



Appeal Decision

Site visit made on 6 August 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/P2935/W/19/3229609

Land North of Cheviot View, U4028 Netherton Burnfoot Junction To Follions, Netherton NE65 7EY

- 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 Tim Stienlet, Burnfoot Holiday Cottages against the decision of Northumberland County Council.
 - The application Ref 18/03397/FUL, dated 20 September 2018, was refused by notice dated 5 December 2018.
 - The development proposed is described as change of use of Office to Managers House.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Tim Stienlet against Northumberland County Council. This application is the subject of a separate Decision.

Procedural Matters

3. The spelling of the appellant's name on the application form is different to that on the planning appeal form. I have taken the spelling on the application form to be the correct one.
4. The Council considered the description of the development proposed to be inaccurate as, although foundations and a floor have been laid on site, a building has not been constructed, and so it did not constitute a change of use. The Council revised the description of the development proposed to 'erection of a new dwelling.' This description was agreed by the appellant and is used on the planning appeal form. However, the appellant contends that this is not consistent with the determination of a previous application on the same site where the Council gave permission for a change of use from an amenity building to an office (ref 16/03950/FUL). Given that there are only foundations and a floor laid and drainage installed on site and that the permitted office use has not been implemented, I consider that the development proposed cannot be considered to be a change of use or reuse of an existing building. I have therefore considered the appeal on the basis of the revised description.
5. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019 after the Council made its decision. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication.

The parties have had an opportunity to comment upon the Framework as part of the appeal and I have therefore determined the appeal on that basis.

Main Issues

6. The main issues are:

- Whether the proposal would provide a suitable location for housing, having regard to the development plan and national policy;
- Whether the proposal represents an acceptable form of development, having regard to its location on potentially contaminated land; and
- The effect of the proposal on the landscape character of the area.

Reasons

7. The appeal site is located on the site of a former farm steading at Netherton Burnfoot within the open countryside, approximately 0.6km from Netherton and 6km from Thropton. To the north and east are agricultural fields, to the west is a grassed area and to the south is an access road and cottages that are part of the Burnfoot Cottages complex. The conversion of 14 cottages on the site was completed in early 2009. The appellant owns one of the cottages and manages this and 11 of the other cottages on site. At the time of my site visit I noted the foundations and floor which have been laid to allow the construction of a building and that the site is currently fenced off.
8. Planning permission was granted in 2013 to erect an amenity building on the site (ref 13/02251/FUL). Following this foundations were laid and drainage was installed. In 2016 planning permission was granted for a change of use from an amenity building to an office (ref 16/03950/FUL). However, the appellant states that the restrictive condition attached to the office permission precludes sub-letting on any part of the building; the income from which was vital to the business plan submitted to the bank to fund its construction. Consequently, an application was submitted for a change of use from an office to a manager's house which is the subject of this appeal.

Suitable location for housing

9. Policy S1 of the Alnwick District Local Development Framework Core Strategy (ADCS) (2007) aims to direct housing developments to locations which accord with a hierarchy of settlements. Under this policy Netherton is classed as a local needs centre where development should be restricted to that serving local needs. Netherton Burnfoot is located outside of the village of Netherton and in the open countryside where development will generally be limited to the reuse of existing buildings. As the proposal does not constitute the reuse of an existing building it does not accord with Policy S1.
10. Policy S3 of the ADCS requires proposals to satisfy identified sustainability criteria. The site's location outside of Netherton and other settlements such as Thropton, which have limited facilities and services, would mean that any permanent resident at Netherton Burnfoot would need to travel at least to Rothbury for their normal day to day needs. Combined with the limited frequency of the bus service it is highly likely that any permanent occupant of a building on the site would need to use a private car to service their normal day to day needs. On this basis the proposal would not meet the sustainability

criteria as stated within Policy S3. It would also be contrary to the approach in Paragraph 78 of the Framework which seeks to direct housing in rural areas to places where it will enhance or maintain the vitality of rural communities.

