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Scarborough Borough Council

Mrs C Pindar
Chairman
Scalby Village Trust
20 North Street
Scalby
Scarborough
YO12 0RP

Your Ref:
Our Ref: PE/RMF 09/00717/OL
19 February 2010

Dear Mrs Pindar

Outline Planning Application - Land at High Mill Farm, Station Road, Scalby

I write further to your letter dated 12 February 2010 in connection with the above planning application which was considered at Planning and Development Committee on 4 February.

It is recognised that there was considerable local opposition to the decision to grant planning permission, subject to certain detailed matters being resolved. However, the Council is firmly of the opinion that the decision followed the correct procedures as set out in planning legislation, policy and guidance.

In making the decision members of the committee were guided by the report for the planning application, which examined the relevant issues in depth and is available to view on the Council's website. Your particular attention is drawn to paragraphs 6.1-6.15.

Paragraph 6.2 identifies the statutory basis on which planning decisions are made, namely, the Planning and Compulsory Purchase Act 2004, which requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. However, the report also states that, 'one such consideration will be whether the plan policies are relevant and up to date. The 2004 Act provides that if there is a conflict between policies in a Development Plan document or a Regional Spatial Strategy (RSS), the most recent policy will take precedence. The Courts have also held that the Government's statements of planning policy are material considerations which must be taken into account, where relevant, in decisions on planning applications.'

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The report fully acknowledges that there would be a breach of the development plan in the form of policy E1 of the Scarborough Borough Local Plan, but that there are material considerations which should be given greater weight when making a planning decision, and in particular the report highlights the housing supply requirements set out in the RSS. It is therefore this document and national guidance, which is more recent than the Local Plan, which are the main material circumstances for concluding that a refusal based on policy E1 cannot be justified (paragraph 6.14 in particular applies).

Paragraph 6.15 goes on to state that, "The recent publication of the LDF [Local Development Framework] Core Strategy and HADPD [Housing Allocations Development Plan Document] for consultation does not alter the relative merits of the application, even though the Field Lane site and other land to the north/east of Scalby is identified for allocation..... Since the LDF documents are still at the consultation stage they do not have any significant weight as a material planning consideration in the determination of the application."

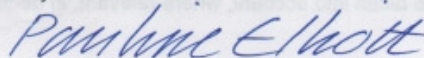
In making its decision the Committee were therefore aware that the primary material considerations for making an exception to the Local Plan policy were regional and national policy, and not the draft LDF documents, which are still only at the consultation stage. This was also explained in the officers' presentation to Members at Committee before Members began their debate.

You also state that you would like the application to be called in and sent to the Government Office for Yorkshire and Humber for consideration of the legitimacy of the application. There are specific regulations governing whether or not an application should be referred to the Government Office and this takes the form of the Town and Country Planning (Consultation)(England) Direction 2009. This cancelled Circular 07/99: The Town & Country Planning (Development Plans and Consultation) (Departures) Directions 1999 which had previously made provision for the referral of certain types of application which departed from development plan. If referral of the application had been necessary then the Committee would have been advised of this, but having carefully examined the contents of the 2009 Direction, it was concluded that this is not a requirement. This view has also been confirmed, in writing, by the Government Office for Yorkshire and Humber.

Obviously, the Trust will need to reach its own decision as to whether it wants to pursue the judicial review process, but it is the Council's opinion, supported by the Government Office, that it has followed the correct procedures in reaching a decision that planning permission should be granted.

It is appreciated that this letter will not overcome the Trust's objection to the development, but I hope it has at least helped to explain the Council's position with regard to the points raised. If you require any further assistance please contact me or my colleagues in Planning Services at the above address.

Yours sincerely



Pauline Elliott
Head of Regeneration & Planning