

RYEDALE DISTRICT COUNCIL

PLANNING COMMITTEE - 31 AUGUST 2016

Report of the Head of Planning

Unauthorised siting of 6 flagpoles and flags, and a sales cabin at Land East of High Street, Slingsby and the breaches of planning conditions in relation to the implementation of planning permission 15/01323/MFUL

Purpose of the Report

To advise Members of alleged breaches of planning control and recommend an appropriate course of action.

1. SITE LOCATION

1.1 The application site is a construction site to the east of High Street, Slingsby, just north of the intersection with the B1257. Planning permission 15/01323/MFUL (Erection of 6no. two bedroom dwellings, 7no. three bedroom dwellings and 5no. four bedroom dwellings with associated garaging, parking and amenity areas and formation of vehicular access onto High Street) is in the process of being implemented.

1.2 The site lies within Slingsby Conservation Area.

2. BREACHES OF PLANNING CONTROL

2.1 The breaches of planning control comprise :

Without planning permission, the siting of a single storey sales cabin and the display of 6 no. site advertisements flags.

Furthermore, the siting of the sales cabin has resulted in non-compliance with condition 24 (site compound) of planning permission 15/01323/MFUL.

These are described below.

2.2 Change of Use

A single storey sales cabin has been sited by the developers, Mandale Construction, in the south west corner of the site. Planning permission is required for the retention of the cabin.

2.3 Illegal Advertisements

The flags have displayed along the south west corner of the site near the intersection of High Street and the B1257. As the site lies within a designated conservation area, the display of the flags at a construction site does not benefit from deemed consent under Class 7(B) of the Town and Country Planning (Control of Advertisements) Regulations 2007.

2.4 Breach of Condition

The siting of the sales cabin has restricted space on site to the extent that North Yorkshire County Council Highways Authority consider there to be a breach of condition 24 of planning permission 15/01323/MFUL.

The wording of condition 24 is as follows:

Unless approved otherwise in writing by the Local Planning Authority, there shall be no establishment on a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction of the site, until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

(i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway

(ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy and to provide for appropriate on-site vehicle parking and the storage facilities, in the interests of highway safety and the general amenity of the area.

3. WHAT BREACHES HAVE OCCURRED

- 3.1 The site was investigated by the Council's Development Management Officer (Enforcement) Officer after complaints had been received regarding the siting of the sales cabin and the flags. The agent for the developer was contacted on 24th June 2016 and advised of the breaches of planning control. It was advised that a retrospective planning application should be submitted with regard to the retention of the sales cabin in an attempt to remedy the breach of planning control and that the flags be removed.
- 3.2 Subsequently, retrospective applications for the retention of the sales cabin and the flags and flagpoles were received on 30th June. The planning application and the advert applications were both refused under delegated authority by the Council's Head of Planning in August 2016 for the reasons set out below in the planning history.
- 3.3 The retention of the sales cabin and the siting of the flag poles with flags remains unauthorised. Furthermore, the location of the sales cabin prevents compliance with condition 24 of planning permission 15/01323/MFUL, which refers to the construction on site parking (as set out in approved plan 1531/C002A).

4. HISTORY

- 4.1 15/01323/MFUL- Erection of 6no. two bedroom dwellings, 7no. three bedroom dwellings and 5no. four bedroom dwellings with associated garaging, parking and amenity areas and formation of vehicular access onto High Street - Permitted
- 4.2 16/01094/FUL- Siting of a sales cabin (retrospective application) - Refused for the following reasons:
 1. *The sales cabin due to its design is an incongruous addition to the Slingsby Conservation Area and has been sited in an unduly prominent location, resulting in*

demonstrable harm to the Slingsby Conservation Area contrary to Policy SP12 (Heritage) of the Ryedale Plan - Local Plan Strategy.

2. *The Planning Authority considers that in the absence of adequate on-site parking space the proposed development would be likely to result in vehicles being parked outside the site on the County Highway to the detriment of the free flow of traffic and road safety and contrary to Policy SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy.*

4.3 16/01095/ADV - Display of 6no. site advertisement flags on 5.4m high flagpoles - Refused for the following reason:

1. *The site advertisement flags due to their bright colouring, use of materials, excessive number and prominent positioning fail to preserve or enhance the character of Slingsby conservation area resulting in an adverse impact on visual amenity, contrary to paragraph 67 of the National Planning Policy Framework and Policy SP12 (Heritage) of the Ryedale Plan - Local Plan Strategy.*

5. PLANNING POLICY CONTEXT

5.1 The relevant planning policy considerations are:

National Planning Policy

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Ryedale Plan - Local Plan Strategy

Policy SP 12 - Heritage
Policy SP 16 - Design
Policy SP 19 - Presumption in Favour of Sustainable Development
Policy SP 20 - Generic Development Management Issues

6. APPRAISAL

Impact on the Slingsby Conservation Area

6.1 The application site lies within Slingsby conservation area. Paragraph 67 of the NPPF states that "poorly placed advertisements can have a negative impact on the appearance of the built and natural environment". Policy SP12 (Heritage) of the Ryedale Plan - Local Plan Strategy states that conservation areas and their setting will be conserved and where appropriate, enhanced. Proposals which result in less substantial harm will only be agreed where the public benefit of the proposal is considered to outweigh the harm and the extent of the harm to the asset.

6.2 The character of the conservation area is of a rural village with a high quality built environment evidenced by its designation as a conservation area, the very high number of listed buildings and the Slingsby castle Scheduled monument. The overriding built form is of local natural vernacular materials and small scale domestic design with homogeneity provided by the materials and scale. Surrounding fields emphasise the rural qualities of the conservation area.

6.3 The sales cabin is prominently sited at the western edge of the construction site. As such it is highly visible along Slingsby High Street to the west and from the B1257 to the south and

south west. The cabin is an incongruous and unwelcome addition to the conservation area, with the temporary nature of the construction of the cabin apparent with the plastic front facade of the cabin.

- 6.4 While it is recognised that there are other temporary structures on the site, such as the contractor's site offices, these are set back from the public highway and benefit from 'permitted development rights' that the sales cabin does not.
- 6.5 Due to its appearance and prominent siting, the cabin is considered to result in identifiable harm to the designated heritage asset that is Slingsby Conservation Area. It is noted from the developer's website that uptake of the dwellings has been prompt, with thirteen (13) of the eighteen (18) dwellings at the site already under offer. The retention of a sales cabin is not considered to be necessary given the progression of construction and sales at the site, thereby allowing one of the houses to be used as a sales centre. As such, there is not considered to be sufficient public benefit in the retention of the sales centre to outweigh the harm identified to the Conservation Area.
- 6.6 The flags are brightly coloured and constructed from modern man made materials that jar in this rural environment. Their number is excessive and their prominent position on the public edge of the development site and fluttering movement is a distracting element. There is an unfortunate contrast with the surrounding natural subdued tones of the built fabric of the village properties and the brightly coloured man made materials of the flags. They are alien in a rural context and do not preserve or enhance the character of the conservation area. The breach of planning control is considered to conflict with Policy SP12 of the Ryedale Plan - Local Plan Strategy.

Impact on Highway Safety

- 6.7 North Yorkshire County Council Highways Authority were consulted on the planning application for the retention of the sales cabin and made the following comments:

"No car parking allocation has been submitted with this application. These type of cabins are specifically aimed at attracting prospective purchasers of new dwellings being constructed at this site, which can be either on a casual call or appointment basis. An operational requirement for car parking is therefore considered necessary for use with the cabin.

The sales cabin has been positioned within an area that has been submitted for approval of reserved matters in respect of Condition 24 of 15/01323/MFUL, for construction staff parking (planning application ref. 16/00910/COND). The proposed siting, therefore, is depriving space within the site that has already been allocated. As you are aware, construction is underway at this site."

- 6.8 Consequently, one of the reasons for the refusal of the application was:

The Planning Authority considers that in the absence of adequate on-site parking space the proposed development would be likely to result in vehicles being parked outside the site on the County Highway to the detriment of the free flow of traffic and road safety and contrary to Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 6.9 The site has been visited as part of an ongoing enforcement investigation and it has been noted that contractor's vehicles have been parked on Slingsby High Street. As such the breach of planning control is considered to conflict with Policy SP20 of the Ryedale Plan - Local Plan Strategy.

7. WHY IS IT CONSIDERED EXPEDIENT TO SERVE A NOTICE?

- 7.1 The unauthorised development at the site has been the subject of application for planning permission and advertisement consents that have been refused by the Local Planning Authority under delegated powers. The next stage for Members is to consider what action should be taken to remedy the breaches of planning control.
- 7.2 The options available would be to do nothing and allow the breach to become lawful by dint of the timescale, to negotiate with the owner in an attempt to remedy the breach of planning control or to take formal enforcement action through the service of an enforcement notice.
- 7.3 The do nothing option could leave the Council open to criticism or complaints and would undermine public confidence in the planning system, contrary to paragraph 207 of the NPPF. Negotiations to resolve the breach of planning control were ongoing prior to the submission of the retrospective applications with an email sent to the agents advising them of the breaches of planning control in June 2016. The email advised that the flags should be removed and noted that if planning permission were not granted for the retention of the sales cabin then formal enforcement action may be necessary.
- 7.4 The final option is formal enforcement action in the form of a planning enforcement notice. The NPPF states that enforcement action is discretionary and should be proportionate to the breach of planning control. It is therefore necessary to explain the expediency of service an enforcement notice.
- 7.5 The expediency reasons to serve an enforcement notice are outlined below:
1. *The siting of the sales cabin due to its design is an incongruous addition to the Slingsby Conservation Area and has been sited in an unduly prominent location, resulting in demonstrable harm to the Slingsby Conservation Area contrary to Policy SP12 (Heritage) of the Ryedale Plan - Local Plan Strategy.*
 2. *The site advertisement flags due to their bright colouring, use of materials, excessive number and prominent positioning fail to preserve or enhance the character of Slingsby conservation area resulting in an adverse impact on visual amenity, contrary to paragraph 67 of the National Planning Policy Framework and Policy SP12 (Heritage) of the Ryedale Plan - Local Plan Strategy.*
 3. *The Planning Authority considers that in the absence of adequate on-site parking space the siting of the sales cabin results in vehicles being parked outside the site on the County Highway to the detriment of the free flow of traffic and road safety and contrary to Policy SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy.*

8. STEPS NECESSARY TO REMEDY THE BREACH

- 8.1 This report seeks authorisation from Members to serve a formal enforcement notice and/or a formal breach of condition notice to remedy the breach of planning control, to remove the unauthorised advertisements and to ensure compliance with condition 24 of planning permission 15/01323/MFUL. In order to achieve compliance the necessary steps include:
1. Remove from the land the sales cabin
 2. Remove from the land the 6 flag advertisements and the 6 flag poles

3. Altering the layout of the land to accord with approved plan 1531/C002A (Drawing Site Set Up Plan - Construction, validated by the local planning authority 16/05/16)

9. SUGGESTED PERIOD FOR COMPLIANCE

- 9.1 The suggested period for compliance is 1 month in respect of an Enforcement Notice(s).

Recommendation

The Council Solicitor be authorised in consultation with the Head of Planning and Housing Services to issue an enforcement notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended)) and/or a breach of condition notice pursuant to section 187A of the Town and Country Planning Act 1990 (as amended) together with any associated court action requiring :

1. Removal from the land of the sales cabin
2. Removal from the land of the 6 flag advertisements and the 6 flag poles
3. Altering the layout of the land to accord with approved plan 1531/C002A (Drawing Site Set Up Plan - Construction, validated by the local planning authority 16/05/16)

Background Papers

Investigation file 16/00060/UD