
Appeal Decisions

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: 6th December 2016

Appeal A Ref: APP/X1355/W/16/3153813

Greenwell Farm, Greenwell Hill, Tow Law, Durham DL13 4PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Sir Edward Greenwell against the decision of Durham County Council.
 - The application Ref DM/15/03499/VOC, dated 10 November 2015, was refused by notice dated 6 January 2016.
 - The application sought planning permission for conversion of agricultural buildings to holiday accommodation without complying with a condition attached to planning permission Ref 3/94/224, dated 24 August 1994.
 - The condition in dispute is No 2 which states that: *"The holiday flats and bedsits hereby approved shall not be used for permanent residential accommodation, and shall only be used on a short-stay let basis of a maximum of three months in any twelve months period for any individual booking, for holiday accommodation."*
 - The reason given for the condition is: *"To ensure that the development is not used as permanent residential accommodation contrary to Policy 12 of the Durham County Structure Plan."*
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Appeal B Ref: APP/X1355/W/16/3153821

Greenwell Farm, Greenwell Hill, Tow Law, Durham DL13 4PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Sir Edward Greenwell against the decision of Durham County Council.
 - The application Ref DM/15/03498/VOC, dated 10 November 2015, was refused by notice dated 6 January 2016.
 - The application sought planning permission for conversion and extension of a barn to form a single self-catering holiday cottage without complying with a condition attached to planning permission Ref 3/88/638, dated 16 January 1989.
 - The condition in dispute is No 2 which states that: *"At no time shall the cottage be used for permanent residential accommodation by any person including the owner or owners for the time being; it shall at all times only be used as holiday accommodation; and, at no time shall the cottage be used by any one person or persons (including the owner or owners for the time being thereof) for a period greater than three calendar months in any one year, except with the prior written consent of the local planning authority."*
 - No reason is given for the condition.
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Appeal C Ref: APP/X1355/W/16/3153824

Greenwell Farm, Greenwell Hill, Tow Law, Durham DL13 4PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Sir Edward Greenwell against the decision of Durham County Council.
 - The application Ref DM/15/03500/VOC, dated 10 November 2015, was refused by notice dated 6 January 2016.
 - The application sought planning permission for conversion of a byre to holiday cottage without complying with a condition attached to planning permission Ref 3/91/16, dated 21 August 1991.
 - The condition in dispute is No 2 which states that: *"At no time shall the cottage be used for permanent residential accommodation by any person including the owner or owners for the time being; it shall at all times only be used as holiday accommodation; and at no time shall the cottage be used by any one person or persons (including the owner or owners for the time being thereof) for a period greater than three calendar months in any one year, except with the prior written consent of the local planning authority."*
 - No reason is given for the condition.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is dismissed.

Procedural Matters

4. The appeals concern three separate properties located on the same site. Whilst I have considered each of the proposals on their own merits, to avoid duplication, I have dealt with the appeals in a single decision.
5. Each of the three properties has a previous planning permission for conversion to holiday accommodation. The consents were granted subject to conditions which prevented occupation of the accommodation on a permanent basis. The appeals before me all seek to remove the conditions in question to allow permanent residential occupation of the properties.

Main Issues

6. The main issues are:
 - Whether the appeal properties would be suitably located for permanent residential occupation, with particular regard to reliance on private car.
 - Whether the permanent residential occupation of the properties would result in satisfactory living conditions for future occupiers with particular regard to odour, noise and disturbance.

- Whether the permanent residential occupation of the properties would support a prosperous rural economy.

Reasons

Location

7. The appeals relate to three properties located at Greenwell Hill Farm - The Barns, The Byre and The Stables. Located within the open countryside, the properties lie in amongst one of two clusters of farm buildings adjacent to one another in the open countryside. The appeal site is around 2km west of Wolsingham and is somewhat isolated from services and facilities in the closest towns and villages. Paragraph 55 of the National Planning Policy Framework (the Framework) states that new isolated homes in the countryside should be avoided, although such dwellings should be allowed in special circumstances, such as where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
8. The properties are currently vacant. Whilst they appear to be in reasonable physical condition, and indeed capable of functioning as holiday accommodation, the appellant has provided evidence that the properties are no longer viable for holiday lets. However, even if that were the case, there is no evidence that the permanent residential use of the buildings would lead to an enhancement of the immediate setting. The special circumstances of Paragraph 55 would not, therefore, be met. As a result, the proposal would lead to new isolated homes in the countryside.
9. The site is a considerable distance from the closest bus stops on the B6297. To access them future residents would be required to walk along an informally surfaced farm track and an unclassified road which are largely unlit and without footpaths. Such a requirement would likely be a deterrent to the use of public transport by future residents, particular during the evenings or periods of inclement weather. I therefore consider that future residents would be reliant on private car in order to access the necessary services and facilities for day-to-day living.
10. I recognise the existing use of the properties would also generate a reliance on private car. However, I have been provided with no substantive evidence to demonstrate that the proposed use of the properties would reduce the existing number of trips to and from the site. Indeed, holiday accommodation would be often subject to reduced occupancy during off-peak periods, in contrast to permanent residences which would likely give rise to trips on a daily basis all year round. Moreover the appellant has indicated that there has been a decrease in demand for holiday use of the properties. This would in turn generate even fewer trips. To that end, on the evidence before me, it seems to me that it permanent residential occupation of the properties would generate increased movements by private car.
11. I conclude, therefore, that the appeal properties would not be suitably located for permanent residential occupation, with particular regard to reliance on private car. Consequently, the removal of the conditions would conflict with Paragraph 55 of the Framework and would run counter to Paragraph 37 of the Framework which encourages minimising journey lengths.

