



## Report of the Chief Planning Officer

### PLANS PANEL EAST

Date: 16<sup>th</sup> June 2011

**Subject: Application 10/02898/FU – Appeal by Mr S Burrows against the non-determination of planning application 10/02898/FU for the redevelopment of the existing equestrian/kennels/cattery buildings for a single replacement dwelling designed to Code 6 of the Code for Sustainable Homes at the Cleavesty Centre, Cleavesty Lane, East Keswick, Leeds LS17 9HJ**

**The appeal was dismissed but a partial award of costs was made against the Council.**

#### Electoral Wards Affected:

Harewood

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity   
Community Cohesion   
Narrowing the Gap

#### RECOMMENDATION:

Members are asked to note the following appeal decision.

#### 1.0 THE APPEAL WAS HEARD AT A PUBLIC INQUIRY

- 1.1 This proposal related to a scheme for the demolition of all existing equestrian, kennel and cattery buildings and the erection of a detached dwelling in their place. The proposed dwelling had its own dedicated drive and garden areas. The remainder of the site was to be set aside to be managed as an area of woodland, wild flower meadow and orchard.
- 1.2 The appeal site was located within the Green Belt and a Special Landscape Area. The planning application was recommended for permission by officers but the Panel resolved that planning permission should be refused as the proposal constituted inappropriate development within the Green Belt and that it was of a contemporary design that was out of keeping with its surrounds that is characterized by traditional forms of architecture.
- 1.3 An appeal was lodged prior to the Council determining the application. The Inquiry was heard on 6<sup>th</sup> to 7<sup>th</sup> April and 10<sup>th</sup> May 2011. The appeal was dismissed but a

partial award of costs was made against the Council. A summary of both decisions are set out here.

## **2.0 ISSUES IDENTIFIED BY THE INSPECTOR**

- 2.1 The Inspector noted that both parties agreed that the proposal constituted inappropriate development in the Green Belt. The Inspector considered that the main issues relating to the appeal were the whether there were very special circumstances to outweigh the presumption against inappropriate development and whether the design of the dwelling was appropriate within its context.

## **3.0 SUMMARY OF COMMENTS**

- 3.1 Before addressing Green Belt policy the Inspector addressed planning policy that deals with proposals for new dwellings in the countryside. The Inspector noted that PPS7 'Sustainable Development in Rural Areas' makes it clear that that the replacement of non-residential buildings by residential development in the countryside should be treated as new housing and confirms that local planning authorities should strictly control new house building, including single dwellings, in the countryside. In addition isolated new houses will require special justification. The Inspector considered that the design of the house was of a high quality but it was not of an exceptional, truly outstanding or ground breaking design. He therefore concluded that the proposal was at odds with the policy objective and that there was no special justification to make an exception to the policy.
- 3.2 Turning to the Green Belt the Inspector noted the general presumption against inappropriate development and that this should not be set aside unless the appellant had demonstrated very special circumstances. The Inspector concluded the replacement of the existing buildings with the new house would result in a substantial reduction in scale, bulk and site coverage and a significant increase in openness.
- 3.3 The Inspector considered that the introduction of the hedge, woodland glades and wildflower meadows would enhance the landscape and would secure a degree of nature conservation interest. In these respect he considered that the proposal would contribute to the achievement of the objectives of the Green Belt.
- 3.4 Turning to the issue of the effect that the development would have on the visual amenities of the Green Belt and SLA the Inspector noted the guidance set out in the East Keswick Village Design Statement. He came to the view that the site is set apart from the village and is not geographically or visually part of it. He considered that it would be inappropriate for the design of any building on the site to reflect the local vernacular as set by the more urban development in the village conservation area. He also considered that the design because of its careful siting, high quality design, simple form, limited height, wooden cladding, grass roofs and extensive landscaping would clearly reflect its rural context. As such he concluded that it would have a beneficial effect on the visual amenities of the area.
- 3.5 The Inspector considered that the rural location was a distinct disadvantage in sustainability terms. The likelihood was that most journeys to and from the house would be made by private car. Having regard to the sizeable home office, the requirement through the proposed Planning Obligation to keep an electric/low emissions car and that the house was of a highly sustainable design he concluded that there would be a neutral impact in terms of access and sustainability.
- 3.6 With regard to other matters the Inspector noted the appellant's fallback position of reverting to the previous use and that if the appeal was dismissed the benefits of the scheme, including the removal of buildings and reduction in traffic movements would be lost.

3.7 However, The Inspector concluded that the harm by reason of the inappropriate nature of the proposal carries substantial weight. This would be compounded by other, very considerable harm through conflict with national countryside and rural housing policy objectives. He considered that this harm was so great that it was not outweighed by other considerations and he dismissed the appeal.

#### **4.0 COSTS DECISION**

4.1 The appellant made an application for the full award of costs against the Council. It was the appellant's assertion that the Council had failed to substantiate its reasons for refusal thereby causing the appellant unnecessary expense.

4.2 The Inspector had regard to the advice set out in Circular 03/2009, Costs Awards in Appeals and Other Planning Proceedings. He noted that planning authorities are not bound to accept the recommendations of their officers. However, if the professional advice is not followed, then authorities need to show reasonable planning grounds for taking a contrary decision and produce the relevant evidence at appeal.

4.3 With regard to the Green Belt the Inspector set out that the Council gave substantial evidence on the matters to be taken into account and the potential impact each would have. A clear and rational explanation of the balancing exercise was given and the Council was able to show that Members had reasonable planning grounds for taking a contrary decision with reference to development plan policies and national planning guidance. He concluded that the Council was able to substantiate this purported reason for refusal.

4.4 Turning to the issue of design the Council attempted to explain the reasons for the Members decision. The Inspector concluded that it was clear from the evidence presented at the appeal that the Members had a strong preference for a more traditional style of building. This view was supported by reference to the character of East Keswick Conservation Area and the guidance set out in the Village Design Statement. However, the Inspector considered that the site and the village are some considerable distance apart and there is no real geographical or visual link between the two. He noted that the Council's own policy, N13, welcomes good contemporary design. The Inspector therefore concluded that the design of the house should respond to its rural context. He considered that the Council did not demonstrate a clear understanding of the context of this proposed house and was not able to substantiate a requirement for it to conform to a traditional style. He concluded that there was a clear failure to produce evidence to substantiate the second purported reason for refusal and this was unreasonable behaviour.

4.5 Accordingly the Inspector made a partial award of costs against the Council related to the failure to substantiate the second reason.

#### **5.0 IMPLICATIONS**

5.1 In reaching his decision on Green Belt issues the Inspector carefully assessed each aspect of the case and set out what weight should be attributed to them in reaching a decision. The benefits that he identified that arose from the scheme were then weighed against the harm that arose to the Green Belt and the other harm in respect of policy concerning new dwellings in the countryside. The Inspector in dismissing the appeal clearly applied significant weight to the desire to protecting the Green Belt from inappropriate development. This process of identifying the relevant material considerations, applying weight and then balancing them is clearly very important in reaching a decision on Green Belt cases.

- 5.2 With regard to the design issue a key consideration was the link between the proposed house and the village. Once the Inspector had come to the conclusion that there was no geographical or visual link, and that the design of the house should be assessed in the context of its more immediate surrounds, then the Council's argument that its design should have had greater regard to the local vernacular carried little weight. It is clear that in assessing the design of a proposal careful consideration needs to be given to establishing what is the context for the scheme and then the assessment should move on to how the proposal responds to that.

**Background Papers:**

Application file: 10/02898/FU

NOTES

10 / 02898

- SITE PLAN**
- ① HERB GARDEN & DRYING AREA
  - ② COMPOSTING BINS
  - ③ VEGETABLE GARDEN
  - ④ WOODLAND GLADES
  - ⑤ WILDFLOWER MEADOW
  - ⑥ GREY WATER REED BED
  - ⑦ CYCLE STORE & ELECTRIC CAR HOOK UP
  - ⑧ FORMAL GARDEN



