

## SCHEDULE A: Applications with Recommendation

13/0683

Item No: 05

Date of Committee: 20/12/2013

**Appn Ref No:**  
13/0683

**Applicant:**  
Mr & Mrs Stockdale

**Parish:**  
Burtholme

**Agent:**  
Neil Withington  
Architectural Design

**Ward:**  
Irthing

**Location:** Units 2 (Roman Retreat) & 3, Former Kingwater Equestrian Centre,  
Walton, Brampton, CA8 2JW

**Proposal:** Removal Of Condition 12 Of Previously Approved Permission 02/0342  
To Allow Units 2 And 3 To Be Used As Permanent Residential  
Accommodation

**Date of Receipt:**  
29/08/2013 16:00:06

**Statutory Expiry Date**  
23/10/2013 16:00:06

**26 Week Determination**

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### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

#### 2. Main Issues

- 2.1 Whether The Removal Of The Condition Restricting The Of Occupancy Of  
The Holiday Unit Is Acceptable  
2.2 Effect On Living Conditions Of The Occupiers Of Neighbouring Properties  
2.3 Other Matters

#### 3. Application Details

##### Introduction

- 3.1 The application seeks Full Planning permission for the removal of a planning condition that currently restricts the length of occupation of a holiday unit at Roman Retreat, Burthinghurst, Walton.

- 3.2 The building forms part of the former Kingwater Equestrian Centre which is situated on the southern side of the road leading from Walton to Lanercost. The Centre comprises of a large indoor riding arena, stables and tack rooms. Adjacent to the eastern boundary is a linear row of single storey buildings, part of which is a dwelling, part is a holiday unit and the remainder is unconverted.
- 3.3 The single storey holiday units are set within a courtyard. To the north and east of the application site is a working farm, to the south is a dwelling and to the west are range of equestrian buildings and land within the applicant's ownership.

## **Background**

- 3.4 Planning permission was granted in 2002 for the conversion of outbuildings to form three dwellings. The consent was subject to condition 12 which states:
- “This permission relates to:
- a) the conversion of “unit 1”, as identified on drawing number 01/1222/04/REV A, as a single dwelling; and
  - b) the use of “units 2 and 3”, as identified on drawing number 01/1222/04/REV A, solely for short term holiday units which shall not be let for more than 21 days to any individual or party at anytime. The aforementioned “units 2 and 3” shall not be subsequently sold, let or otherwise be allowed to be occupied as permanent accommodation.”
- 3.5 Since that time, one of the buildings has been converted to a dwelling and another to a holiday unit. The remaining building, which also has consent for holiday use, is unconverted. Due to a change in the applicant's financial circumstances, the adjacent equestrian centre was advertised for sale and has since been recovered by the financial lender.

## **Proposal**

- 3.6 The application seeks consent to remove condition 12 of the planning permission to allow the occupation of both the converted and unconverted holiday units to be occupied as unfettered dwelling houses.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of 2 of the neighbouring properties. In response, 5 letters of objection have been received and the main issues raised are summarised as follows:
- 1. the applicants have lived in the property for 2 years without planning permission;
  - 2. there is no private access to the properties;

3. electricity and water services are connected through the former Kingwater Equestrian centre;
4. the public foot path passes through the small yards of the properties where walkers are made to feel uncomfortable by the residents, their dogs and the dog mess which will only be made worse if they are permanent dwellings;
5. the tiles of the buildings don't match those of the neighbouring buildings;
6. there are complaints from the applicants about the noise from the neighbouring working farm which will continue if permission is granted;
7. when planning permission was granted for the equestrian buildings, passing places were supposed to be formed which was never undertaken;
8. the holiday lets should be retained given that they are in an area close to Hadrian's Wall and they should be retained for tourism to boost the local economy;
9. a fence has been erected around the properties which obstructs the public footpath;
10. the gates to the site are locked meaning that visitors park in the curtilage of neighbouring properties

## **5. Summary of Consultation Responses**

Cumbria County Council - (Highway Authority - Footpaths): - no objection; however, a site layout plan should be submitted with defines the 2 units and associated (shared) access and parking space;

Ramblers Association: - comments awaited;

Cumbria County Council - (Econ. Dir. Highways & Transportation): - comments awaited;

Burtholme Parish Council: - no comment.

