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## Appeal Decision

Site visit made on 17 October 2016

**by Jason Whitfield BA (Hons) DipTP MRTPI**

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

**Decision date: 14<sup>th</sup> November 2016**

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**Appeal Ref: APP/X1355/W/16/3153431**

**The Granary, Browney Bank, Lanchester, Durham DH7 0RP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr C. Smith against the decision of Durham County Council.
  - The application Ref DM/16/00240/VOC, dated 23 November 2015, was refused by notice dated 29 February 2016.
  - The application sought planning permission for erection of garage, stable and storage building without complying with a condition attached to planning permission Ref AR/1/2011/0035/DMNP, dated 28 March 2011.
  - The condition in dispute is No 4 which states that: *"The storage, garage and stable building should not be occupied other than as a residential annex to Woodlea Manor, the main house, at ground floor level only and not as an unrelated unit of living accommodation. No further internal or external alterations to the building shall take place without the prior written approval of the Local Planning Authority."*
  - The reasons given for the condition is: *"To determine the scope of this permission and to prevent the use of the building as a separate unrelated dwelling contrary to policies EN1 and EN2 of the Derwentside Local Plan."*
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Planning permission was granted at Woodlea Manor in 2006<sup>1</sup> for the erection of garage, stable and storage building, know as The Granary. It was subject to a condition which required the building to be used only for the stabling of animals in the ownership of the occupants of Woodlea Manor with no commercial livery or residential use permitted. Planning permission was further granted in 2011<sup>2</sup> under Section 73 of the Act to remove that condition and to allow part of the building to be used as a residential annex to Woodlea Manor. Condition 4 of that approval required the building to be used as a residential annexe to Woodlea Manor at ground floor only and not as an unrelated unit of living accommodation.
3. The application subject to this appeal sought to remove Condition 4 of that permission to allow the building to be used a dwellinghouse. It is indicated

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<sup>1</sup> SW/1/2006/0243/DMFP

<sup>2</sup> AR/1/2011/0035/DMVP

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that the building has been occupied as an independent dwelling since March 2015. I have determined the appeal on that basis.

### **Main Issue**

4. The main issue is whether the removal of the condition would result in a satisfactory form of development having regard to the principles of sustainable development.

### **Reasons**

5. Originally constructed as a garage, stable and storage building, subsequent permissions have allowed part of the building to be occupied as an annex to Woodlea Manor. Planning permission was granted in 2015<sup>3</sup> for alterations to the building. As a result of that permission, the building features internal living accommodation that is capable of independent occupation as a dwelling. The effect of the removal of Condition 4 of the 2011 permission would be to create a new dwelling separate to Woodlea Manor. This would amount to development under Section 55 of the Act.
6. The National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development. This concept has three dimensions which are mutually dependent – economic, social and environmental.
7. Paragraph 55 of the Framework states that new isolated homes in the countryside should be avoided unless there are special circumstances. Whilst the parties agree that it does not meet any of the special circumstances, it is a matter of dispute whether or not the appeal site is isolated. The term is not defined by the Framework. The appellant provides the Oxford English Dictionary definition of "*far away from other places, buildings, or people: remote.*" However, Paragraph 55 must be read as a whole and regard had to the wider sustainability aims of the Framework. Paragraph 55 sets out a hierarchical approach, stating that housing should be located where it will enhance or maintain the vitality of rural communities and, where there are groups of smaller settlements, where development in one village may support services in a village nearby. The requirement to avoid isolated new homes should be read in that context.
8. The site is within open countryside over 2 miles from Lanchester which contains a range of services and facilities, including schools and shops. It is also around 1.8 miles from the village of Saltley which also contains some services. However, in order to reach the closest settlements, occupiers of the appeal site are required to walk along a road which is distinctly rural in character for the majority of its duration. The road is unlit for substantial sections and without a regular footpath for most of its length.
9. The distance of this route, along with the risks associated with walking it during dark evenings or inclement weather, mean it is unlikely that occupiers of the new dwelling would be receptive to doing so. Indeed it is an unreasonable expectation to place upon them. A lack of convenient access to public transport provision is a deterrent to its use. As a result, residents would be

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<sup>3</sup> DM/2015/00644/FPA

reliant on private car to access the essential services and facilities required for day-to-day living.

