
Appeal Decision

Site visit made on 10 April 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 4th May 2017

Appeal Ref: APP/P1045/W/16/3165992

Land to the west of Hallcroft Farm, Marsh Hollow, Hollington, Derbyshire DE6 3GD

- 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 Joseph Skinner against the decision of Derbyshire Dales District Council.
 - The application Ref 16/00381/FUL, dated 25 May 2016, was refused by notice dated 26 July 2016.
 - The development proposed is conversion of vacant and redundant outbuilding to residential dwelling (C3 dwellinghouse).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Joseph Skinner against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The appellant has submitted amended plans with the appeal. Compared to the scheme determined by the Council these amendments would retain the existing external materials, without the previously proposed over-cladding, and utilise existing openings in the building rather than altering and adding to these. The scheme would remain the conversion of the existing building to a single dwelling without any addition to its size.
4. In deciding whether to accept this amendment I have had regard to Annex M of the appeals Procedural Guide¹ and to the 'Wheatcroft Principles'² referred to therein. Paragraph M.1.1 of the Guide states that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application. The local planning authority should be open to discussions on whether it is likely to view an amended scheme favourably.
5. Based on the Wheatcroft Principles, my main consideration is whether the development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. These amendments make significant changes to the external

¹ Procedural Guide : Planning appeals - England (5 August 2016)

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

appearance of the building. Although these changes would likely not prejudice the interests of other interested parties, the Council had not been given the opportunity to consider these in making a decision. To decide the appeal on the subsequently amended plans would therefore prejudice the Council's position. The Council's decision, against which the appeal is made, related to the scheme originally submitted. Consequently I do not intend to accept the amended plan in deciding the appeal.

6. However, consideration has been given to the Landscape and Visual Appraisal and Preliminary Bat Roost Assessment, both produced following the Council's decision.

Main Issues

7. The main issues are:

- The effect of the residential conversion on the character and appearance of the surrounding area;
- Whether future occupiers would have reasonable access to services and facilities;
- Whether the residential conversion would be acceptable in relation to other potential uses of the building;
- The effect on protected species.

Reasons

Character and appearance of the surrounding area

8. The development plan comprises the adopted Derbyshire Dales Local Plan of November 2005 (ALP) in which Policy SF4 places a general restriction on development in the countryside, unless it meets specific criteria which might justify such a location. The appeal site is within the open countryside, well removed from any built-up settlement, where the surrounding land use is farming. The existing sheet clad, portal-framed building has the typical plain, utilitarian appearance of a modern farm building and was approved as a stable/storage building for agricultural use in December 2007. As such it was considered an acceptable development in the countryside under Policy SF4.
9. Criterion (d) of ALP Policy SF4 would permit the acceptable re-use or adaptation of an existing rural building where appropriate in nature and scale and preserving or enhancing the character and appearance of the countryside. Where this involves the provision of residential accommodation outside settlements the criteria of ALP Policy H5 would also apply.
10. Whilst modern agricultural buildings are a functional requirement of farming, the existing structure makes no positive contribution to the character and appearance of its surroundings, which would be a requirement under Policy H5 (b) necessary to support residential conversion. The existing building would require significant alteration to provide a residential use. The existing building could be used for an employment use without material change to its external appearance, such as storage or workshop accommodation, which would mean an alternative residential conversion would conflict with parts (c) and (e) of ALP Policy H5 respectively.

11. Whilst relatively small as an agricultural building, the proposal would result in a quite substantial dwelling. Coupled with its associated domestic paraphernalia a quite large and isolated new dwelling here would have a detrimental impact on the mainly undeveloped rural character and appearance of its immediate surroundings. Whilst the boundary hedging and topography, and the introduction of further landscaping, would screen the development from some vantage points it would not be entirely hidden. Any degree of screening would not alter the intrinsic harm caused to the rural character of this site, where a contemporary new house would appear both incongruous and out-of-keeping with the surroundings.
12. The restraint ALP Policy SF4 places on rural development is consistent with the core planning principles in paragraph 17 of the National Planning Policy Framework (the Framework) to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Consequently, ALP Policy SF4 is given significant weight in the determination of the appeal.
13. Paragraph 55 of the Framework seeks that unless there are special circumstances, such as the re-use of redundant or disused buildings, that isolated homes in the countryside should be avoided. Policies SF4 and H5 are consistent with paragraph 55 in that in certain circumstances they allow for the re-use of rural buildings as dwellings. Although paragraph 55 does not qualify the question of whether a building is redundant or disused, or makes any reference to its condition, these exceptional circumstances require that the re-use would lead to an enhancement to the immediate setting. For the reasons given this would not be the case with this proposal.
14. Paragraph 55 has to be considered in the context of the Framework policies taken as a whole. Therefore, it is not unreasonable for local policies to have qualified the circumstances for permitting the residential conversion of a rural building in greater detail than that set out in paragraph 55. ALP Policy H5 is considered generally consistent with the Framework and given significant weight. Otherwise, there would be little policy restraint over any building permitted initially as appropriate in the countryside, such in connection with farming, being subsequently converted to a residential use. In this case, the alterations to the simple agricultural building and its immediate setting resulting from the residential conversion proposed would result in material harm to the rural character of this location. For these reasons the proposal would not preserve or enhance the character and appearance of the countryside and therefore fail to comply with ALP Policy H5 (d) and ALP Policy SF4 (g).