## **6. Officer's Report**

### **Assessment**

- 6.1 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) together with Policies DP1, H1, CP6, and LC8 of the Carlisle District Local Plan 2001-2016. The proposal raises the following issues.

#### **1. Whether The Removal Of The Condition Restricting The Of Occupancy Of The Holiday Unit Is Acceptable**

- 6.2 The objectives of national planning policy are reflected in Policy DP1 of the Carlisle District Local Plan. They require that the overall quality of life within Cumbria should be enhanced through the promotion of sustainable development that seeks to protect the environment, ensure prudent use of resources and maintains social progress and economic growth.

- 6.3 Since adoption of the Local Plan, the NPPF has been published by the Government and is a material consideration in the determination of this application. Policy considerations in relation to this application state that whilst development should be considered against Local Plan policies, the Council's Local Plan (in respect of the issue of housing) cannot be considered up to date under the NPPF. The Framework seeks to promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the viability of rural communities.
- 6.4 With regard to the conversion of existing buildings, the NPPF is permissive of such proposals where "the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting".
- 6.5 The issue for Members to consider here is the weight that should be attached to the word "redundant" in the NPPF. The Oxford English Dictionary describes the meaning of the adjective as:
- "not or no longer needed or useful; superfluous"
- 6.6 The applicant has provided supporting information details that the holiday cottage was last used for such a purpose in September 2010 and since then, he has been unable to secure any bookings due to the demise of the equestrian centre. The cottage remained empty until October 2011 when the applicant moved in. The statement continues by stating that the buildings were valued in 2011 and 2012 as holiday units and were marketed as such in 2012. Following a series of price reductions, the buildings were removed from the market in July 2013, some 18 months later, due to the lack of interest.
- 6.7 The NPPF requires that the conversion of redundant buildings must "lead to an enhancement to the immediate setting". Although the buildings are not visually prominent from the County highway, there is a public footpath that crosses the site. Whilst it is recognised that there is some issue with regard to the relationship of the footpath with the garden area created to the front of the buildings, these gardens have the benefit of planning permission following the original consent granted in 2002.
- 6.8 The unconverted barn would undoubtedly lead to an enhancement of the setting given its current condition and appearance. Whilst the other building has been converted and the argument less transparent, refusal of this application would mean that the building would have to be vacated and used as a holiday use. If no vacancy for such were secured, as advised by the applicant in his supporting statement, this building would fall into a state of disrepair and neglect; therefore, removal of the condition would ensure that the building continues to enhance the character and appearance of the area. The principle of the removal of the condition is therefore acceptable.

## **2. Effect On Living Conditions Of The Occupiers Of Neighbouring Properties**

- 6.9 There are residential properties in the vicinity of the application site, namely

Burthinghurst House which is approximately 11 metres to the south and Pine Grove which is approximately 67 metres to the east. The principle of using the barns has already been established. At present, the buildings could be occupied for holiday purposes all year round. The removal of the condition would not result in an intensification of the use of the site or change the overall use of the site. The living conditions of the occupiers of the nearby properties would not suffer from loss of privacy or unacceptable levels of noise or disturbance.

- 6.10 The letters of objection raise issues about the relationship between the buildings and the adjacent farm and complaints raised by both parties with regard to noise. These complaints have been investigated by the Council's Environmental Health Officers. The permanent occupation of these buildings would not exacerbate this issue as it is specific to the individuals involved.

### **3. Access**

- 6.11 Some of the objections from the occupiers of the neighbouring properties make reference to the fact that the applicant has no right of access over adjoining land to get to the building. A further letter of objection has been received from a firm of solicitors acting on behalf of the mortgage company in possession of the former Kingwater Equestrian Centre. In essence, they make reference to the fact that in 2002, the applicant transferred a large part of the adjacent land out of their ownership and no rights of access were reserved in this transfer, thereby rendering Roman Retreat as landlocked. Consequently, the objection opines that no planning permission should be granted until this matter is resolved.
- 6.12 The building currently benefits from consent to be used as a holiday unit, therefore, the principle of habitable occupation of the building is acceptable. This application seeks to vary the occupancy rather than establish the principle of development. The applicant has been accessing the building for the past 11 years since the land was transferred out of his ownership and therefore without consent. It is therefore considered that whilst the building may be landlocked, the issue of access over adjoining land is a matter for the applicant to resolve with the mortgage company.

### **3. Other Matters**

- 6.13 The Highway Authority has advised that a plan showing the allocated parking from the properties should be submitted by the applicant. The approved drawings for the conversion of the buildings, show 6 parking spaces within the courtyard for the 3 buildings. As the application is for a variation of the occupancy condition, all other matters including the layout of the site are unaffected.
- 6.14 In addition, the objectors raise the issue of the public footpath and that access across it is now prohibited. The Footpaths Officer at Cumbria County Council is aware of this issue. The gardens formed part of the planning permission granted in 2002 do appear to have been built over the line of the footpath; however, the applicant has provided gated access at either end. If it

subsequently transpires that additional signage or a footpath diversion is required, this would be a separate matter for between the applicant and the County Council outwith the consideration of this application.

#### **4. The Impact On Human Rights**

- 6.15 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:

**Article 6** bestowing the "Right to a Fair Trial" is applicable to both applicants seeking to develop or use land or property and those whose interests may be affected by such proposals;

**Article 7** provides that there shall be "No Punishment Without Law" and may be applicable in respect of enforcement proceedings taken by the Authority to regularise any breach of planning control;

**Article 8** recognises the "Right To Respect for Private and Family Life".

- 6.16 Article 1 of Protocol 1 relates to the "Protection of Property" and bestows the right for the peaceful enjoyment of possessions. This right, however, does not impair the right to enforce the law if this is necessary, proportionate and there is social need.

- 6.17 Article 8 and Article 1 Protocol 1 are relevant but the impact of the development in these respects will be minimal and the separate rights of the individuals under this legislation will not be prejudiced. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

#### **Conclusion**

- 6.18 In overall terms, the site is not in a sustainable location; however, the policies within the NPPF are supportive of the use of the buildings as permanent residential dwellings. The living conditions of the occupiers of neighbouring residential properties would not be adversely affected by the extended occupancy period. In all aspects the proposal is considered to be compliant with the objectives of the relevant Local Plan policies.

#### **7. Planning History**

- 7.1 Planning permission was granted in 2002 for the conversion of outbuildings into 3 dwellings.
- 7.2 An application for the removal of condition 12 (restriction of length of letting period) of the previously approved planning application 02/0342 was submitted in 2011 but was withdrawn prior to determination.
- 7.3 Later in 2011, consent was granted for the variation of condition 12

(restriction of length of letting period) of the previously approved planning application 02/0342 to increase from 21 day let to up to 56 day let.

**8. Recommendation: Grant Permission**

1. The approved documents for this Planning Permission comprise:
  1. the Planning Application Form received 2nd September 2013;
  2. the Location Plan received 2nd September 2013 (Drawing no. 13/2186/01);
  3. the Notice of Decision;
  4. any such variation as may subsequently be approved in writing by the Local Planning Authority.

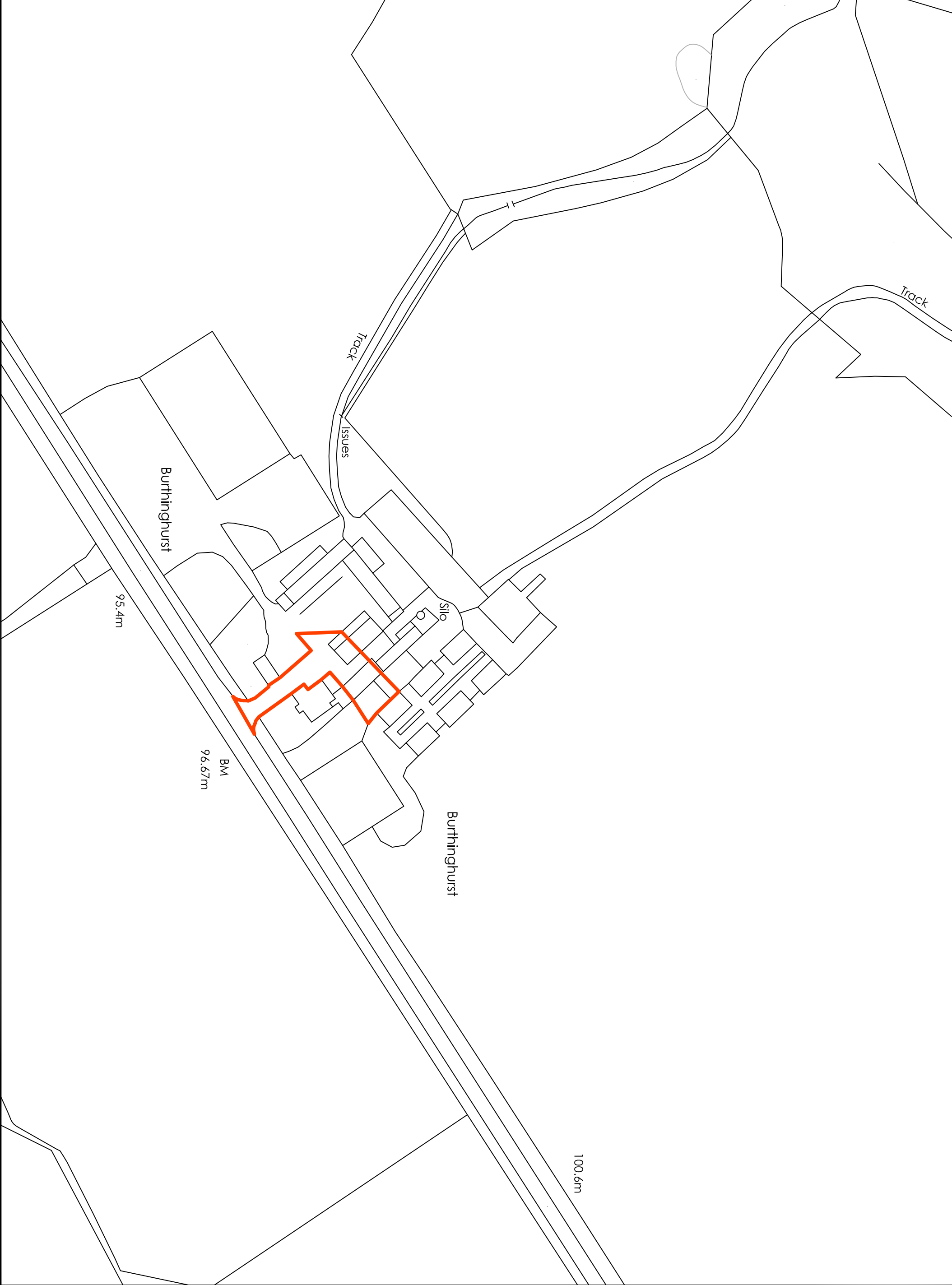
**Reason:** To define the permission.

2. The development shall be carried out in accordance with the remaining conditions attached to the "Full Planning" permission approved under application 02/0342.

**Reason:** For the avoidance of doubt.

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Revisions

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Location Plan

Roman Retreat at  
Kingwater  
Equestrian Centre  
for Mr G Stockdale

November 2013  
Scale: 1:1250 @ A3  
13-014-01



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