

## Appeal Decision

Site visit made on 9 August 2016

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 02 September 2016**

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**Appeal Ref: APP/A2335/W/16/3150263**

**Throstle Nest Farm, Main Road, Thurnham, Lancashire LA2 0DR**

- 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 Mr Ian McShannon of Throstle Nest Properties Ltd against the decision of Lancaster City Council.
  - The application Ref 16/00033/FUL, dated 4 January 2016, was refused by notice dated 8 March 2016.
  - The development proposed is the change of use and conversion of part barn at Throstle Nest Farm Thurnham to two dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Prior to the Council's determination of the planning application, the appellant submitted revised plans. These plans included a treatment plant system, removing the annex building, reduced fenestration and a smaller extension. The Council state that they did not accept the submission of the revised plans as the extension of the red edged line materially altered the original scheme. Whilst I understand the intentions of the appellant in addressing the concerns raised by the Council, given the significant changes to the scheme and the lack of evidence that the consultation of relevant interested parties had been carried out, I am not satisfied that interested parties would not be prejudiced if I were to consider these plans. Therefore, I have determined the appeal on the basis of the plans considered by the Council in their determination of the planning application.

### Preliminary Matter

3. The Council cannot demonstrate a five year housing land supply. In line with paragraph 49 of the Framework, relevant policies for the supply of housing should not be considered up-to-date. Accordingly, Policy DM42 of Local Plan for Lancaster Development Management DPD (DPD) is not considered to be up-to-date.

### Main Issues

4. The main issues in this appeal area:
    - The effect of the proposal on the character and appearance of the area;
    - Whether or not the proposal would represent sustainable development, with particular regard to its location;
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- The effect of the proposal on biodiversity; and
- Whether the proposal would provide adequate foul waste facilities.

## Reasons

### *Character and appearance*

5. The appeal site is located within the open countryside, outside any defined settlement. The site is located on the side of a hill, sloping down from east to west, with views of the building from the A588 being limited. Access is off a private track leading off the A588. The track also serves Throstle Nest Farm and Meadowcroft, which appear to have formed part of the original farmstead, which appears to no longer be in operation. Although there is some development along this stretch of the A588, the area is rural in character due to the surrounding fields and sporadic development.
6. The appeal building comprises a large stone and brick building that was once used for agricultural purposes. A large, dilapidated open fronted building lies adjacent to the north of the building. This building would be removed and replaced with a small extension to the main building. To the South is a small detached stone building. This would be converted to an annex and linked with the main building via a glazed corridor.
7. The Council state that the building possibly dates back to early 19<sup>th</sup> century and as a result is of some historic interest. Therefore they consider it to be a non-designated heritage asset. There is no evidence that it is locally listed. Whilst it is of 19<sup>th</sup> Century origin, I do not consider it to be of such heritage significance as to constitute non-designated heritage asset status.
8. There is an extant permission<sup>1</sup> for the change of use of the building to form two dwellings. This proposal seeks to change the use of the eastern section of the barn which has permission for one of the dwellings.
9. The proposal would include alterations to a number of the existing openings and the insertion of new ones. I appreciate that as the current scheme seeks to subdivide the section of the building that benefits from permission for one dwelling, there is a need to provide additional openings to serve the increased number of rooms. However, in doing so, this would result in a proliferation of openings and glazing which would fail to respect the existing solid to void ratio throughout the building. This would be further exacerbated by the size of the openings, in particular on the east elevation of the main building and the north elevation of the extension. Overall, the alterations to the fenestration would result in a property that would be domestic in its appearance, with very little reference to the building's agricultural heritage.
10. The proposed extension would have an asymmetrical pitched roof and would run almost the full width of the appeal section of the building and would accommodate lounge areas and a utility room. I note that the extension would be significantly smaller than the existing dilapidated building, which also has a pitched roof. However, the existing building is read as a separate building rather than an extension. The remaining section of the building that is not part of the appeal proposal has a lean-to element on its north elevation. Due to its asymmetrical pitched roof design, the proposed extension would appear incongruous and would not sit comfortably with the main building.

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<sup>1</sup> 13/00921/CU

11. I have had regard to the Council's concerns regarding the garden areas. However, I do not find that the clearly demarcated gardens to the front and rear of the dwellings would be unreasonably large. Nevertheless, in addition to the alterations to the building itself, the proposal would also include the removal of existing hardstanding areas and the implementation of an extensive landscaping scheme. This would include the provision of an area of parking for a total of 10 cars to serve the two dwellings. Whilst I note the appellant's argument that they would provide a safer environment for the occupants of the dwellings and would be well screened from public views, the presence of ten parking spaces would only serve to contribute to the overall domestication of the site and the resultant loss of its agricultural heritage.
12. I have also had regard to the appellant's argument that the Council have not consistently determined applications, with particular reference to a prior approval application for the change of use of a barn to a dwelling at Leck Fell<sup>2</sup>. Notwithstanding the limited information before me with regard to this scheme, I note that the openings do not appear to be of the same scale as the proposal before me and do not have the same domesticated appearance. Therefore, I cannot draw any direct comparison between the two schemes. In any event, I have considered the appeal based on an assessment of its own merits.
13. I find therefore that the extent of the alterations would result in a building and its setting that is very much domesticated in its appearance and would significantly harm the character and appearance of the existing traditional agricultural building. As a result, it would significantly harm the character and appearance of the area. Therefore, it would fail to comply with Policies DM8 and DM35 of the 2014 DPD, which amongst other matters, seek to ensure that proposals for the re-use of rural buildings do not substantially alter the existing building and development should contribute positively to the character of the area. Furthermore, it would fail to accord with the general design objectives of the Framework.
14. As I do not consider that the building constitutes a non-designated asset, Policy DM33 of the DPD is not relevant in this case.

