

RYEDALE DISTRICT COUNCIL
PLANNING COMMITTEE - 4 July 2017

Report of the Head of Planning

Land Adjacent to Keldholme Motorcare, Keldholme

Purpose of the Report

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

1. SITE LOCATION

- 1.1 The site is a former pony paddock that occupies approximately 0.39 hectares, to the south side of the A170.

2. ALLEGED BREACH OF PLANNING CONTROL

- 2.1 The breach of planning control:

- Without planning permission, the material change of use of the land from a paddock with associate hardstanding to domestic use with the siting of a mobile home for residential use.
- Without planning permission the formation of an access from the south west of the site to the lay-by of the A170.

3. WHEN ALLEGED BREACH FIRST OCCURRED

- 3.1 June 2014.

4. HISTORY AND EVIDENCE OF BREACH

- 4.1 The Local Planning Authority was first made aware of this site in June 2014. At that time a caravan had been brought on to the site and was being permanently occupied.
- 4.2 Ryedale District Council (RDC) Officers subsequently visited the site and confirmed that the material change of use had occurred.
- 4.3 RDC officers wrote to the occupier in June 2014 requesting that the use be ceased and that the caravan was removed or alternatively a retrospective application be submitted with the advice that it would be unlikely that the Council would support any such application.

4.4 Planning application 14/01344/FUL was received on the 08 December 2014 for the 'Change of use of land to include reinstatement of a section of railway track on the old track bed/embankment with siting of 3 no. converted railway carriages on the reinstated track with each forming two bedroom holiday accommodation together with erection of 1 no. two bedroom holiday lodge and 1 no. two bedroom lodge for site managers accommodation, alteration to existing vehicular access and formation of site gravelled track and parking areas with retention of existing caravan until one lodge is ready for occupancy'. This application was subsequently refused on the 6 February 2015 for the following reasons:

01 The proposed holiday accommodation by virtue of its siting, scale and design is considered to have a material adverse effect upon the character and appearance of the wider open countryside, defined by the Ryedale Local Plan. The proposal is therefore contrary to Policy SP8 (Tourism), Policy SP16 (Design) and SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy and contrary to the National Planning Policy Framework.

02 In the absence of a bona-fide Holiday Accommodation Business there is no land use requirement for a dwelling within the open countryside. The proposed creation of a dwelling and the retention of the existing touring caravan are therefore contrary to Policy SP1 (General Location of Development and Settlement Hierarchy), SP2 (delivery and Distribution of New Housing) and SP21 (Occupancy Restrictions) of the Ryedale Plan - Local Plan Strategy and contrary to the aims of the National Planning Policy Framework.

03 The proposed formalisation of the existing access, by which vehicles associated with the proposal, would leave and rejoin the county highway is unsatisfactory. The required visibility of 2.4 metres x 215 metres cannot be achieved at the junction in an easterly direction. The intensification of the use of the existing access is considered unacceptable in terms of highway safety. The proposal is therefore contrary to SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy and contrary to the National Planning Policy Framework.

04 The proposed development would give rise to additional vehicles waiting in the carriageway and leaving and rejoining the traffic stream on an open stretch of road where vehicles are at high speed, thus causing interference with the free flow of traffic and consequent danger to highway users. The proposal is therefore contrary to SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy and contrary to the National Planning Policy Framework.

4.5 In December 2015 the owner stated that he was going to submit a new application but none has been forthcoming. There has been no appeal against the refusal of planning permission and the development on site remains in breach of planning control.

5. APPRAISAL AND POLICY CONTEXT

5.1 The caravan is located in a former pony paddock, the majority of the boundaries are well screened with a mixture of mature native hedgerows and trees. The eastern boundary is flanked by a small industrial estate. There is an existing wooden storage building and wooden stables sited to the south west corner of the site adjacent to an unauthorised vehicle access which joins the site from a lay by to the west of the existing boundary fence.

The caravan is located to the north eastern corner of the site. The site is outside of the Development Limits of Keldholme, within the open countryside.

