
Appeal Decision

Site visit made on 29 November 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 22 December 2016

Appeal Ref: APP/A2335/W/16/3158811

Scale House Farm, Conder Green Road, Galgate, Lancashire LA2 0BQ

- 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 Mr & Mrs Wilson against the decision of Lancaster City Council.
 - The application Ref 16/00623/RCN, dated 2 March 2016, was refused by notice dated 26 July 2016.
 - The application sought planning permission for *change of use and conversion of existing redundant barn to create 4 self contained holiday accommodation (C3) and conversion of existing outbuilding to create external storage area* without complying with conditions 17, 18 and 19 attached to planning permission Ref 14/00784/CU, dated 2 June 2015.
 - The conditions in dispute are Nos 17, 18 and 19 which state that:
 - "17. *For the avoidance of doubt, the curtilage associated with the holiday accommodation, to the south and east of the main building, extends up to the south and east elevations of the stone outbuildings and the boundary wall to the side of unit 1, shown on drawing number GA1852-004 Rev E.*"
 - "18. *The holiday accommodation hereby approved: (i) shall be occupied for holiday purposes only; (ii) shall not be occupied as a person's sole, or main place of residence; and, (iii) shall require the owners to maintain an up-to-date register of all occupiers of the cottage, their length of stay and their main home address and shall make this information available at all reasonable times to the Local Planning Authority.*"
 - "19. *The holiday units shall not be let to any person or connected group of persons for a period exceeding eight weeks in any one calendar year.*"
 - The reasons given for the conditions are:
 - (17) *"For the avoidance of doubt and to protect the character and appearance of the locality".*
 - (18 & 19) *"To ensure that the accommodation is properly used as short-term holiday accommodation."*
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use and conversion of existing redundant barn to create 4 dwellings (C3) and conversion of existing outbuilding to create external storage area at Scale House Farm, Conder Green Road, Galgate, Lancashire LA2 0BQ in accordance with the application Ref 16/00623/RCN dated 2 March 2016 subject to the conditions set out in the attached schedule.
-

Procedural Matter

2. The description of development used in the heading above has been taken from the original permission (14/00784/CU). However in allowing the appeal I have amended the description of development to reference dwellings rather than self contained holiday accommodation.

Background and Main Issue

3. Planning permission was granted for the change of use and conversion of an existing redundant barn to create 4 self contained holiday units and for the conversion of an existing outbuilding to create an external storage area (Ref 14/00784/CU). The permission includes a condition which specifies the location of the curtilage associated with the holiday accommodation and references drawing number GA1852-004 Rev E (condition 17). The permission also includes two conditions restricting the occupancy of the holiday accommodation (conditions 18 & 19). A previous application to vary condition 17 and to remove conditions 18 & 19 of application 14/00784/CU was refused in 2015 (Ref 15/01310/RCN). It appears that the main difference between the previously refused application and the appeal proposal is that a pedestrian footpath is now proposed on the appellants' land adjacent to the road.
4. The Council refused the application that is the subject of this appeal due to concerns about the location of the appeal site and about the accessibility of nearby services and facilities to future occupiers of the proposed dwellings. The appellants argue that the appeal site is not remote, that there would only be a limited increase in traffic when compared with the consented holiday use and that the proposal would enhance the setting of the buildings which are considered to be non-designated heritage assets.
5. Having regard to the background to the application and to the imposition of the conditions, the main issue is whether conditions 18 & 19 restricting the occupancy of the units are reasonable and necessary having regard to the location of the appeal site and to local and national policy relating to dwellings in the countryside.

Reasons

6. The appeal site is located in a reasonably isolated position some distance from other buildings and dwellings, with the exception of the adjacent farmhouse at Scale House Farm, approximately 1km from the settlement of Galgate. The proposal would result in four new dwellings in an isolated location in the open countryside.
7. Policy DM42 of the Local Plan for Lancaster District 2011-2031 Development Management DPD (DMDPD) controls new housing in rural locations and states that new homes in isolated locations will not be supported unless clear benefits of development are articulated and these benefits outweigh the dis-benefits of development in an isolated location. The policy states that the special circumstances where potential benefits of isolated development may lead to more favourable consideration are described in paragraph 55 of the National Planning Policy Framework (the Framework).
8. Policy SC1 of the Lancaster District Core Strategy (CS) seeks to ensure that new development proposals are as sustainable as possible and sets out a number of principles that the Council will apply in determining whether

development is sustainable. Policy DM20 of the DMDPD states that proposals should minimise the need to travel, particularly by private car and maximise the opportunities for the use of walking, cycling and public transport.

9. Paragraph 55 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It further states that isolated new homes in the countryside should be avoided unless there are special circumstances such as those listed. This includes where the development would re-use redundant or disused buildings and lead to an enhancement of the immediate setting.
10. The appellants' consider that the appeal site is not remote as it lies on a designated national cycle route 1km from the rural service centre of Galgate where all basic amenities are available including access to a regular bus service. In addition a pedestrian footpath is proposed on the appellants' land for a distance of approximately 150m to connect to an existing footpath at nearby Sellerley Farm which is some 460m in length and emerges 60m from the canal bridge in Galgate where an adopted footpath leads to the centre of Galgate and to public transport facilities.
11. However I note from the submitted evidence and from my site visit that the road network between the appeal site and Galgate is in the main narrow, unlit and without footpaths. Whilst there is an existing pedestrian footpath on land at Sellerley Farm, I understand that this path is permissive and that access could be withdrawn at any time. In any event the path appears to be unlit, as would be the case with the path associated with the proposal and the paths would not provide a continuous pedestrian link from the appeal site into the centre of Galgate. In addition despite forming part of a national cycle route, I do not consider that the road network lends itself to regular, safe and convenient use by cyclists. Consequently, I consider it likely that occupiers of the proposed dwellings would be heavily reliant on the use of motor vehicles to access facilities and services and that the appeal site is not in an accessible location. The proposed dwellings would therefore be isolated homes in the countryside.
12. My attention has been drawn to a number of other applications and appeals for housing in the countryside, some within the Council's area (Refs 14/00626/OUT, 15/01119/FUL and APP/U2370/W/15/3078128). I have been provided with a copy of the officer reports for the planning applications but have not been provided with a copy of the appeal decision letter. The two applications relate to housing developments in Aldcliffe, a small settlement located close to the urban area of Lancaster with footpath and cycle links. Though I am not aware of the particular details and circumstances of the two applications other than what is contained within the officer reports, it appears that they are not directly comparable to the appeal site. As such I give them limited weight. In any event I must determine the proposal before me on its own merits.
13. When granting planning permission for the holiday units at the appeal site the Council considered the redundant barn to be a non-designated heritage asset given its age and character. I have no reason to disagree with their findings on this issue. The Council also considered that the proposal would enhance the setting of the building due to the removal of adjacent modern agricultural

buildings. Though I note the Council's view that this enhancement to the immediate setting of the building would occur were the holiday accommodation permission to be implemented, this does not alter the fact that the enhancement also forms part of the appeal proposal and I note that a condition requiring the removal of the modern agricultural buildings prior to the use of the development was imposed on planning permission 14/00784/CU and is not proposed to be altered. Consequently I consider that the proposal would meet the special circumstances test for isolated new dwellings in the countryside as set out in paragraph 55 of the Framework as the removal of the large modern agricultural buildings in close proximity to the barn would lead to an enhancement of the immediate setting of the building.

14. Taking the above matters into consideration, I conclude that conditions 18 & 19 restricting the occupancy of the units are not reasonable or necessary having regard to the location of the appeal site and to local and national policy relating to dwellings in the countryside. Whilst I have found that the proposal is not wholly in accordance with Policy DM20 of the DMDPD or Policy SC1 of the CS which seek to, amongst other things, minimise the need to travel, it is in accordance with Policy DM42 of the DMDPD, a more specific policy relating to new housing in rural locations. It also accords with paragraph 55 of the Framework and as relevant and up to date national policy I attached significant weight to the Framework.

Other Matters

15. The application that is the subject of this appeal also sought to vary the wording of condition 17 imposed on 14/00784/CU by replacing reference to holiday accommodation with residential accommodation. As I have concluded that conditions 18 & 19 are not reasonable or necessary in granting permission I have replaced condition 17 of 14/00784/CU with a similarly worded condition referring to residential accommodation.

Planning Obligation

16. I have considered the Planning Obligation in light of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the Framework and I note that a similar Planning Obligation was submitted to the Council prior to the approval of application 14/00784/CU.
17. Within the Obligation the owner undertakes not to construct or permit the construction of any new agricultural buildings within the farm holding. No substantive information has been provided by either of the main parties regarding the need for the Obligation. In the absence of this it seems to me that the likely purpose of the Obligation is to protect the setting of the barn and the character and appearance of the surrounding area having regard to the fact that the proposal includes the demolition of existing modern agricultural buildings adjacent to the barn. However the evidence before me does not demonstrate that the Obligation is necessary to make the development acceptable in planning terms, particularly given the extent of the farm holding which means that any new agricultural buildings on it need not affect the setting of the barn. Consequently I am unable to take the undertaking into account in determining the appeal.

Conditions

18. I have had regard to the conditions suggested by the Council and note that these replicate those imposed on 14/00784/CU with the exception of the variations forming the proposal. Consequently I have imposed all of the conditions suggested by the Council but have amended the time limit condition to ensure that development is commenced within three years of the date of the original permission (14/00784/CU).

Conclusion

19. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must be started not later than 2 June 2018.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: GA1852-004 Rev E, GA1852-005 Rev D, GA1852-006 Rev F and GA1852-007 Rev G.
- 3) No works shall take place on the site until the applicant, or their agent or successors in title, has secured the implementation of a programme of building recording and analysis. This must be carried out in accordance with a written scheme of investigation, which shall first have been submitted to and agreed in writing by the Local Planning Authority.
- 4) No development approved by this permission shall be commenced until the following measures have been implemented:
 - (a) The application site has been subject to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment and agreed in writing by the Local Planning Authority.
 - (b) Detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation Method Statement) have been submitted to and approved in writing by the Local Planning Authority.
 - (c) The works specified in the Remediation Method Statement have been completed in accordance with approved scheme.
 - (d) If during the remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority.
 - (e) A Validation Report and Certificate confirming achievement of the Remediation Method Statement's objectives has been submitted to and approved in writing by the Local Planning Authority, including confirmation of any unforeseen contamination encountered during remediation.
- 5) No development shall commence until details of the type, coursing and jointing of all natural stone to be used, including the boundary treatments, have been submitted to, and approved in writing by the Local Planning Authority. A sample panel shall be erected on site for inspection and approval in writing by the Local Planning Authority prior to the commencement of any of the stonework on site. The development shall then be constructed in accordance with the approved details.

- 6) The development shall be finished externally with a natural slate roof. No development shall commence until a sample of has been submitted to, and approved in writing by, the Local Planning Authority.
- 7) No development shall commence until details of the eaves, verge, ridges and rainwater goods have been submitted to, and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 8) No development shall commence until precise details of all the external windows, doors and roof lights have been submitted to, and approved in writing by the Local Planning Authority. These details shall include the material, colour and thickness of the frames, the amount by which they will be recessed from the face of the outer wall and the position in relation to the roof slope in the case of the roof lights. The development shall then be constructed in accordance with the approved details and retained as such at all times thereafter.
- 9) No development shall commence until details of any new heads, cills and quoins have been submitted to, and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved details.
- 10) No development shall commence until details of the means of enclosure of the site, and where appropriate, plot boundaries within the site, have been submitted to, and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved details and all boundary treatments shall be retained (as approved) at all times thereafter.
- 11) No development shall commence until details of the specification and position of the treatment plant and associated soakaways have been submitted to, and approved in writing by, the Local Planning Authority. The development shall then be constructed in accordance with the approved details.
- 12) No development shall commence until details of wheel cleaning facilities within the site have been submitted to and approved by the Local Planning Authority. The approved facility shall be provided at all times during the site clearance and construction of the development hereby approved and shall ensure that the wheels of vehicles are cleaned before exiting the site.
- 13) Prior to the first use of the development hereby approved, all existing non-traditional agricultural buildings, structures and hardstanding to the north and east of the buildings to which the proposal relates, as indicated on the approved site plan, shall be demolished, their materials removed from the site and the slurry store cleared and the land reinstated in accordance with a scheme to be submitted to and approved in writing with the Local Planning Authority, prior to the commencement of development.

- 14) Prior to the first use of the development hereby approved, parking shall be made available for each unit, the precise location of which shall first be submitted to and approved in writing with the Local Planning Authority. It shall be retained in accordance with the approved details at all times thereafter.
- 15) The development shall be carried out in full accordance with the mitigation measures set out section 9 of the submitted Bat, Barn Owl and Nesting Bird Survey, carried out by Envirotech, dated 3 September 2013.
- 16) Before the first use of the development hereby approved, the part of the access extending from the highway boundary to the existing site access gate shall be appropriately paved in tarmacadam, concrete, block pavements, or other approved materials.
- 17) For the avoidance of doubt, the curtilage associated with the residential accommodation to the south and east of the main building, extends up to the south and east elevations of the stone outbuildings and the boundary wall to the side of unit 1, shown on the drawing number GA1852-004 Rev E.
- 18) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), no development under Parts 1, 2 and 40 of Schedule 2 of that Order shall be carried out without the express permission of the Local Planning Authority.