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YORKSHIRE DALES NATIONAL PARK AUTHORITY **ITEM 6**

Committee: **PLANNING**
Date: **21st June 2022**

Report: **UNAUTHORISED DEVELOPMENT AT FELL VIEW CHAPEL RAVENSTONEDALE**

Purpose of the report

1. To advise Members of the current situation and to seek authorisation for formal enforcement action to secure removal of unauthorised development consisting of: engineering works to the west and south of the Chapel; access to highway; car park installed to west of approved location; package treatment plant sited south of approved location, and for the land to be returned to its original state.

Strategic Planning Framework

2. The information and recommendation(s) contained in this report are consistent with the National Planning Policy Framework, the Authority's statutory purposes and its approved strategic planning framework:

    - NPPF Para 79 – Viable use of heritage asset / re-use of disused buildings to enhance immediate setting

    Eden Local Plan 2014-2032, adopted December 2018:
    - RUR3 – Re-use of Redundant Buildings in Rural Areas
    - DEV1 – General Approach to New Development
    - DEV3 – Transport, Accessibility and Right of Way
    - DEV5 - Design of New Development
    - ENV1 - Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity.
    - ENV2 - Protection and Enhancement of Landscapes and Trees
    - ENV10 - The Historic Environment

    Upper Eden Neighbourhood Plan 2012-2025, adopted April 2013
    - UENDP1 - Rural Exceptions Housing for Local People
    - UENDP5 – Fibre to the Premises

3. At paragraph 59 the NPPF also states that: "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control".

Equality Act

4. The Authority has a duty under s.149 of the Equality Act 2010 to have regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant characteristic and persons who do not share it. The relevant characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

5. It is considered that there are no overt reasons why the proposed enforcement action would affect anyone with the protected characteristics such that the enforcement action should not be taken on equality grounds.

Relevant Planning History

6. E/12/69 Full Planning permission for conversion of traditional building to a dwelling and installation of package treatment plant. This enforcement report relates to a number of breaches regarding the details of this permission.

Background

7. The site comprises a roadside, former Wesleyan chapel, at the junction on the A683 and Murthwaite Lane, in a rural setting between Sedbergh and Kirkby Stephen. The building is considered a non-designated heritage asset. Its use as a small chapel ceased in 2014. It is a modest rectangular stone-built building under a gabled slate roof, with two small outshots to its northern side.

8. Drystone walling encloses the space between the principal elevation and A683. In addition, there is walling immediately to the rear of the building, which then directs alongside Murthwaite lane. The lane is generally narrow and enclosed by grass verges, however it widens adjacent to the building. Ground levels rise to the south side and rear of the building.

9. On 12 February 2021 permission (ref E12/69) was granted to convert the Chapel to a dwelling and install a package treatment plant. The case officer's report refers to the proposal being amended so as not to extend the curtilage, and further comments that the amended proposal "*will not detract from its landscape setting"*. Other relevant considerations were that the proposal accorded with:

   - Paragraph 79 of the NPPF, which makes provision for the development of isolated homes in the countryside where redundant buildings would be re-used "*and enhance the immediate setting."*

   - Local Plan policy ENV10 which requires that a judgement is made on the scale of any harm or loss and the significance of the heritage asset. Here, the case officer considered that "*Overall, the impact of the proposal upon the site's heritage significance is acceptable".*

   - Eden Local Plan policy RUR3 which supports the re-use of redundant rural buildings subject to compliance with a range of criteria. The case officer considered that the proposal "*following revision to its associated parking and garden curtilage, will not detract from its landscape setting*".

- Neighbourhood Plan policy UENDP1 allows for rural exceptions sites for single plot affordable housing where there is local need and "*where the development does not have an unacceptable impact on the visual and landscape amenity of the area*".

- Local Plan policy ENV2 which seeks to conserve and enhance distinctive elements of landscape character and function. The case officer concluded that topography and tree screening prevented exposure to distant views and that because of this, and only minor changes to the curtilage, "*There would not be an adverse impact in landscape character terms. The existing setting of the building will be maintained, with no substantive incursion into the open adjoining field to its south and west."*

- Local Plan policy DEV3 which states that development will be refused if it will result in a severe impact in terms of road safety and increased traffic congestion. The case officer considered that the proposal to access the site via Murthwaite Lane raised "*no defensible reasons to resist the application on transport related ground*s".

10. On 18 May 2021, Rangers reported extensive engineering works to the west and south of the Chapel exceeding those shown on plans approved under E/12/69. A site visit the next day confirmed that development was not in accordance with approved plans in that:

    - The car parking area had been installed further west of the Chapel than approved, in the approximate location identified for the package treatment plant.

    - The package treatment plant and a new access to the A683 highway had been installed to the south of the Chapel outside the red line development area.

    - Extensive unauthorised development outside the red line development area had taken place to the land to the west and south of the Chapel including: flattening terrain at the lower level; cutting into the hillside to extend the lower level; creation of terraced areas in the hillside; and insertion of pre-cast interlocking blocks to retain the hillside along the west / south of the site .

11. During a site meeting on 30 June 2021, the owner advised that drainage problems had resulted in the relocation of the car park and package treatment plant. The owner indicated an intention to install stone facing to the pre-cast concrete blocks and further advised his intention to retain terraced areas in the hillside in conjunction with the installation of camping pods, a workshop / "man bar", chicken sheds and housing for lambs. The owner indicated an intention to submit an application in respect of the unauthorised works but has not done so.

12. The planning case officer's conclusion that the proposal did not conflict with development plan policy in respect of the layout of the site was made on the basis of a reduction to the proposed curtilage, approved locations for car parking and the package treatment plant, and "*no substantive incursion into the open adjoining field to its south and west".*

13. The extensive engineering operations to the west and south of the Chapel, together with the new access to the highway and failure to install car parking and package plant facilities in the approved locations, represent a significant departure from the approved plans. The unauthorised development conflicts with development plan policies,

specifically those detailed above, in that there is a considerable adverse impact on the visual quality and landscape character of the area. In addition, the unauthorised access to the A683 raises transport and accessibility concerns given that case officer and Highways opinions were based on the access to / from Murthwaite Lane and not from the busy A683, i.e. factors around visibility splays, surface water drainage, on site turning facilities and impact on local traffic conditions and public safety on the A683 could not be taken into account during the planning process.

Conclusion

14. In terms of harm, failure to undertake the development in accordance with approved plans represents a breach of condition and a breach of planning control which undermines the integrity of the planning system. These breaches manifest on site as a significant scar on the landscape and, although, in places, these appear to be softening through seeding with grass, the overall impact remains significant and at odds with the approval for a more constrained and less visually intrusive development. The adverse impact on the visual quality and landscape character of the area is significant, and the new access to the highway has not been tested through the planning process with consequent concerns over highway safety remaining. The owner's stated intentions for the site do not represent breaches of planning control at this point, but are, nevertheless, concerning given that preparatory work has begun and they conflict with the local plan policies and the scope of the permission for the development.

15. For the reasons detailed above it is considered necessary to take action against the breaches of planning control

Recommendation

1. That the Authority's Solicitor be authorised to serve an Enforcement Notice to secure:

   a) Removal of new access to A683 and reinstate walling.
   b) Removal of car parking space and reinstate land to its original state.
   c) Removal of package treatment plant.
   d) Removal of pre-cast concrete blocks and associated walling.
   e) Reinstate the land to the west and south of the site to its original state and seed with grass.
   f) A compliance period of 6 months with respect to all items a) to e) above.

2. That in the event of non-compliance with the requirements of the enforcement notice, the Authority's solicitor be authorised to commence prosecution.

Ian Faircloth
Enforcement Officer
1 June 2022