

CARLISLE CITY COUNCIL

Report to:- **The Chairman and Members of the Development Control Committee**

Date of Meeting:- 13th February 2004

Agenda Item No:- **A2**

Public

Information

Delegated: Yes

Accompanying Comments and Statements

	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
Financial Comments:	No	No
Legal Comments:	Yes	No
Personnel Comments:	No	No
Impact on Customers:	No	No

Title:- PLANNING APPEAL: FIELD 3328, CASTLE CARROCK

Report of:- The Head of Planning Services

Report reference:- P.11/04

Summary:-

The Report identifies that an application has been made by a resident of Castle Carrock for a Judicial Review of the City Council's resolutions of 21 November 2003 to; i) grant planning permission for 5 dwellings; and ii) that it is minded to grant planning permission for an alternative development of 4 dwellings linked to a S106 Agreement. The Report also identifies that the Planning Inspectorate has allowed an Appeal against a previous refusal of planning permission for 9 dwellings.

Recommendation:-

That the decision of the Planning Inspectorate be noted and accepted.

A Eales

Head Of Planning Services

Contact Officer: Alan Taylor

Ext: 7171

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

- 1.0 Members will recall that at the meeting of the Committee held on 21 November 2003 consideration was given to two separate applications for development on parts of Field 3328, within the centre of Castle Carrock. Those applications followed two earlier applications, for 16 dwellings and for 9 dwellings, the first dismissed at Appeal and the second under challenge through the Appeal system.
- 1.2 Of the two submissions considered in November, one application sought approval for a frontage development of 5 dwellings along the full width of the site, while the second application sought approval for a development of a small courtyard of 4 dwellings in the north-western corner of the site. The application for 5 dwellings was approved.
- 1.3 In respect of the latter application, the applicants indicated that the residual part of Field 3328, including the remaining frontage to the road, would be offered to the Parish Council as "village amenity land". The view of the Committee was that the conservation of that area of land as a "village amenity" (although outside the application boundary site) should be explored through discussions between the applicants and the Parish Council which, it was assumed, might wish to take that land over for the benefit of the village. Members, accordingly, resolved that they were minded to approve that second application for 4 dwellings subject to the satisfactory attainment of a S106 Agreement ensuring that the land outside of the application site was so protected. Officers were authorised to issue that second approval subject to the legal agreement being secured. Discussions between the applicant and the Parish Council have proceeded but no conclusion, such as to enable drafting of a S106 Agreement, has occurred.
- 1.4 Members will, however be aware from media reports, that subsequent to the above, the Council received notification in January 2004 that application was being made by a resident of Castle Carrock for a Judicial Review of the legitimacy of the Council's decisions. That application sought to have the Council's decisions quashed. The Council has subsequently given notice that it would oppose that application.
- 1.5 However, on 23 January 2004 the Planning Inspectorate issued its decision on the outstanding Planning Appeal in respect of the Council's refusal of planning permission for 9 dwellings. The Appeal has been allowed subject to compliance with 9 conditions. A copy of the Inspector's Decision letter is reproduced for information.

To the Chairman and Members of the
Development Control Committee

P.11/04

2.0 Recommendation

2.1 That the decision of the Planning Inspectorate be noted and accepted.

A Eales
Head Of Planning Services

Contact Officer: Alan Taylor

Ext: 7171

Appeal Decision



Appeal Decision

Site visit made on 13 January 2004

by **Francis Farrimond DipTP MRTPI**

an Inspector appointed by the First Secretary of State

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Date:

23 JAN 2004

Appeal Ref: APP/E0915/A/03/1130876

Land at Field 3328, Castle Carrock, Cumbria.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Montgomery Homes Limited against the decision of Carlisle City Council.
- The application (Ref.03/0580), dated 2 May 2003, was refused by notice dated 10 October 2003.
- The development proposed is the erection of 9 dwellings and village amenity space.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Procedural Matters

1. The application as submitted included an offer of two 2 bedroom dwellings as affordable housing and the making of land available to the Parish Council as a village amenity area. However, the Appellant has indicated that those offers no longer form part of the proposal before me. I will consider the application on that basis.
2. The proposal was refused on 2 grounds. One of those grounds was that the development would unacceptably intrude into, and thus result in the loss of, an area of significant open space within the village contrary to the objectives of Policy E50 of the Carlisle District Local Plan. But, since planning permission for 5 dwellings was granted on 21 November 2003 on essentially the same land as the appeal site the Council offers no evidence in support of that reason for refusal.

Planning Policy

3. Section 54A of the Town & Country Planning Act 1990 (as amended) requires that planning applications should be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan comprises the Cumbria & Lake District Joint Structure Plan (SP) adopted in 1995 and the Carlisle District Local Plan (LP) adopted in 1997. The plans indicate that part of Castle Carrock is included within the North Pennines Area of Outstanding Natural Beauty (AONB). The parts of the development plan drawn to my attention are SP Policies 40 & 41 and LP Policy H5.
4. SP Policies 40 & 41 indicate that in rural settlements outside National Parks, including those within AONB's, housing development will normally be permitted, provided that it is small in scale. Especially where it would help to sustain the existing local community and is in sympathy with the scale and character of the existing settlement. Castle Carrock is included in settlements grouped within Policy H5 of the LP where 'large scale' (as opposed to 'small scale') residential development will not be permitted.

5. Government advice in Planning Policy Guidance Note (PPG) 3 *Housing* was issued after the SP & LP were adopted. It indicates that local planning authorities should review housing planning policies with the objective of securing greater emphasis on the re-use of existing developed land, encouraging increased density of development and focussing the majority of development in larger settlements. Following the issue of PPG3 advice the Council produced and adopted in November 2002 its *Interim Housing Policy Statement*. The purpose of that statement is to provide guidance on how development plan policies will be implemented to take account of the new Government advice. The statement is not part of the development plan and has not been subject to public consultation. Nevertheless, it is a material consideration in this appeal. The statement also identifies that because of problems with the release of one large urban housing site the proportion of the contribution of new rural housing to development plan period targets is exceeding that envisaged.
6. LP Policy H5 indicates that what constitutes 'large scale' or 'small scale' housing development will vary from settlement to settlement. But, in all cases, developments of 20 dwellings or more would be considered large scale. Advice in PPG3, paragraph 70, is that villages will only be suitable locations for accommodating significant additional housing where they would support and sustain local services that might otherwise become unviable without some modest growth. Or, where additional houses are required to meet local needs and help to secure a mixed and balanced community. And, where the development can be designed sympathetically and laid out in keeping with the character of the village.
7. In addition to PPG3 Government advice in PPG 7 *The Countryside-Environmental Quality & Economic & Social Development* clearly indicates that the countryside should be protected for its own sake. And, that new building in the countryside should be limited to that reasonably required for necessary rural purposes.

Main Issue

8. The main issue is whether or not the proposal is 'significant' in terms of advice in PPG 3 and 'large scale' in terms of the development plan and, if so, whether it is required to satisfy an identified current local need that meets the tests in PPG3, paragraph 70. If not, whether there are benefits in this case to outweigh those policy conflicts and justify this scheme.

Reasons

9. Castle Carrock is an attractive fell side village in the east of Carlisle District. It is located on the B6413 road to Penrith about 4 miles south of Brampton. The appeal site is a field within and close to the heart of the village. It formerly comprised part of Garth House Farm in the ownership of Cumbria County Council. The farmhouse and traditional range of farm buildings have been sold off and are now in residential use. In 2001 Field 3328 was marketed as a suitable site for residential development. The whole field is about 0.76 hectare in size with a road frontage of about 90 metres. The field is well defined by a dry stone wall along the road frontage, a public footpath below mature trees to the south east side and trees, hedges and means of animal enclosure fences to the other boundaries. There is a group of agricultural buildings within the field. The land is relatively flat near to the road but rises up steeply to the rear.
10. The current proposal is for 9 dwellings on about 0.57 hectare of the land nearest the road frontage. The remaining land to the rear would be left open. The development would comprise 7 substantial detached dwellings, six 4 bedroom and one 3 bedroom, with 2 semi-

detached 2 bedroom dwellings. The dwellings would be arranged in 2 groups of 4 buildings in a courtyard pattern around 2 private accesses from the adjacent road. That arrangement would reflect similar patterns of housing and farm layouts elsewhere in the village and would minimise the requirement for access openings in the frontage wall from linear development.

11. The Council accepts that Castle Carrock ranks amongst the district's higher order villages. Since it also includes a primary school, a shop/post office, a church, a village hall, 2 public houses (although one is currently closed) and has a bus service I see no reason to disagree. Whilst LP Policy H5 indicates that 20 dwellings or more will always be regarded as 'large scale' any proposals for fewer dwellings must be considered in the context of the individual circumstances of a particular village. Furthermore, in October 2003 an appeal against refusal of a proposal to erect 16 dwellings on the whole of Field 3328 was dismissed. From the evidence, the village (excluding the wider parish of about 126 dwellings in total) includes about 80 dwellings. The former proposal for 16 dwellings would have represented an increase of some 20%. The current proposed 9 dwellings would increase the housing stock by about 11%. In my view, that could be argued to be large scale in the context of the particular characteristics of Castle Carrock I have identified. That being so, it is necessary to apply the tests set out in paragraph 70 of PPG3.
12. Firstly, I have no evidence that local services would be likely to become unviable without the proposed new housing. Secondly, the *Castle Carrock Housing Needs Survey August 2002* prepared by the Cumbria Rural Housing Trust indicates only one current household in housing need. On that basis, the proposal does not meet those 2 tests set out in paragraph 70 of PPG3.
13. However, in terms of the third test, the Council does not object to the development in terms of harm to the character and appearance of the village. Nor is there any objection to details of the design, layout and external materials of the proposed development. There are no objections on highway grounds or any other physical infrastructure implications. And, there is no objection in strategic terms from the Cumbria County Council.
14. The proposal has attracted representations from interested parties, not least the Friends of the Lake District (FOLD), incorporating those of the Campaign to Protect Rural England (CPRE) and the Castle Carrock Pound (CCP), a local residents' group opposed to the appeal proposal. FOLD argues that there is no justification for the appeal proposal on grounds of housing need either in terms of the village itself or the wider district.
15. The CCP claims that the proposal represents low density and unsustainable development of a green field site not well served by public transport. And, that the Appellant is caught in a dichotomy where 'small scale' development in terms of LP Policy H5 cannot meet the PPG3 requirements for a density of development making effective use of housing land.
16. Significantly, since this proposal was refused the local planning authority, on 21 November 2003, granted planning permissions on schemes for 4 and 5 dwellings respectively on part of Field 3328. The scheme for 5 dwellings would occupy essentially the same part of the field as the current proposal. Therefore, if this proposal is rejected it is likely that the land would be developed for 5 dwellings. Indeed, I observed that site preparation works had commenced at my site visit. The Council indicates that it approved that scheme because it was not considered 'large scale'. Nor, in the Council's view, would that recently approved development of the land harm the character or appearance of the village.

17. That being so, in my opinion, the recent granting of the planning permissions has fundamentally altered the context of the appeal proposal. And, on that basis alone, makes the current proposal different from appeal decisions drawn to my attention by FOLD. Rejecting this scheme would not protect or avoid the loss of a green field site. Furthermore, a fundamental objective of PPG3 is to make the fullest use of housing development land. In pursuit of that objective it advocates new housing densities of at least 30 dwellings per hectare. This scheme for 9 dwellings, at about 16-21 dwellings per hectare (dependent upon how calculated) would fall below that threshold. Nonetheless, it would represent a more efficient use of the land than the scheme for 5 dwellings. In addition, it would include 2 smaller 2 bedroom dwellings that, although market housing, would be more affordable than any of the 5 large detached dwellings now approved. That would better accord with the PPG3 objective to secure a mixed and balanced community. There is no objection to the appeal proposal in terms of its intrinsic design or its impact on the form and setting of Castle Carrock. And, more intensive development of the appeal land would not, in my view, be sympathetic to the character or appearance of the village.
18. In terms of sustainability the village has the benefit of a bus service together with a primary school and a range of other community uses. And, although the proposal may not be needed to prevent the school and community uses becoming unviable I have no evidence that they could not accommodate any increased demand from this proposal. Nor would 4 additional dwellings harm strategic district wide policy objectives or require phasing. Taking these material considerations together, I find these represent benefits to outweigh any harm to the housing policy objectives of PPG3, SP Policies 40, & 41 & LP Policy H5.
19. I have taken into account all the other representations made, including those of the Castle Carrock Parish Council, the North Pennines AONB Officer and local residents, but they do not affect the balance of my conclusions on the main issue.
20. I conclude that the proposal is 'significant' in terms of advice in PPG 3 and 'large scale' in terms of LP Policy H5 of the development plan. And, it is not required to satisfy an identified current local need. However, there are, in this case, other material circumstances to justify the proposal.

Conditions

21. The Council has included a committee report with a suite of conditions to be attached to any permission. I have considered these in the light of advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. In addition to the standard time limit to commence development I will impose conditions to require details and samples of materials for external building finishes, screen walls (including those to be retained), hard surfacing and existing and proposed ground levels to be further approved by the Council. And, details of landscaping and effective landscape implementation. Those conditions will be imposed in the interests of visual amenity. Approval of details of surface water drainage works is also necessary to ensure satisfactory site drainage. I will also impose conditions to remove 'permitted development' rights for dwelling extensions and means of site enclosure to safeguard the character and appearance of the village within and in proximity to the AONB.

Conclusions

22. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

23. I allow the appeal and grant planning permission for the erection of 9 dwellings at Field 3328, Castle Carrock, Cumbria in accordance with the terms of the application Reference 03/0580 dated 2 May 2003, and the plans submitted therewith, subject to the following conditions:
- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
 - 2) Before any part of the development hereby approved is commenced details and samples of materials to be used on all external building finishes, screen walls and hard surfaces shall be submitted to and approved in writing by the local planning authority.
 - 3) Before any part of the development hereby approved is commenced details of existing and proposed ground levels, and the height of finished floor levels of the proposed dwellings and garages, shall be submitted to and approved in writing by the local planning authority.
 - 4) Before any part of the development hereby approved is commenced a scheme for surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be effectively implemented before any dwelling is first occupied.
 - 5) Before any part of the development hereby approved is commenced details of landscaping, including the type, species, heights and densities of all planted material, shall be submitted to and approved in writing by the local planning authority.
 - 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
 - 7) The site front boundary wall shall be retained as existing except where breached for approved access points.
 - 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected without the further approval in writing of the local planning authority.
 - 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 1 (or any order revoking and re-enacting that Order with or without modification), no enlargement or material external alteration of the dwellings hereby permitted shall be made without the further approval in writing of the local planning authority.

Information

24. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.
25. An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.
26. Attention is drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970, as amended.
27. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

A handwritten signature in black ink, consisting of stylized initials 'F.F.' followed by a long horizontal stroke that ends in a small upward hook.

INSPECTOR