Access to services and facilities

15. The dwelling proposed would be remote from any nearby settlement and future occupiers would be highly dependent upon private car use to access regularly required services and facilities. There are rights of way leading to surrounding settlements and, although lacking a footway alongside, Marsh Hollow provides a shared surface for walking and cycling. Despite this, and because of the long distances involved, this proposal would not offer future occupiers convenient access to services either by foot or by cycling. In regard to public transport only an 'on demand' bus service would be available. This proposal would be clearly discouraged by the Framework principle to actively manage patterns of

growth to make the fullest possible use of public transport, walking and cycling, and to focus significant development in locations which are or can be made sustainable.

16. The Firs Farm decision³, where an appeal was allowed to convert redundant farm buildings to three dwellings, lends little weight to this proposal. In that case, the appeal was over the Council's refusal to grant prior approval for a development permitted under the then Class MB (now Class Q) of the General Permitted Development Order. The Inspector was constrained to consider only whether the location and siting of the buildings would make them impractical or undesirable to change use to residential.
17. The Government has subsequently confirmed through the Planning Practice Guidance⁴ that, in such cases, this permitted development right does not apply a test in relation to the sustainability of the location. As this proposal is not a similar prior approval case the converse can be assumed. The unsustainability of the location, and the dependence of occupiers upon private car use, would conflict with the Framework and weigh significantly against this proposal being permitted. Consequently, significant weight can be attached to the conflict found with the aims of ALP Policy SF4 to restrict development in the countryside to specific instances where it is either necessary or appropriate. These aims would prevent residential development in places where occupiers would be highly reliant upon private car use to meet regularly required needs.

Other potential uses of the building

18. Although not a specific requirement of paragraph 55, ALP Policy SF4 (d) seeks an acceptable re-use of an existing rural building and ALP Policy H5 (e) requires that it not be suited for conversion to employment or tourism use. A non-residential use would relate better to the design and originally intended agricultural function of this building. It might provide workshop or storage accommodation without the more significant degree of alteration and external change necessary to permit a residential use. This would avoid the visually more harmful and intrusive alterations proposed to convert the building to a dwelling and be more in-keeping with the character and appearance of this rural location.
19. I find little conflict with the Framework from either ALP Policy SF4 (d) or Policy H5 (e) as both criteria would also support a prosperous rural economy and avoid the incidence of new isolated homes in the countryside. Whilst the Framework does not prioritise rural employment and tourism over the delivery of housing, it is clear that for the latter this should not be through isolated homes in the countryside or at the expense of protecting its intrinsic character and beauty.
20. That the existing building is of a relatively recent construction as a purpose-built agricultural storage building, with attached stabling, structurally sound and in a good state of repair would lend weight to the Council's case that, under ALP policies SF4 and H5, it would be less appropriately converted to a

³ APP/P1045/A/14/2227868

⁴ Paragraph: 108 Reference ID: 13-108-20150305 Revision date: 05 03 2015

dwelling and better suited for a use more comparable to its originally intended purpose.

Effect on protected species

21. The Council's third reason for refusal was that the application had not been accompanied by a survey for the presence of protected species. However, the Preliminary Bat Roost Assessment submitted found there to be no bat roosts and negligible potential for any and so this evidence would now overcome this reason for refusal.

Conclusion

22. The Framework was adopted in March 2012 and paragraph 211 states that Local Plan policies should not be considered out-of-date simply because they were adopted prior to this. Paragraph 215 requires that due weight be given to existing Local Plan policies, where relevant, according to their degree of consistency with the Framework.
23. The ALP was intended to guide the use of development of land across the District up to 2011 and this period has long expired. The emerging Local Plan⁵ (ELP) is reaching an advanced stage which increases the weight that can be given to its policies. ELP Policy S5 addresses development in the countryside and, whilst not exactly the same, seeks to carry forward requirements broadly similar to those in current ALP Policy SF4. ELP Policy HC8 deals with proposals for the conversion of buildings for residential accommodation outside settlements in terms similar to ALP Policy H5.
24. Under paragraph 216 of the Framework the weight that can be given to these emerging policies relates to the stage of plan preparation, now quite advanced, the extent of unresolved objections, over which no evidence has been provided, and the degree of consistency with the Framework, which would be at least equivalent to that found with the current policies. ELP policies S5 and HC8 can be afforded moderate weight. That they will carry forward the general thrust of ALP policies SF4 and H5, suggests these current policies remain relevant and up-to-date in respect of this proposal.
25. Consequently, the presumption in favour of sustainable development, as set out in paragraph 14 of the Framework, would not apply. This would therefore not require the granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. In terms of a general planning balance, the social and economic benefits of a single dwelling would be relatively small and be clearly outweighed by the harm caused to the character and appearance of this rural area, the unsustainability of the location and the loss of a vacant building that might otherwise be put to a more appropriate use benefitting the local rural economy.
26. It is for these reasons, having taken into account all other matters raised, that I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR

⁵ Derbyshire Dales Local Plan Pre Submission Draft Plan – August 2016.