11. Policy S14 of the ADCS states that new development in the open countryside will only be permitted where it is likely to be sustainable in the context of Policy S3 and where, amongst other things, it is essential to support farming and other countryside-based enterprise and activity. This is broadly consistent with Paragraph 79 of the Framework which states that development of isolated homes in the countryside should be avoided except in certain circumstances, one of which being that there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
12. The proposal is for a dwelling to allow a manager to live permanently at the Burnfoot Cottage complex. The building would have a kitchen / living / dining area, four bedrooms (two en-suite) and one bathroom. It would also have a reception area to welcome guests and an office, cloakroom and store. Currently, the business employs two full time workers (one being the appellant) and eight part time workers. This proposal would create another full time post to support the business which the appellant states is financially sound and, in this respect, is likely to endure.
13. The appellant has submitted detailed reasons as to why there is an essential and urgent need for a dwelling on site to house a manager on a permanent basis. The main functional reasons cited are, welcoming guests on their arrival, checking them out when they leave and dealing with any enquiries; overseeing the safety and security of guests and the complex at all times of year but especially during peak season; dealing quickly with any disturbances or maintenance emergencies on site; and maintaining the facilities on site. It is stated that the need has increased over the past few years as there has been a shift in the nature of visitors to that of large groups enjoying short breaks together. This has increased the number of disturbances on site and, consequently, the number of call outs to the property.
14. The appellant has provided information relating to the issues arising from managing the business remotely from his home 50 miles away. This includes details of the number of call outs undertaken by himself and a self-employed, on-call maintenance manager, along with the costs incurred. However, no formal evidence, such as the time of day, number or form of any guest or maintenance emergencies, disturbances, break-ins or police call-outs have been provided. Furthermore, no examples of poor customer feedback in relation to these issues have been offered as evidence that it is impacting on the business. On this basis, the essential need for someone to live permanently on site cannot be fully verified.
15. The appellant stresses that alternative options to accommodate a manager on site or nearby have been considered. The use of the cottage owned by the appellant would mean loss of income from the largest unit which would not be financially viable, and other existing or proposed cottages on the site would either be too small or have an occupancy condition restricting the use to holiday makers only. In addition, even though the need is to have someone on site, the option of securing a dwelling locally has been investigated but has not been possible. However, no additional evidence has been provided in relation to this.

16. I am mindful of the appellants personal circumstances, the reasons provided for the proposal, the financial viability of the business and the potential economic benefits arising from the construction and occupation of a dwelling in this location. However, it is evident that the appellant has operated the business remotely for the last 10 years and whilst this obviously has its issues, no evidence has been provided to show that the business is significantly suffering as a result. I am also aware that as the appellant manages 11 of the properties (which have unrestricted uses) on behalf of other owners, there is no certainty that the operation of the business and any functional needs on site will not change in the future. Also, there is no guarantee that the current market trend for large groups of visitors will not change over time.
17. Taking into account all of the above, I acknowledge that the presence of a resident on-site manager would be desirable and more convenient in terms of the varied tasks that a manager would carry out. However, the justification of an essential need for a rural worker, in this case a manager, to live permanently at a place of work is a high test. I have considered all of the evidence very carefully and I am not persuaded that it provides sufficiently substantive and robust justification to demonstrate an essential need for a manager to live permanently on site and make the proposal acceptable in planning terms.
18. I note that the appellant has highlighted that he would accept a restrictive condition, limiting occupancy of the building to a manager working for the business operating on site. However, because of the failure to meet the requirements of Policy S14, an occupancy condition would not overcome the conflict with other policies.
19. Accordingly, I conclude that the proposal would not provide a suitable location for housing, having regard to the development plan and national policy. As such it would be contrary to Policies S1, S3 and S14 of the ADCS and Paragraphs 78 and 79 of the Framework as stated above. The Council also cited Policy S10 of the ADCS in its decision notice. However, this is not relevant because it relates to provision of accommodation for tourists.

Contaminated land

20. The former use of the appeal site as a farm steading means that it has the potential to result in contaminated land. The Council assert that the appellant did not provide any information on this matter in time to consider it during the determination of the application and respond to an objection by Public Protection. In addition, the report that was submitted was considered to be unacceptable as it was prepared in 2013 for the use of the site as an amenity building and so does not assess the proposed residential use against current legislation.
21. The appellant states that the information was submitted as soon as it was requested by the Council. Furthermore, that the proposal would use the existing foundations and floor constructed for the amenity building and that all pre-development aspects of the condition relating to the potential for contaminated land have been discharged. This only left parts C and D of the condition attached to the original permission to be discharged following the completion of the building. This information was considered to be acceptable by the Council when assessing the change of use to an office and that the outstanding parts of the condition were attached to the approval.

22. I acknowledge the objection to the proposal by Public Protection, the proposed permanent residential use and the date of the previous report and subsequent changes to legislation. However, given that below-ground construction has already taken place, that the proposal would utilise the same foundations and floor as the previous uses proposed and that all pre-development conditions (which were the same for other buildings surrounding the appeal site) have been discharged, it seems likely that any risks could be adequately managed by imposing an appropriate condition.
23. Therefore, I conclude that the proposal represents an acceptable form of development having regard to its location on potentially contaminated land and that any risks could be adequately managed by condition. On this basis, I find no conflict with Policy CD32 of the Alnwick District Wide Local Plan (ADWLP) (1997), which states that planning permission will not be granted for development which would cause demonstrable harm to the amenity of residential areas or the environment generally as a result of releases to water, land or air, or of noise, dust, vibration, light or heat. It would also comply with Paragraph 178 of the Framework which, amongst other things, seeks to ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