- 5.2 The relevant planning policy considerations are:

National Planning Policy

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Planning Policy For Traveller Sites, Communities and Local Government

Ryedale Plan - Local Plan Strategy

Policy SP1 - General Location of Development and Settlement Hierarchy
Policy SP2 - Delivery and Distribution of New Housing
Policy SP4 - Type and Mix of New Housing
Policy SP9 - The Land-Based and Rural Economy
Policy SP16 - Design
Policy SP19 - Presumption in Favour of Sustainable Development
Policy SP20 - Generic Development Management Issue

- 5.3 Policies SP1 and SP2 of the Ryedale Plan - Local Plan Strategy states that new housing should normally be directed to the existing settlements within the district.
- 5.4 Policy SP16 of the Ryedale Plan - Local Plan Strategy requires proposed development to integrate well with their surroundings. It is Officers opinion that such a prominent alien feature in an otherwise open landscape would fail to integrate with the site surroundings in addition the associated domestic paraphernalia adversely effects the rural character of the wider open countryside.
- 5.5 The unauthorised access is constructed from hardcore. When consulted on planning application 14/01344/FUL the Highway Authority considered that the existing access was unsatisfactory as the required visibility splays of 2.4m x 215m could not be achieved in an easterly direction and as such was considered unacceptable in terms of highway safety. The proposal is therefore contrary to Policy SP20 of the adopted Ryedale Plan-Local Plan Strategy

6. HUMAN RIGHTS AND EQUALITIES

- The Human Rights Act 1998 means that it is now, subject to certain circumstances, directly unlawful for a public authority to act in a way which is incompatible with a Convention right. In particular Article 8 (respect for private and family life) and Article 1 of Protocol 1 (peaceful enjoyment of property) apply to planning decisions.
- When a planning decision is made there is further provision that the Authority must take into account the public interest. In the vast majority of cases existing planning law has for many years demanded a balancing exercise between private rights and public interest and therefore the Local Planning Authority's decision making will continue to take into account this balance.

- The Human Rights Act is not referred to above because no exceptional circumstances have been raised which require a more careful and sensitive consideration of Human Rights issues.
- In making its decision the Council must also have regard to its public sector equality duty (PSED) under section 149 of the Equality Act 2010. The duty is to have due regard to the need (in discharging its functions) to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
 - Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
 - The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
 - The PSED must be considered as a relevant factor when considering its decision but does not impose a duty to achieve the outcomes in s.149. The level of consideration required (i.e. due regard) will vary with the decision including such factors as:
 - The importance of the decision and the severity of the impact on the Council's ability to meet its PSED
 - The likelihood of discriminatory effect or that it could eliminate existing discrimination.
 - The Council should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic and this impact may be unintentional. In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.
 - Further, the PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Council is also entitled to take into account other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.
 - This recommendation does not raise any equalities issues.

7 WHY IS IT CONSIDERED EXPEDIENT TO SERVE A NOTICE?

- 7.1 The breach of planning control is contrary to the NPPF, and Policies SP1, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy in that the caravan constitutes inappropriate development resulting in an unacceptable impact on the openness of the countryside.

North Yorkshire County Council Highways also consider that the access compromises highway safety.

8 STEPS NECESSARY TO REMEDY THE BREACH

- 8.1 This report seeks authorisation to serve a formal enforcement notice to remedy the breach of planning control. In order to achieve compliance the necessary steps include:

1. Cease the use of the land for residential purposes.
2. Removal of the caravan.
3. Remove from the land all domestic paraphernalia.
4. Restore the land to its former condition, through the removal of the additional car parking area. Removal of the gate and stopping up of the unauthorised access to the A170.

9 SUGGESTED PERIOD FOR COMPLIANCE

- 9.1 The suggested period for compliance is 6 (six) months in respect of an Enforcement Notice

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) requiring:

1. Cease the use of the land adjacent to Keldholme Motorcare Keldholme York for residential purposes
2. Remove from the land the caravan.
3. Restoration of the land to its former condition, through the removal of the additional car parking area. Remove the gate and stop up the unauthorised access to the A170.