

**Northern Area Planning
Committee
Appeal Decisions**

24th August 2021

1. PURPOSE AND RECOMMENDATIONS

Purpose of Report: To inform Members of notified appeals and appeal decisions and to take them into account as a material consideration in the Planning Committee's future decisions.

Recommendations: **It is RECOMMENDED that:**
This report is for Information

Wards: Council-wide

Appeal Reference : [APP/D1265/W/20/3262267](#)

Planning Reference: 2/2020/0319/OUT

Proposal: Access (with all other matters reserved) for up to 90no. dwellings, dedicated open space and associated works with vehicular access from Waterlake.

Address: Land west of Waterlake and Grosvenor Road, Stalbridge, Dorset

Decision: Dismissed

This appeal followed dismissal of appeal APP/N1215/W/18/3203865 (the previous appeal) relating to an outline scheme for 98 dwellings on much the same site.

The main issues in this case were:

Whether the site is a suitable location for the proposed development having regard to its effect on the character and appearance of the area, including (a) the landscape and, (b) whether it would preserve or enhance the character or appearance of Stalbridge Conservation Area (the Conservation Area).

The Inspector upheld the spatial strategy, agreeing with the Council in terms of the location of the development:

Policy 2 of the North Dorset Local Plan Part 1 (the Local Plan) sets out the spatial strategy for the former NDDC area. Through use of settlement boundaries this seeks to achieve a sustainable distribution of development by focusing new housing on 4 towns, with Stalbridge and 18 larger villages identified as suitable for growth to meet local needs. As the site falls outside the settlement boundary of Stalbridge it is located within the 'countryside' for

Local Plan purposes.

Policy 20 of the Local Plan further restricts housing outside settlement boundaries to that which is affordable, or for which there is an overriding need for a countryside location; something that Policy 2 terms development that would 'enable essential rural needs to be met'. As the development, comprising both affordable and market housing, would not meet any of these exceptions, it would conflict with Policies 2 and 20.

The Inspector found that having regard to paragraph 170 of the NPPF, the site formed part of a valued landscape, and that the site would be an unsuitable location for the proposed development given the unacceptably harmful effect that it would have on the character and appearance of the landscape.

The Inspector found less than substantial harm to the character and appearance of the Conservation Area:

The development would result in the loss of historically open agricultural land within the setting of the historic town, entailing increased suburbanisation beyond its current southwestern edges. This would result in the erosion and loss of rural character, diminishing the historic identity of the settlement. The adverse effects would be accentuated by the high level of exposure of the site within the surrounding landscape, and the intrusion that it would cause within this context. This would harm the significance of the Conservation Area as a whole. As the development would be identifiable as a whole, it follows that the portion indicatively shown as occupying space within the southernmost part of the site would exacerbate the impact of adjoining development. As such, harm would also be caused to the Conservation Area's setting. I therefore find that the proposed development would fail to preserve the Conservation Area, and that less than substantial harm would be caused to its significance.

And went on to state that there were no public benefits that would outweigh the identified harm:

For the reasons outlined above, I conclude that the site would be an unsuitable location for the proposed development having regard to the unacceptably harmful effect that it would have on the Conservation Area, whose character or appearance would not be preserved or enhanced, and whose setting would not be conserved. The development would therefore conflict with Policy 5 of the Local Plan, which seeks to sustain and enhance the significance of heritage assets, and which is, in this regard, consistent with the Framework.

Despite the lack of a 5-year housing land supply, the Inspector did not need to undertake the tilted balance due to the identified harm to the Conservation Area:

In view of the Council's 5YHLS position, my attention has been drawn to the tilted balance set out in paragraph 11 of the Framework. I acknowledge that the Inspector in the previous appeal undertook the tilted balance. This was however a product of his different findings in relation to paragraph 196, as covered above. My own findings in relation to heritage policy provide a clear reason for refusing planning permission, and thus, having regard to footnote 6 of the Framework, the tilted balance does not apply.

Appeal Reference : [APP/D1265/X/21/3267147](#)

Planning Reference: **WD/D/18/002445**

Proposal: The use and development for which an LDC is sought is gravel hardstanding 6m x 6.5m; wooden movable welfare facility 6.1m x 5m x 4.6m for seasonal forestry workers as permitted by 1960 Caravan Act.

Address: Land at Clyffe Copse, Road to Clyffe House, Tincleton, Dorset DT2 8QR

Decision: Dismissed

The certificate of lawfulness was refused for the following reason:

1. It is considered that the proposed welfare unit fails the construction, size and mobility test and is not considered to fall within the definition of a caravan. In addition, the construction of a hardstanding would not be lawful.

The Inspector found that the hardstanding was not lawful, as it had not been demonstrated that the formation of the hardstanding, if begun when the application was made, would have been on agricultural land in an agricultural unit of not less than 0.4ha but less than 5ha, and thus permitted by Class B. No other means by which the Order would have permitted the formation of the hardstanding was identified. Consequently, it would have been development requiring planning permission, and thus not immune from enforcement action, if commenced at the time of the application.

The Inspector went on to determine that the structure would not lawfully be a twin-unit caravan. This was due to the construction of the roof, which would not have been attached in a separate part, to the base.

The Inspector determined that the base section of the structure was a caravan. However, went on to note that this base section could not be lawful, due to an extant enforcement notice that pertains to the wider site.

The Inspector concluded:

For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant an LDC for a gravel hardstanding and wooden movable welfare facility for seasonal forestry workers as permitted by the 1960 Act was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Appeal Reference : [APP/D1265/W/21/3271270](#)

Planning Reference: WD/D/20/001616

Proposal: The development proposed is the change of use of agricultural building to a self-contained dwelling.

Address: Duntish Paddocks, Factory Lane, Duntish DT2 7DR

Decision: Dismissed

The application was refused under delegated powers for the following reasons:

1. The dwelling would be located within the open countryside in an area with limited facilities and services in an unsustainable location and pattern of development that would be at odds with the housing distribution vision that is contained within the development plan. The highway connecting the site to the development boundary is narrow with no footpath therefore any future occupants would be largely reliant on a vehicle. The resulting benefit of an one dwelling would not outweigh the resulting harm as set out above. The proposal would therefore be contrary to the Councils spatial strategy for housing contrary to policies INT1 and SUS3 of the West Dorset, Weymouth & Portland Local Plan (2015) and paragraphs 8 and 78 of the National Planning Policy Framework.

The main issue was whether the proposed development would have been in a suitable location for housing, with particular reference to the accessibility of services and facilities and to the reliance on private motor vehicles.

The Inspector upheld the Councils spatial strategy stating:

The appeal proposal would conflict with Policy SUS3 of the Local Plan with regards to the location of development outside of the DDB (Defined Development Boundary). Furthermore, given that the site is not suitably located in respect of services and facilities that could reasonably be required on a day to day basis, the appeal scheme would not accord with the environmental dimension of sustainable development and, therefore, would conflict with the provisions of Policy INT1 of the Local Plan which concerns the presumption in favour of sustainable development. For the same reasons, the proposal would not accord with paragraphs 8 and 79 of the Framework.

The Appellants have put it to me that the proposed development accords with Policy H2 of the Buckland Newton Neighbourhood Plan 2015-2030 (the NP) with regards to the type and size of housing. However, whilst the type and size of the proposed unrestricted dwelling would be acceptable, the appeal scheme would conflict with Policy H1 of the NP which provides that new housing development may take place within the defined development boundary of Buckland Newton and on sites allocated in this neighbourhood plan. The evidence before me indicates that the site has not been allocated for housing within the NP and, for the above reasons, would be located outside of the DDB. Consequently, the appeal scheme would conflict with the provisions of the NP when taken as a whole.

The Inspector concluded by attaching significant weight to the environmental harm of the proposed dwelling:

In terms of the location of development, the site is located outside of the nearest settlement and would not be suitably located with regards to access to services and facilities that could reasonably be required on a daily basis. Future residents of the unrestricted dwelling would therefore be likely to rely on private motor vehicles for most trips. This would be contrary to the Framework's aims to promote sustainable transport with the proposal failing to assist in meeting the environmental objective of sustainable development.

I attach significant weight to this consideration given the importance which the Framework places on protecting the environment. Consequently, I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the Framework taken as a whole.