National Planning Policy Framework, as it would establish an isolated new residential dwelling within the open countryside location, which would also be contrary to the aims of Core Strategy policies 5, 9 and 10, which seek to direct housing development to the most sustainable settlements in the National Park. The application fails to demonstrate that the building cannot be brought into an employment or tourism use, as required by

Core Strategy Policy 7. The proposal also fails to meet any of the special circumstances set out in paragraph 55 of the NPPF.

2. Due to the absence of a completed and signed section 106 legal agreement to achieve the provision of local needs housing in perpetuity, and prevent use as a second home in perpetuity, the proposal fails to provide the assurance that the proposed private residential dwelling would be restricted in perpetuity in accordance with the Definition of Local Need referred to in Core Strategy Policy 10, except where in use for short-term holiday accommodation. The proposal is therefore in conflict with Core Strategy Policy 10.

### **Background Papers**

Planning Application File 17NP0036

EIA Screening Opinion 17NP0036

	Signature	Date
<b>Planning Officer</b>		
<b>Head of Development Management</b>		