10. I have had regard to the DEFRA Transport and Accessibility to Services in Rural Areas 2014 document provided by the appellant and I recognise that societal reliance on private car travel is a matter of wider strategic importance. However, the proposal would nevertheless conflict with Section 4 of the Framework which seeks to promote sustainable transport and Paragraph 17 of the Framework which states, amongst other things, that the planning system should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
11. Furthermore, the appeal site is within well defined existing physical boundaries and I note that there are other residential properties nearby. However, they are limited in their extent and properties in this area are somewhat sporadic in their form. They do not create the impression of any particular coherent settlement. Consequently, the appeal site would not be sensitively related to existing settlements and can, therefore, be considered to be isolated. Thus, the removal of the condition would result in an isolated new home in the countryside, in conflict with Paragraph 55 of the Framework.
12. The building is located in the north east corner of the curtilage of Woodlea Manor. In terms of its scale and location, it appears subservient to the main house. I note that the two properties would be subdivided and this would alter the perception of Woodlea Manor as a large dwelling with generous grounds. However, the property would take a separate access off the shared drive and have a separate garden area which has already been delineated from the main property. Moreover, other than the introduction of a hedge, there would be little discernable difference visually from the limited public vantage points within the area. Whilst I note the potential pressure for further outbuildings at the site, I am not aware of any such proposals and those matters would need to be dealt with on their own merits. As a result, I am satisfied that the proposal would not have a harmful visual impact on the character and appearance of the area.
13. Paragraph 47 of the Framework sets out the objective to boost significantly the supply of housing. The proposal would result in an additional dwelling which would contribute to the supply of housing in the area. The proposal would also have some economic benefits. There would be additional household spend in the area and additional Council Tax revenue. There would also be some employment increase through the use of services such as window cleaning and gardening.
14. However, the social and economic benefits would be significantly limited. Given the reliance of residents on private car, this would increase the likelihood for spending further afield rather than local communities. The provision of a single isolated new home would be unlikely to materially enhance or maintain the vitality of the closest rural communities. Furthermore, the provision of a single dwelling would have little effect on boosting the supply of housing in the area.
15. Consequently, the benefits identified would be significantly limited and would be outweighed by the harmful effects of providing a new isolated home in the countryside which is not sensitively related to existing settlements and where

residents would be reliant on private car. The harm arising from the proposal means that the proposal would not achieve the environmental role necessary in order to constitute sustainable development.

16. I conclude, therefore, that the removal of the condition would not result in a satisfactory form of development having regard to the principles of sustainable development as set out in the Framework. Whilst the proposal would accord with Saved Policy EN1 of the Derwentside Local Plan 2007<sup>4</sup> (LP) insofar as it states that development in the countryside will only be permitted where it benefits to the rural economy or helps to maintain or enhance landscape character, the policy also states that proposals should be sensitively related to existing settlement patterns. For the reasons given above, that would not be the case here. As a result, when taken as a whole, the proposal would conflict with Policy EN1 of the LP.

### **Other Matters**

17. I recognise that Mr Smith suffers from long term health issues and that the appeal building offers viable accommodation to meet his needs. However, the dwelling would be permanent and would remain indefinitely regardless of the occupiers of the dwellings. As such, whilst this is a matter to which I afford some weight, it would not outweigh the harm arising from the proposal.
18. The appellant indicates that the property is not attractive to potential buyers. However, I have been provided only with a letter dated 29 May 2015 from a local estate agent which suggests subdivision of Woodlea Manor, rather than the annex building, would make the property more marketable. Moreover, it does not provide any substantive evidence of the marketing carried out or the level of interest received to date. As a result, I afford this matter no more than limited weight.
19. The appellant indicates that despite the disputed condition, in granting the 2011 and 2015 planning permissions the Council has already accepted a high degree of autonomy from the house and that, for all intents and purposes, the annex functions as a separate dwelling. However, no evidence has been submitted to demonstrate that the building could be lawfully occupied as a dwellinghouse. In any event, it is not for me, under a section 78 appeal, to determine whether or not that is the case. To that end it is open to the appellant to apply for a determination under sections 191/192 of the Act.
20. The appellant points to a number of planning permissions granted within the area for changes of use from annexes to dwellinghouses. However, I have been provided with limited detail of those cases and cannot, therefore, be sure that they represent a direct comparison with this appeal. In any case, I have considered this appeal on its own merits.
21. I also note that the proposal would not have a harmful effect on the living conditions of neighbouring occupiers. However, the lack of harm in that respect would not outweigh the harm arising in respect of the main issues above.

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<sup>4</sup> Derwentside District Council Saved Local Plan and Structure Plan Policies 2007

**Conclusion**

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

*Jason Whitfield*

**INSPECTOR**