PROPOSED SITE PLAN  
1:500@A1

NORTH



PLANNING ISSUE

NEW DWELLING  
CLEAVESTY LANE  
EAST KESWICK

FOR  
MR. S. BURROWS

PROPOSED SITE PLAN

Date MARCH 2010  
Scale 1:500 @ A1  
Drawn NP Checked

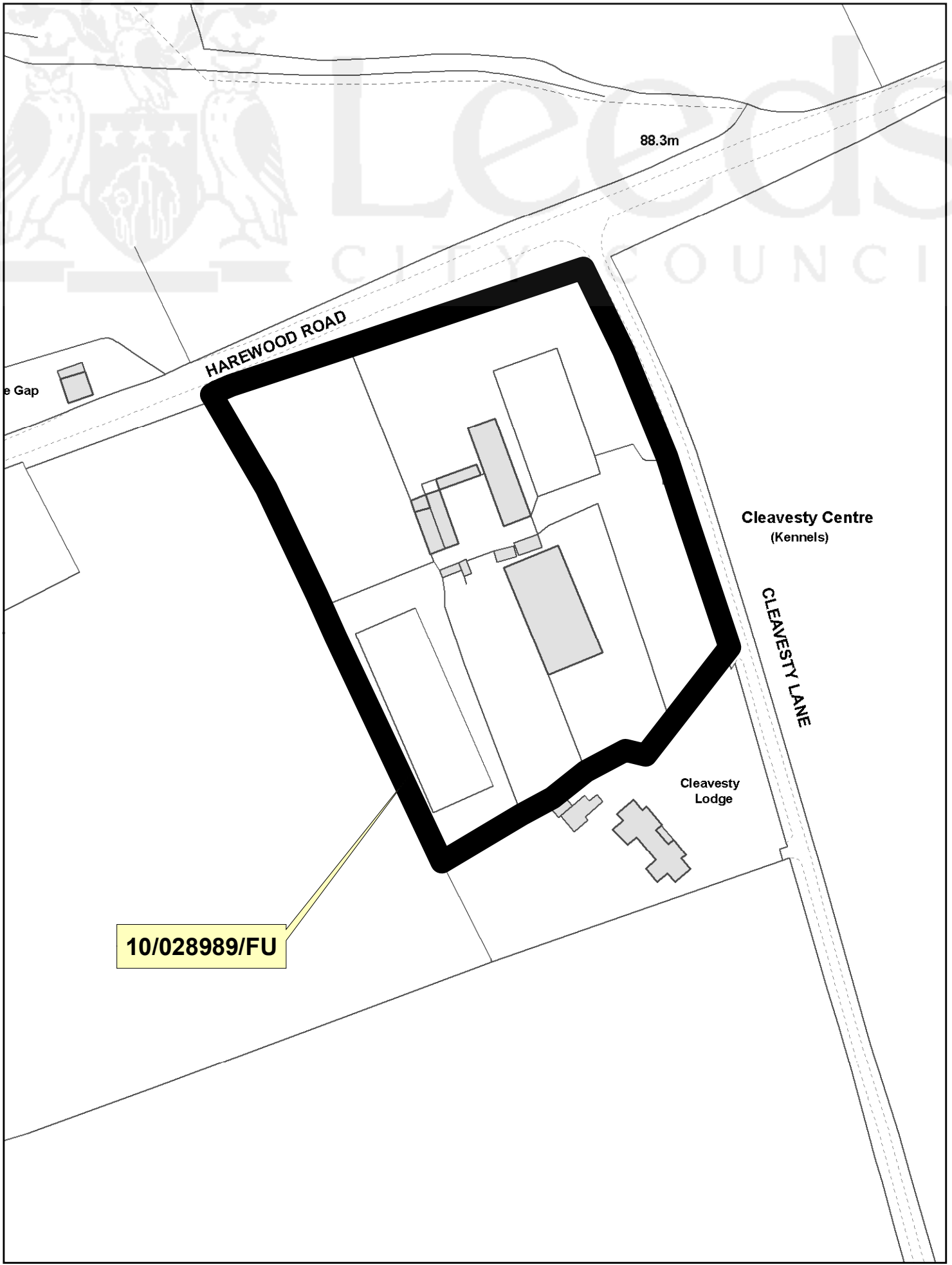
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Dwg. No. 549.01.01.02

Rev.

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# EAST PLANS PANEL