#### *Sustainable Location*

15. The appeal site is located in the open countryside, outside any defined settlement in the development plan. With the exception of the neighbouring properties to the south, which appear to have once formed part of the overall farmstead, the site is in an isolated location. This stretch of the A588 is unlit and does not have any footways. Although there is a local bus service providing access to Lancaster and there is a nearby cycle route, it is reasonable to conclude that the occupants of the dwellings would be heavily reliant on the use of private cars to access facilities and services such as shops, schools, health services and employment.
16. The Council state that in their consideration of the approved scheme the benefits of the proposal, improving the setting of the building, providing a use for the non-designated heritage asset, and its sensitive alterations, was balanced against the unsustainable location of the site.

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<sup>2</sup> LPA Ref 16/00424/PAA

17. Although the proposed dwellings would be in an isolated location this does not necessarily preclude residential development. Paragraph 55 of the National Planning Policy Framework (the Framework) states that local planning authorities should avoid new isolated dwellings unless there are special circumstances, such as where development would re-use redundant or disused buildings. However, this is only if such development leads to an enhancement of the immediate setting.
18. I note that the proposal would remove large areas of hardstanding and secure the future use of the building. However, for the reasons given above that the proposal would harm the character and appearance of the building and the area, it consequently fails to enhance the immediate setting. Therefore, it would fail to satisfy the special circumstances identified in paragraph 55 of the Framework.
19. I note that the Council also considers that the proposal would fail to represent the optimal viable use of a heritage asset. However, as I do not consider the building to constitute a non-designated heritage asset, this section of paragraph 55 of the Framework is not relevant.
20. I find therefore that the proposal represents a new isolated dwelling within the open countryside in an unsustainable location, relying heavily on car transport, for which there are no special circumstances and therefore fails to comply with Policy SC1 of the Lancaster City Council Core Strategy (CS) 2008, which promotes sustainable development. Furthermore, it would fail to comply with Policy DM20 of the DPD, which, promotes sustainable forms of transport. In addition, it would fail to accord with paragraph 55 of the Framework.

#### *Biodiversity*

21. An ecology study was undertaken as part of the application submission for the approved scheme. However, no updated survey accompanied the submission for the current proposal. I note the appellants' argument that as bats and owls were found to be present in the vicinity of the appeal building appropriately worded conditions could be imposed to safeguard them. However, the Council argues that best practice guidance states surveys should be from the most recent season and should not be older than two years for negative bat surveys and less for positive ones. Whilst the Council have not provided any indication as to where this 'best practice guidance' originates from, it would seem a reasonable approach to ensure protected species are adequately safeguarded. As the Council suggest, the breeding and roosting habits of bats and owls could change within the two years since the previous study. Therefore the mitigation measures identified in the study may no longer be appropriate.
22. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances<sup>3</sup>. There is no evidence before me to suggest that there are any such exceptional circumstances. Therefore, in line with the precautionary approach set out in paragraph 99 of Circular 06/2005, without this evidence it is not possible to consider all relevant material considerations.
23. I find therefore that in the absence of an up-to-date ecological assessment of the appeal site it is not possible to ascertain the effect the proposal would have

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<sup>3</sup> Paragraph 99 of ODPM Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*

on protected species. Therefore, the proposal would fail to comply with Policies DM8 and DM27 of the DPD, which, amongst other matters, seek to protect and enhance biodiversity and ensure that the re-use of buildings in rural areas safeguards the roosting or nesting habitat of any protected species present in the building. It would also fail to accord with the general objectives of conserving and enhancing the natural environment as set out in the Framework.

#### *Foul waste facilities*

24. I have had regard to the appellant's argument that a waste treatment plant could be installed within the blue edged area identified on the application submission. The land is in the ownership of the appellant and there is no evidence before me that such a facility would not be appropriate. Therefore I am satisfied that the proposed facility could be installed, subject to an appropriately worded condition. As such, the proposal would comply with Policy DM40 of the DPD, which seeks to ensure that development considers the effective and efficient disposal of wastewater. In this respect, it would also comply with the design aims of the Framework.

#### **Other Matters**

25. I have had regard to the appellant's contention that the Council has a strong preference for the approved scheme. However, I have considered the appeal before me based on its own merits.

#### **Conclusion**

26. Where relevant policies are out-of-date, Paragraph 14 of the Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
27. The significant harm the development would have on the character and appearance of the building and area; its failure to represent sustainable development; and its potential significant harm to protected species attract substantial weight and significantly outweighs any identified benefits, including the increase in housing, when assessed against the policies in the Framework taken as a whole.
28. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR