
Appeal Decision

Site visit made on 19 October 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 6 November 2017

Appeal Ref: APP/Z4718/W/17/3181496

1 Wheat Close, Holmbridge, Holmfirth HD9 2QL

- 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 D Trueman against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/90477/W, dated 9 February 2016, was refused by notice dated 27 June 2017.
 - The development proposed is conversion of outbuilding to form holiday accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of outbuilding to form holiday accommodation at 1 Wheat Close, Holmbridge, Holmfirth HD9 2QL in accordance with the terms of the application, Ref 2016/62/90477/W, dated 9 February 2016, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr D Trueman against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant has submitted an executed unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990, which would secure restrictions on parking at, and occupancy of, the proposed development. I will address this issue below.

Main Issue

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
 - the effect of the proposed development on the openness and the character and appearance of the surrounding area; and
 - whether a planning obligation to restrict parking at, and occupancy of, the proposed development is necessary.

Reasons

5. Wheat Close comprises a short terrace of nine or so stone built houses in a rural setting and is in designated Green Belt land and part of the Yateholme Reservoirs and Plantation Local Wildlife Site. The appeal site is a largely stone built single-storey detached outbuilding adjacent to 1 Wheat Close. The building has a grey slate roof and an attached timber-built store and dog pen. The site overlooks the Brownhill Reservoir and its dam and is rural in character.
6. The proposal is to remove the dog pen and to change the use of the existing building to form a single-bedroom holiday accommodation. This would involve the designation of a vehicle hardstanding and the addition or replacement of windows and doors. Internal reconfiguration would also require the relocation of an existing flue on the rear pitch of the roof.

Whether the Proposal would be Inappropriate Development

7. The Council contends that a proposed change of use of an outbuilding to form holiday accommodation does not fall within any of the exceptions to inappropriate development in paragraphs 89 and 90 of the Framework. As paragraph 89 relates to construction of new buildings the relevant exceptions would be in paragraph 90.
8. Paragraph 90 of the Framework provides that certain forms of development are not inappropriate in Green Belt provided they preserve the openness, and do not conflict with the purposes, of the Green Belt. The fourth category is the re-use of buildings provided that the buildings are of permanent and substantial construction.
9. There is no reference in paragraph 90 to the specific use to which a building might be put and I consider that the reference to the re-use of buildings implies the potential for a change of use.
10. Paragraph 80 of the Framework identifies the five purposes of Green Belt policy. The proposal does not involve any extension to the existing building but rather involves the removal of an existing structure attached to the building. I consider that the scheme would not conflict with any of the purposes in Paragraph 80.
11. This structure to be removed is presently visible and somewhat bulky in appearance and its removal would increase the openness of the Green Belt in the location of the appeal site by eliminating its visual impact. While the scheme also shows the creation of a designated parking space, that space is already available for the parking of vehicles and this part of the scheme would have a neutral effect.
12. Because the scheme would satisfy the purposes of Green Belt policy and would reuse an existing building while preserving the openness of the Green Belt, I conclude that the proposal would not be inappropriate development.

Character and Appearance

13. The external works associated with the re-use of the building would improve the appearance of the area by the removal of the bulky timber dog pen to create a more open aspect at the appeal site. The minor alterations to windows and doors would have no detrimental impact on appearance. The use

of the building as holiday accommodation would not conflict with the rural character of the area.

14. Therefore, I conclude that the proposed development would be in accordance with Policies BE1 and BE2 of the Kirklees Unitary Development Plan 2007 (the Local Plan), which seek to ensure that developments preserve the character and appearance of the area where they are situated.

Section 106 Planning Obligation

15. Paragraph 203 of the National Planning Policy Framework (the Framework) states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
16. Paragraph 204 of the Framework states that planning obligations should only be sought where they meet the following three tests:
- they are necessary to make the development acceptable in planning terms;
 - they are directly related to the development; and
 - they are fairly and reasonably related in scale and kind to the development.
17. In the UU the appellant covenants that the appeal property would not be used as holiday accommodation in the months of November, December and January. The UU would restrict the duration of any single occupancy to a maximum of 28 days and would impose a 14-day period that must elapse before any person is permitted to return following a period of occupation.
18. The UU would also require the appellant to keep a register of occupants that could be requested by the Council at any time on reasonable notice. Finally, there would be a requirement that occupants of the appeal property park only in the dedicated parking space defined in the UU.
19. The proposed obligations relating to the months and duration of lettings, the time that must elapse between re-lettings and parking restrictions are by nature prohibitions. These could be achieved by the imposition of planning conditions that would be sufficient to address the Council's concerns. Therefore these proposed obligations would not satisfy the preliminary test in paragraph 203 of the Framework.
20. The proposed obligation to keep a register of occupants that the Council can request to see does have a positive requirement. However, I consider that such a requirement is more akin to a licensing matter or to provide evidence for the enforcement of conditions. I consider that such a requirement would not meet any of the tests in paragraph 204 of the Framework. For these reasons I give the UU no weight in reaching my decision.

Conditions

21. The conditions set out in the accompanying schedule are based on those suggested by the Council and for the reasons set out at paragraph 19 above, the proposed obligations in the UU. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.
22. In the interests of proper planning I have imposed the standard condition in respect of time limits. For certainty I have imposed a condition requiring

compliance with the plans. In the interests of highway safety I have imposed conditions ensure that a designated parking space will be provided and to prevent water from encroaching onto the road.

23. To preserve the openness of the Green Belt in compliance with Policy D12A of the Local Plan, I have imposed a condition removing permitted development rights for alterations, extensions and outbuildings. To ensure that the appeal property is used for holiday accommodation I have imposed conditions restricting the months and duration of occupation.
24. Amongst other things, paragraph 109 of the Framework seeks to ensure that developments do not create or contribute to an unacceptable risk of air pollution. There is no evidence before me that the proposed development poses such a risk. The Council has requested a condition requiring the installation of a charging point for electric vehicles. While a charging point would provide an opportunity for future occupiers who drive electric cars to charge vehicles, there is no certainty that such vehicles would be used and the impact is therefore impossible to ascertain. Therefore, as neither the risk nor the need are made out I consider it unnecessary to impose the condition sought.

Other Matters

25. There is a reference in the papers to historical enforcement action in respect of the appeal building. An omission of this reference was apparently one of the reasons that an earlier decision granting planning permission was referred back to members for reconsideration.
26. However, it is clear from the evidence before me that the Council's enquiries did not proceed to enforcement action and there is no issue before me of the lawfulness of the building. I therefore attach very little weight to any reference to enforcement action.
27. Third parties have raised issues about traffic and parking on the access road for the properties. However, the road is currently used by residents and visitors and an additional vehicle would result in a negligible increase in traffic on the access road. Parking by future occupants of the proposed development would be controlled by a planning condition.

Conclusion

28. For the reasons given above, and taking into account all other matters, I therefore conclude that the appeal should be allowed.

D Guiver

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Tru.15/01b, Tru.15/06d, Tru.15/07d and Tru.15/08c.
- 3) The building shall not be occupied until the area shown marked 'parking space' on drawing no. Tru.15/08c has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles.
- 4) No vehicle used by occupants of the building shall be parked at any place shown on drawing no. Tru.15/01b other than on the parking space referred to in condition 3.
- 5) The development hereby permitted shall not be used as holiday accommodation between 1 November in any one year and 31 January in the succeeding year.
- 6) No person occupying the building as holiday accommodation shall remain as an occupier for a continuous period of more than 28 days. Having vacated the building no person shall return to occupy the building overnight until a minimum period of 14 days has elapsed.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no alterations, extensions or outbuildings included in Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out.