

Allerdale Borough Council

Planning Application FUL/2019/0296

Development Panel Report

Reference Number: FUL/2019/0296
Valid Date: 18/12/2019
Location: Newton Holme, Wigton
Applicant: Mr Vaughan Hodgson J G & D E Hodgson
Proposal: Demolition of existing dwelling and replacement with new dwelling

RECOMMENDATION

Grant permission sybject to conditions

1.0 Summary

<u>Issue</u>	<u>Conclusion</u>
Principle of Development	The proposal for a replacement dwelling is considered to satisfy Policy S31. The relocated dwelling at a larger scale and footprint is acceptable at this site.
Flood Risk	<p>The replacement dwelling is to be sited on higher ground thus reducing the risk of flooding.</p> <p>The Flood Risk Assessment concludes that, based upon Environment Agency evidence, the likelihood of fluvial, tidal and groundwater flooding is low and that the development will not increase the threat of flooding upstream or downstream of the site. The site however remains in Flood Zone 3 on the EA records.</p> <p>With the increase in floor level reducing flood risk it is considered that the matter has been addressed satisfactorily with the planning balance of a betterment due to a less vulnerable location.</p>
Design and Appearance, Landscape	The dwelling is well designed and will appear as part of the cohesive group of

Impact	farm buildings and visually absorbed by the large agricultural units with minimal landscape impact.
Ecology	<p>The winter survey undertaken for the presence of bats has concluded a low potential within the building for bat habitation.</p> <p>Construction of the replacement dwelling need not be delayed. A condition regarding further ecological survey can be applied to the dwelling planned for demolition with a clause that requires appropriate local mitigation of any bat habitation that may be proven to exist.</p> <p>It is considered that this approach will safeguard the protected species without compromising the progress to provide the replacement dwelling.</p>

2.0 **Proposal**

2.1 The Plans for consideration are:-

Flood Risk Assessment (received 19/12/2019)
 VH19BAT098.1 Bat and Barn Owl Survey
 DWG 19-811-2 - Block Plan
 DWG 19-811-3 - Existing House Outline
 DWG 19-811-4 - Ground Floor
 DWG 19-811-5 - First Floor
 DWG 19-811-6 - SW & SE Elevations
 DWG 19-811-7 - NW & NE Elevations
 DWG 19-811-8 - Site Layout
 DWG 19-811-9 - Block Plan Proposed
 DWG 19-811-11 - Drainage
 DWG 19-811-12 - Site Location Plan
 DWG 19-811-13 - Internal Elevations
 Demolition Statement (received 19/12/2019)

2.2 The applicant is a Borough Councillor hence the referral of this item to the Development Panel as per the Council's Constitution.

3.0 Site

- 3.1 The site comprises of a traditional detached farmhouse with adjacent agricultural buildings forming a farmstead in the open countryside and within an Area of Outstanding Natural Beauty. A small bungalow is noted in the applicant's ownership. The site is accessed from the public highway by a private lane of some 200 metres in length.
- 3.2 The site is surrounded by farmland and some distance from the public highway and beyond general public view. It can be considered isolated with no other properties in the immediate vicinity.

4.0 Relevant Planning History

- 4.1 Pre-planning advice was requested by the applicant under ref PPA/2019/0296 which resulted in positive advice from officers subject to further details of the proposals.

5.0 Representations

Parish Council

- 5.1 No objection

ABC Environmental Health

- 5.2 No objection

Cumbria County Highways/Local Lead Flood Authority

- 5.3 No objection

Environment Agency

- 5.4 No objection

Other representations

- 5.5 The application has been advertised by press advert, site notice and neighbour letter. No representations have been received.

6.0 Environmental Impact Assessment

- 6.1 With regards to duties contained within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the development falls

within Schedule 2 by virtue of its location within the Area of Outstanding Natural Beauty.

6.2 The proposal has been screened and determined not to be EIA development.

7.0 Development Plan Policies

Allerdale Local Plan 1999 (Saved Settlement Limits)

7.1 The site is in the open countryside outside of the saved settlement limits.

Allerdale Local Plan (Part 1)

7.2 The following policies are considered relevant:-

S1 - Presumption in favour of sustainable development

S2 – Sustainable development principles

S3 – Spatial strategy and growth

S4 – Design principles

S5 – Development principles

S29 – Flood risk and surface water drainage

S30 – Reuse of land

S31 – Reuse of buildings and replacement dwellings in the open countryside

S32 – Safeguarding amenity

S33 - Landscape

S34 – Development in the Solway Area of Outstanding Natural Beauty

S35 – Protecting and enhancing biodiversity and geodiversity

DM14 – Standards of good design

8.0 Other material considerations

Allerdale Borough Local Plan (Part 2) Submission Draft

8.1 The site is within the open countryside outside of the settlement limits.

National Planning Policy Framework (NPPF) (2019)

8.2 Paragraph 79 states that decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Allerdale Borough Council Plan 2020-2030:

- 8.3 Strengthening our economy - Supporting the development of new homes where they are needed.

9.0 Policy weighting

- 9.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan 1999 saved settlement limits and the Allerdale Borough Local Plan (Part 1) 2014 policies have primacy.
- 9.2 However, paragraph 212 of the National Planning Policy Framework (NPPF) 2019 advises that the policies in that Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. In this context it is noted that paragraph 213 of the NPPF 2019 advises that due weight should be given to development plan policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 9.3 Paragraph 11 of the NPPF also advises that, where the development plan policies which are most important for determining the application are out-of-date, permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole (the tilted balance).
- 9.4 A further material consideration is the appeal decision for land at Little Broughton (PINs ref APP/G0908/W/17/3183948) which specifically addressed the weighting afforded to development plan policies in the context of paragraphs 215 and 14 of the former NPPF. In brief, as a result of this appeal decision, it is accepted that development needs to come forward beyond settlement limits during this mid-term of the Local Plan's period to meet the trajectories detailed in Appendix 3 of the Plan. This is because, by this time, significant delivery was assumed to be derived from Part 2 allocations. This has not been the case, hence windfalls beyond settlement limits are necessary, there not being land inside the limits to come forward as windfalls to meet the trajectories. As such policies S3 and S5

are out of date in relation to the settlement limits and are only afforded limited weight and paragraph 11 of the NPPF is engaged.

- 9.5 Whilst policies S3 and S5 are out of date in relation to the settlement limits, they are not considered to be out of date in all respects. Nor does it mean that other Local Plan Part 1 policies are out of date and should not be afforded substantial or full weight where they are consistent with the provisions of the NPPF 2019. In this instance, it is assessed that the settlement hierarchy within policy S3 can be afforded substantial weight given its consistency with the sustainability principles of the NPPF 2019. Other relevant policies within Part 1 are afforded full weight.
- 9.6 Weight can also be afforded to emerging plans as a material consideration, that weight dependent on the stage of preparation, the extent of unresolved objections and consistency with the provisions of the NPPF 2019. The Inspector's Report for Part 2 of the Local Plan has now been received with the Inspector finding the modified plan sound. As such, significant weight can be afforded to the Plan as a material consideration.
- 9.7 Whilst Part 2 is afforded significant weight, there is still the need to deliver the Part 1 Local Plan's housing supply trajectory. As Part 1 is part of the development plan and takes primacy and the trajectories are afforded full weight, the overall balance is still firmly tilted to supporting sustainable housing to deliver the planned growth given that such development cannot be delivered within the development plan settlement limits derived from the 1999 Plan (sustainability measured against the provisions of the other development plan policies and the NPPF). This balance is set by paragraph 11 of the NPPF and the overall presumption in favour of sustainable development.
- 9.8 It is advised that the balance will change when Part 2 is adopted and assumes primacy alongside Part 1 of the Local Plan."

10.0 Assessment:

Principle of development

- 10.1 The application is for a replacement dwelling in the open countryside and as such is assessed against Policy S31 of the Allerdale Local Plan (Part 1) Adopted 2014. This is not one of the criteria specified in paragraph 79 of the NPPF but, subject to the demolition of the existing dwelling in a reasonably timely manner following first occupation of the new dwelling, the proposal would not result in a net increase in dwellings in this unsustainable location. A condition is necessary to ensure this.
- 10.2 The applicant has the potential to demonstrate an "essential need" for an additional dwelling for an agricultural worker under policy DM2. However, no evidence has been supplied for this and the applicant has made it clear that the proposal is genuinely for a replacement and does not desire an additional dwelling encumbered by an occupancy condition.

10.3 Policy S31 sets particular criteria regarding the nature of a replacement dwellings. It advises that, in the open countryside proposals to replace/rebuild dwellings will be acceptable provided that:

d) The proposal is well designed, of appropriate scale for its location and does not detract from the character or distinctiveness of the location;

e) The relevant building to be replaced substantially exists and is not deemed to have lost its lawful use as a dwelling.

It also advises that proposals for the replacement of dwellings in the countryside will be only be acceptable in line with national policy and where the building can be replaced without substantial alteration to the original footprint’.

Lawful use

10.4 The four criteria used to establish whether a use has been abandoned have been well established in case law including *Castell-y-Mynach*¹ and *Brammall*²:-

- a) the period of non-use,
- b) the physical condition of the land or building,
- c) whether there had been any other use, and
- d) the owner’s intentions as to whether to suspend the use or to cease it permanently.

10.5 Applying these criteria, it is clear the use of the existing dwelling has not been abandoned. The proposal accords with criterion e) of policy S31.

Design, Scale and Character

10.6 The applicant has proposed a dwelling of increased footprint; relocated to avoid flood risk and at a larger scale and alternative design. The existing dwelling has a footprint of 118m². The applicant has correctly calculated that it has permitted development rights for extensions and in curtilage outbuildings of 65m². Including permitted development rights is a reasonable assumption to make and this would give a potential total of 183m² for the existing dwelling to be replaced.

10.7 The proposal includes a farm office to sustain the associated farm business and this increases the floor area to 202m². This is an increase of just 19m² or 10% of the original dwelling with its permitted additional floorspace. The farm office could have been supported as a separate building as it is a reasonable requirement of modern farms which are, in effect, rural industrial businesses.

10.8 A further material consideration is that, were the proposal to be assessed as a rural worker’s dwelling, policy S31 sets a benchmark maximum of 200m². The proposal is negligibly different to this threshold.

¹ Trustees of Castell-y-Mynach Estate v Taff-Ely BC, [1985] JPL 40

² Bramall v SSCLG [2011] JPL 1373

- 10.9 The proposed dwelling is of two storeys replacing the existing two storey dwelling. It provides 4 bedrooms as well as the aforementioned integral farm office and a detached garage. It is well related to the existing agricultural buildings that are of a large scale dominating the site and the proposal will be seen in context with these buildings.
- 10.10 The design is post-modern with some traditional materials and detailing cloaking an otherwise modern layout and floor to ceiling heights. It is not excessively contemporary in design but has some distinctiveness in its own right. It improves upon the dwelling to be replaced that, although of some age, has little architectural value or distinctiveness and has suffered a degree of unsympathetic alterations.
- 10.11 Notwithstanding the above, it is acknowledged that the site is within an Area of Outstanding Natural Beauty. The landscape is classified as Coastal Plain (2c) with regard to the Cumbria Landscape Designation:-
- “The open character of the exposed coastal farmland is sensitive to development. The open views across adjacent marshes and flats out to sea and inland to the Lakeland Fells are sensitive to large scale infrastructure development. Wind sculpted hedges and trees and traditional kest hedges are sensitive to changes in land management.’
- 10.12 Applying policies S31, S33 and S34 it is considered that, as a replacement dwelling, there will be only modest increase in the built form at the site and the new dwelling will appear as part of the cohesive group of farm buildings. Whilst the site is flat it is some distance from public receptors with few uninterrupted lines of sight. The existing farm buildings are large in scale and will absorb the new dwelling with minimal landscape impact. It is not considered that the sensitivity of the landscape designation is adversely affected by this individual building.

Residential Amenity

- 10.13 The small bungalow noted at the site is to the rear of the proposed dwelling. The separation distances and general relationship will not result in any significant impact upon residential amenity.

Ecology

- 10.14 The dwelling to be demolished has been subject to a winter building survey regarding the potential for bat habitat. As a building of traditional construction at this location, the roofspace offers some potential but, upon detailed assessment, does not provide enough space, shelter, protection, appropriate conditions and / or suitable surrounding habitat to be used on a regular basis or by a larger numbers of bats (i.e. unlikely to be suitable for maternity or hibernation). The ecology report accompanying the application does recommended a further emergence survey in the appropriate season April-September. In this instance, it is considered that this requirement can be dealt with by condition and need not prevent the development of the new dwelling, there being an acceptable

chronology of events to safeguard protected species and not result in two dwellings being occupied in this unsustainable location.

- 10.15 Natural England has also commented that the area is populated by over wintering pink footed geese and have recommended no construction during that period September – March. Considering the site characteristics as 'disturbed' farm land with associated activity and the scale of development on a small plot of land, such restriction is not considered reasonable. The matter need not be pursued any further.
- 10.16 Natural England has also advised on the need to protect storm drains during the demolition process to safeguard local watercourses from pollution that serve the Solway Marshes (SSSI). This is considered necessary and reasonable and can be conditioned.

Location and Flood Risk

- 10.17 The proposed dwelling is to be sited on a different footprint to that being replaced. This is at variance with the strict policy guidelines that requires development to be 'without substantial alteration to the original footprint'. This can be interpreted as both location and size of the original footprint.
- 10.18 The justification for the relocated footprint is based upon an improved siting on elevated ground to avoid Flood Zone 3 and the threat of flooding. The existing dwelling is at approximately 7.00m Above Ordnance Datum (AOD) and has been flooded in the past causing flood damage to the ground floor walls, ground floor structure, floor coverings and furniture. Because of the previous flooding and the location of the dwelling in a flood risk zone the applicant is unable to insure the building. This situation will not change with climate change and the dwelling will only become more vulnerable to flood risk. The new dwelling's finished floor level will be set at 7.750m AOD, an increase of 750mm which satisfies the Environment Agency.

Drainage

- 10.19 The application indicates that the site is remote from the public sewer and officers agree that it is not practicable to make a connection. As such, connection for foul drainage is proposed to a private treatment plant of appropriate capacity with clean water discharge to nearby watercourse. This reflects the existing arrangement for the dwelling to be demolished. A condition for further details is necessary.
- 10.20 Surface water drainage will be to the same outfall with appropriate attenuation of discharge rates. This can be conditioned for further details to safeguard against any localised flooding. Discharge rates will not increase significantly considering the existing drainage form the dwelling to be replaced.

Access

- 10.21 The site benefits from an existing access track extending from the public highway into the site. A good standard of visibility is achieved at the junction with the highway and the development will not increase the use of the access. In that sense highway safety is not affected. Parking and turning within the plot is provided. The Highway Authority does not object.

Local Financial Considerations

- 10.22 Having regard to S70 (2) of the Town and Country Planning Act the proposal will have financial implications arising from New Homes Bonus and Council Tax Revenue.

11.0 Conclusion

- 11.1 The relocated dwelling at a larger scale and footprint is acceptable at this site. The dwelling is well designed and will appear as part of the cohesive group of farm buildings and visually absorbed by the large agricultural units with minimal landscape impact.
- 11.2 The development brings the benefits of a less vulnerable site with regards to flood risk and the new dwelling will provide improved and essential accommodation for the farming family.

RECOMMENDATION

Grant permission subject to conditions

Annex 1

CONDITIONS

Time Limit:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990.

In Accordance:

- 2. The development hereby permitted shall be carried out solely in accordance with the following plans:**

Flood Risk Assessment (received 19/12/2019)
VH19BAT098.1 Bat and Barn Owl Survey
DWG 19-811-2 - Block Plan
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DWG 19-811-11 - Drainage
DWG 19-811-12 - Site Location Plan
DWG 19-811-13 - Internal Elevations
Demolition Statement (received 19/12/2019)

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

- 3. The development hereby approved shall be undertaken and occupied in full accordance with the principles of the approved FRA (dated 19/12/2019).**

Reason ; in the interests of safeguarding against the threat of localised flooding in accordance with Policy S29 of the Allerdale Local Plan (Part 1) Adopted 2014.

Pre-commencement conditions:

- 4. Prior to the commencement of any development, full details of the foul and surface water drainage systems based upon the hierarchy of sustainable drainage, including their maintenance and management during their lifetime, shall be submitted to and approved in writing by the**

Local Planning Authority. The approved drainage schemes shall be implemented and operational before the development is brought into use.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with Policy S29 of the Allerdale Local Plan (Part 1) Adopted 2014.

Post-commencement/Pre use commencing conditions:

- 5. No part of the development hereby permitted shall be constructed above plinth level until details of all external and roofing materials have been submitted to and approved by the Local Planning Authority. Only the materials so approved shall be used in the development as approved.**

Reason: To ensure a satisfactory standard of development for the external appearance of the approved scheme which is compatible with the character of the surrounding area, in compliance with the National Planning Policy Framework and Policy S32, S34 and DM14 of the Allerdale Local Plan (Part 1), Adopted July 2014.

- 6. No demolition shall take place until details of protection measures have been submitted to and approved by the local planning authority to prevent pollutants entering local watercourses and the Upper Solway Flats & Marshes SSSI/ Ramsar/SPA and Solway Firth SAC during the demolition phase. The measures shall be completed prior to demolition commencing and maintained throughout the demolition phase.**

Reason:- To prevent pollution to these designated sites and waterways and to accord with policies S29, S35 and S36 of the Allerdale Local Plan (Part 1), Adopted July 2014.

- 7. No demolition shall take place until an emergence survey of bats at the site has been undertaken by a qualified and licenced ecologist and submitted to the local planning authority. If the survey requires any mitigation measures to be undertaken such measures will be undertaken in full prior to demolition commencing.**

Reason: To protect any bats and their habitat that may be present on site and to accord with policy S35 of the Allerdale Local Plan (Part 1), Adopted July 2014.

Other

- 8. Prior to the expiration of three months from the first occupation of the approved new dwelling, the existing dwelling at the site, as shown on the approved plans, shall be fully demolished and the site cleared and levelled in accordance with the submitted demolition statement.**

Reason : In order to satisfy Policy S31 of the Allerdale Local Plan (Part 1) Adopted 2014., regarding replacement dwellings in the open countryside.