Living Conditions

12. Saved Policy GD1 of the Wear Valley Local Plan (1997) (LP) states that new development will be permitted where it would not disturb or conflict with adjoining uses. Paragraph 17 of the Framework seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 109 of the Framework states that the planning system should prevent new and existing development from being adversely affected by unacceptable levels of noise pollution. Paragraph 123 of the Framework states that planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life.
13. The three properties form part of a working livestock farm. All three sit adjacent to a large barn and the surrounding farm yard. Given the proximity of the properties, residents would potentially suffer from odours arising from livestock within the barn and the surrounding yard, as well as from the potential storage of agricultural products or waste. Moreover, the use of farming machinery and equipment would also be likely to give rise to significant levels of noise and disturbance. Given the nature of farming, such activities would likely occur during times of the day when future residents would have reasonable expectations for sufficient quiet or lack of disturbance to relax or sleep. Consequently, I consider the proposal would result in future residents being subjected to harmful levels of odour, noise and disturbance.
14. The appellant indicates that the barn does not contribute towards the viability of the farming enterprise and is no longer necessary. However, I have little evidence to demonstrate that is the case or indeed that there is no prospect of the barn being used in the future should farming practices or ownership change. Indeed, at the time of my site visit the barn appeared in reasonable condition and was used for the storage of hay.
15. The appellant has suggested a condition which would prohibit the use of the building and yard for livestock. However, such a condition would not prohibit other farming practices from occurring within the building or farmyard. The appellant has also suggested a condition that would require the demolition of the barn. However, to impose such a condition would, in my view, allow for development that is in substance not that which was originally applied for. As a result, I consider such conditions would not be necessary or reasonable in all other aspects.
16. I conclude, therefore, that the permanent residential occupation of the properties would not result in satisfactory living conditions for future occupiers with particular regard to odour, noise and disturbance. Thus, the proposal would conflict with Saved Policy GD1 of the LP, as well as Paragraphs 17, 109 and 123 of the Framework.

Rural Economy

17. Saved Policy BE20 of the LP states that the change of use or conversion of buildings in the countryside will be permitted for small scale employment, holiday accommodation, recreational uses and new rural enterprises. Only where the building cannot be developed for those uses will it be considered for residential use.

18. The appellant indicates that the properties ceased to be used for holiday accommodation in December 2014. Information provided indicates that, under the previous owner, turnover arising from the holiday lettings grew year-on-year between 2011 and 2014. However, occupancy decreased from 46% in 2012 to 35% in 2014 with the corresponding increase in turnover arising from increased tariff rates. It is further indicated that taking into account the costs of a management company, the level of investment required to improve the quality of the holiday lets, and the existence of better quality accommodation nearby, the continued use of the properties for holiday accommodation would not be financially viable. This is supported by evidence from a local operator who indicates that the properties would not be suitable for holiday lets.
19. The Council considers that a marketing test should have been carried out by the appellant to demonstrate that another operator would not take on the properties as holiday accommodation. Whilst I recognise there is no development plan policy basis for such a requirement, and that the Framework does not call for any such obligation, I agree that evidence of the marketing of the property would assist in ascertaining whether or not the properties are suitable for continued holiday accommodation.
20. In any event, there is no substantive evidence before me to demonstrate that the properties would not be suitable or viable for other uses. On the evidence provided, it has not been demonstrated that the properties cannot be developed for small scale employment, recreational uses or new rural enterprises as required under Saved Policy BE20 of the LP.
21. I conclude, therefore, that the proposal would fail to support a prosperous rural economy. As a result, the proposal would conflict with Saved Policy BE20 of the LP as well as Paragraph 28 of the Framework which states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. It goes on to state that the sustainable growth and expansion of all types of business and enterprise in rural areas should be supported and that sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, should be supported.

Other Matters

22. The properties are located close to Greenwell Farmhouse, which is a Grade II Listed Building. It is, therefore, a heritage asset as defined in the Framework. I am satisfied that the use of the properties for permanent residential occupation would conserve the heritage asset in a manner appropriate to its significance. The proposal would, therefore, preserve the setting of the listed building. However, there would be no enhancement of the heritage asset that would justify the appeals.

Conclusions

23. For the reasons given above, and having considered all matters raised, I conclude that the appeals should be dismissed.

Jason Whitfield

INSPECTOR