

also at

Halstead, Sudbury
Tiptree and Coggeshall

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By email only to: north1@pins.gsi.gov.uk

Your ref APP/B3438/W/18/3195264
Our ref MJH/WALKER&WALKER 260805.0001
Date 31 May 2018

Dear Sirs

RE: APP/B3438/W/18/3195264 - s78 appeal re refusal of conversion of stable to dwelling at The Stable, Mollatts Wood Road, Leek, Staffordshire ST13 7AL

As you are aware we are instructed by the Appellants, Mr and Mrs Walker, in the above matter.

Local Planning Authority Comments/Representations

Our clients note that the reason for the late submission if Staffordshire Moorlands District Council's ('SMDC') statement/reply/rebuttal was not because of exceptional circumstances but simply administrative failings. Our clients assert that this is not the first time that SMDC have submitted late documents to the Planning Inspectorate and they believe that, although specifically stated to the contrary, there is a precedent of SMDC not complying with directions but "getting away with it".

In support of our clients' position here they say:

- i) Re appeal APP/B3438/W/18/3193220 – Council statement due 23 March but submitted 28 March 2018; and
- ii) Re appeal APP/B3438/W/18/3195307 – Council statement due 2 April but submitted 16 April 2018

Our clients are therefore disappointed that the Local Planning Authority have, yet again (for a third time recently), been allowed to rely upon their late submissions.

That said our clients wish to comment as follows (a reference to a paragraph number being a reference to the same numbered paragraph in SMDC's reply):

5.2 – the appeal site is close to nearby conurbations and the distances are not so considerable as to be "uncycle-able". This statement also ignores the local bus service (services every 20 minutes); the nearest bus stop being 350m from the appeal site.

5.4 – SMDC's housing land supply is less than 2 years (being 1.99); the Appellants assert that this shortfall is significant, serious and likely to persist. Significant weight can, and the Appellants say should, be given to the significant undersupply of housing land in the District.

5.8 – SMDC cannot be suggesting that simply because the Stables is a timber-framed building it cannot be of permanent and substantial construction; if SMDC is then this is clearly wrong. Many houses are built using timber-frames and, indeed, such is recognised as being an appropriate and sustainable building material. The OED definition of “permanent” is “*Lasting or intended to last or remain unchanged indefinitely*”. The Oxford University Press Dictionary ED definition of “substantial” is “*Strongly built or made*”. The Stables meets both definitions as it has lasted for many years and is intended to last indefinitely; further, it has been strongly built (see comments re Bode below).

5.10 – regarding the roof and the retention of original materials please see comments re “Bode” below.

5.21 – in its emerging Local Plan SMDC are seeking to change Green Belt boundaries (albeit not in the vicinity of the appeal site) which is tantamount to an admission that current policy is out-of-date and that some release of Green Belt Land will need to occur in order for SMDC to have any realistic prospect of having a 5-year supply of housing land.

5.40 – Policy R2 is a restrictive policy that seeks to limit housing in the countryside. As it is primarily concerned with the supply of housing, Policy R2 carries limited weight in circumstances where there is no 5-year housing land supply (para 49 NPPF refers).

There are other reasons (in law) why Policy R2 should carry less weight. The case of *Borough of Telford and Wrekin v SoSCLG and Gladman Developments Limited* [2016] EWHC 3073 (Admin) is authority for the proposition that the NPPF does not include a blanket protection of the countryside (see paragraph 47 of Justice Lang’s Judgment). Further, the case of *Anita Colman v SoSCLG and North Devon DC and others* [2013] EWHC 1138 (Admin) which is authority for the proposition that SMDC planning policy (particularly SS6c, R1 and R2) is far removed from the cost/benefit approach to development management required by the NPPF and there is no allowance for any harm to the countryside arising from the development to be offset by benefits (see paragraph 22 Justice Parker’s Judgment in *Colman*).

5.47 – in respect of para 55 NPPF the Appellants assert that SMDC have erred in its consideration of whether the site is isolated. As per SMDC’s Officer Report the appeal site is only 110 metres from the nearest dwelling and on a road where there is an established housing development to both sides comprising some 30 dwellings. The appeal site cannot, the Appellants say, sensibly be considered to be isolated and therefore to allow this appeal would not offend para 55 NPPF.

Appendix B - Planning permission 05/01459/FUL does state as its informative that “*the proposal complies with the above policies [N2, N7, N8 and B22] in that it constitutes appropriate development in the Green Belt that is modest in size and acceptable in appearance*”. The Appellants therefore say that the size (i.e. impact on openness) and appearance of the host building having been deemed as acceptable in the Green Belt it is only the use to which the Stables may be put that should rightly be the issue for determination in this appeal.

Costs Application

We are instructed by our clients to apply for costs and we attach a separate document in support of our clients’ application in that regard.

Third Party Comments/Representations

In respect of those representations by third parties our clients’ final comments are as follows.

Bode

Firstly, the roof was not “rotten and totally ineffective”; that said, the severe “Storm Emma” in February 2018 compromised a limited number of sheets which have been replaced. No additional structural support was required and the roof was repaired using original beams. Namely, the roof was laid on original (but cleaned up)

beams/roof trusses. Anecdotally, the roofing contractor (MCS Roofing of Leek) commented that the structure of The Stables was exceptionally strong and much stronger than any comparable building (i.e. stable/stable-style building) he had worked on previously.

Secondly, the Appellants are competent in alpaca husbandry and believe that their comments/views on the suitability of The Stable are not only correct but reasonable in any event.

Third, it is accepted that The Stables draws water from a borehole and it is more economically viable to do so.

Fourth, the original walls remain and are two-skinned; original external cladding (recently painted, n.b. below) with internal plywood also remains. Internal (non-load bearing) dividing walls have recently been removed which the Inspector will, no doubt, see on Inspection/Site Visit.

Clowes

The Appellants repeat the comments made in their appeal as to the absence of a 5-year housing land supply and the apparent need for 1-bedroomed properties in the District (paragraphs 4.16 to 4.20 refer).

Hancock

The Appellants repeat their above comments re the suitability of The Stable for Llamas/Alpacas.

Vass

The Appellants repeat their comments about works of repair to the roof.

As to cladding, the original cladding remains but it accepted that the Appellants have recently painted this with high-quality exterior paint. The cladding has not warped, split or seeped sap in the 15 years it has been installed. Anecdotally, the Appellants had the cladding inspected by Heath's Wood Suppliers of Leek who have confirmed that the cladding is Scandinavian Redwood grade 3 to 4.

As to the look of the building, the Appellants maintain that it is of an appropriate design but this is a matter of planning judgment and will no doubt be considered by the Inspector in due course. Our clients note that there are examples of black timber clad buildings with metal roofs within a 600m radius of the appeal site, being a property further down Mollatts Wood Road (to the south of the appeal site) and a cluster of buildings at Fenton Fields Farm just off Sutherland Road to the west of the appeal site.

Wain

The Appellants repeat comments above regarding design/aesthetics.

In respect of concerns over development, should the appeal be allowed then suitable conditions will be imposed (see below).

Proposed Conditions

In respect of the conditions proposed by the Local Planning Authority these are agreed by the Appellants.

Other matters

The Inspector will, no doubt, be aware that the case referred to at paragraph 4.50 of the Appeal was the subject of a further appeal to the Court of Appeal.

The Court of Appeal decision [*Braintree DC v SOSCLG and Greyread Limited and others* [2018] EWCA Civ 610] confirms that, when considering paragraph 55 NPPF, whether a dwelling will be isolated is a matter of planning judgment having regard to its proximity to settlement and, likewise, whether (or not) a cluster of dwellings amounts to a settlement is a matter of planning judgment. For the reasons set out at paragraphs 4.51 and 4.52 the Appellants maintain that The Stables cannot sensibly be considered to be isolated on the facts of this matter/case.

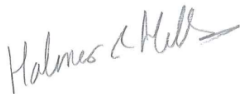
Site Visit

As to a site visit, no-one from this firm shall be attending. Instead the Appellants shall meet with the Inspector.

The Appellants are aware that they must not "lobby" the Inspector but may answer any questions of them. The Appeal Site has its own postal address (which will feed into a "SatNav") and so the Appellants trust that the Inspector will have no problems finding it. That said, should the Inspector need to contact either of the Appellants then the Inspector may call either 07803 004006 or 07484 140922 for directions, assistance etc.

We thank you for your continuing attention in this matter.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'Holmes & Hills', followed by a stylized flourish.

HOLMES & HILLS LLP

Encs – costs application