Landscape character

24. Policies S13 and S14 of the ADCS require development to be considered against the need to protect and enhance the distinctive landscape character of the former district, and that development in the open countryside will only be permitted where, amongst other things, it supports the conservation and enhancement of the countryside.
25. There are no national or local landscape designations on the site or the wider area. Furthermore, the principle of a building on the site and its amended form, design and materials have been considered to be acceptable by the Council.
26. The prevailing character of the area is one of open countryside. The building would be located to the north of the existing main building group. Although set back from the main existing building line to the east, its raised position would cause its linear form to be visible on the landscape and skyline when viewed from the road which passes the site when travelling west. There would be external amenity space to both the west and east of the building. However, for privacy, it is likely that the principal external amenity space used by any future occupants would be on the eastern side of the building.
27. On site I noted the hedge and trees that have been planted on the eastern boundary of the appeal site which are becoming fully established. I also noted other features within the holiday cottage complex (such as playframes) and in gardens of adjacent properties (such as garden ornaments), which are evident of their holiday cottage and residential use.
28. Although any features or additions of permanent domestic use on the eastern side of the building would have the potential to be visible when viewed from the road and on the wider landscape, I consider that the boundary treatment would provide sufficient screening to mitigate any adverse impact that they would have. Furthermore, any additional features would be seen in the context of the existing uses on the site and nearby.

29. Accordingly, I conclude that the proposal would not have a harmful effect on the landscape character of the area. In this respect, it would not be contrary to Policies S13 and S14 of the ADCS as stated above, or provisions within the Framework for the conservation and enhancement of the natural environment.

Other Matters

30. I have had regard to other applications which have been approved by the Council that the appellant considers to be comparable to this appeal proposal. Application ref 15/01019/OUT is for two new dwellings in Snitter, a hamlet three miles away with exactly the same number of existing dwellings as Netherton Burnfoot, and application ref 18/02971/FUL is for a rural workers dwelling in Tritlington to house a worker employed locally in agriculture, including game keeping, forestry works and land management. I acknowledge that these cases appear to be comparable in some respects. However, I do not know the full details or particular circumstances of these developments. In any event, I have determined the appeal before me on its own merits with the specific context of the appeal proposal and its location.
31. The appellant also refers to the extant approval of 13/02251/FUL which also included approval for six new dwellings which the Council considered to be in accordance with Policies S3, S10, S11, S14 and S16 of the ADCS. However, the Council has stated that this was for five new build holiday lets and one conversion to a holiday let (restricted by way of condition). On this basis it is not comparable to the appeal proposal before me.
32. The appellant has also highlighted that the date of the ADCS pre-dates the Framework and that in the recent Willowburn appeal decision ref APP/P2935/W/17/3190575 the Inspector concluded that the housing policies in the ADCS are out of date and that little weight could be given to them. The Inspector's comments in the appeal above were made in the context of a proposal for a large housing development on a trading estate and, as such, are not comparable to the circumstances of the appeal proposal before me. Furthermore, as stated in Paragraph 213 of the Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework. I consider that Policies S1, S3, S13 and S14 of the ADCS and Policy CD32 of the ADWLP cited in the reasons for refusal are broadly consistent with the Framework.
33. The appellant makes reference to the heritage significance of the complex which dates from the 19th century, and states that the proposal would secure the long term viability of the business and ensure the continued protection and upkeep of this significant heritage asset. No detailed information has been provided as to the significance of the site. Furthermore, no evidence has been submitted which shows that without a permanent dwelling for a manager the business would cease to function. Therefore, I can only give this limited weight.
34. I note that the Council considers that the proposal would be acceptable in terms of design and appearance and that there would be no unacceptable impact in terms of amenity, privacy and overlooking. Furthermore, I note that Natural England have not objected to the proposal and, subject to conditions, the Council considers that it would be acceptable in terms of biodiversity and geodiversity. However, these are neutral considerations in the balance and do not outweigh the conflict with the development plan.

Conclusion

35. The proposal would allow the development of an unrestricted dwelling in the open countryside and an essential need for a manager to live permanently at the site has not been substantiated. This would conflict with Policies S1, S3 and S14 of the ADCS which are broadly consistent with the Framework.
36. Whilst I have concluded that any risks of the proposal's location on potentially contaminated land could be adequately managed by a condition and that the proposal would not have a harmful effect on the landscape character of the area, these factors count neither for nor against the proposal and do not outweigh the conflict with the development plan.
37. I have given due consideration to all the other matters raised by the appellant. However, none of them individually or collectively outweigh the harm that I have found arising from the conflict with the development plan as a whole.
38. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR