



Appeal Decision

Site visit made on 6 January 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/C2708/W/18/3202753

Woodgill Farm, Keasden Road, Clapham, Lancaster LA2 8HB

- 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 Mrs Fiona Hopley against the decision of Craven District Council.
 - The application Ref 2017/18688/VAR, dated 30 October 2017, was refused by notice dated 12 April 2018.
 - The application sought planning permission for the demolition of existing farmhouse and erection of new dwelling (resubmission of application reference 18/2012/13206) without complying with a condition attached to planning permission Ref 18/2013/13681, dated 21 August 2013.
 - The condition in dispute is No 10 which states that: *'Prior to the first occupation of the dwelling hereby approved the existing farmhouse shall be demolished in accordance with the supporting information and Drawing 01 received by Craven District Council on the 25th March 2013.'*
 - The reason given for the condition is: *'The application site is in an isolated location where the Council would not normally approve new dwellings. However the applicant has applied for a replacement dwelling and as such there would be no net gain in new residential units in the unsustainable location.'*
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Decision

1. The appeal is allowed and planning permission is granted for the erection of new dwelling (resubmission of application reference 18/2012/13206) at Woodgill Farm, Keasden Road, Clapham, Lancaster LA2 8HB in accordance with the application Ref 2017/18688/VAR, dated 30 October 2017 without compliance with condition number 10 previously imposed on planning permission Ref 18/2013/13681, dated 21 August 2013 and subject to the conditions in the attached schedule.

Background and Procedural Matters

2. In August 2013 the Council granted planning permission for the "*demolition of existing farmhouse and the erection of a new dwelling with associated garaging and external works.*"¹ The description of development clearly referred to the demolition of existing farmhouse. I understand that the evidence submitted to the Council indicated that the farmhouse was not "practical nor sustainable to repair or extend the property and that the logical approach is to take advantage of a situation and rebuild the existing house ... better suited to modern day requirement." At the time of the original planning application, it

¹ Council Ref: 18/2013/13681

was proposed to create a new farmhouse associated with the farming of a small holding of some 60 acres. In 2013, the then applicant was actively engaged in a farming enterprise.

3. The disputed planning condition was imposed on this planning permission. It requires the demolition of the existing farmhouse, which is known as Woodgill Farm, before the approved dwelling is first occupied. The Council say that condition no. 10 was imposed as new dwellings would not normally be permitted in an unsustainable location without special justification, which were not advanced in that case to meet the saved policies of the Craven District (Outside the Yorkshire Dales National Park) Local Plan 1999 (Local Plan) and the National Planning Policy Framework (the Framework).
4. The original applicant then suffered a serious illness which required a change in his business priorities. As a result, he was no longer able to stock animals or farm the land and, indeed, ceased to hold any stock in January 2016. This situation appeared to still be the case at the time of my site visit. The application, that is subject of this appeal was subsequently submitted to and refused by the Council to remove condition no. 10. However, after the appeal was lodged on 15 May 2018, the applicant, as stated on the planning application form and appeal form, Mr Steven Hopley passed away. However, after the issuing of a probate certificate, the appeal was taken out of abeyance. The probate certificate confirms that the executor is Mrs Fiona Hopley. I have considered the appeal with the appellant now as Mrs Fiona Hopley.
5. In refusing planning permission, the Council relied on saved Local Plan Policy ENV1 and Framework paragraphs 17, 29 and 55. Following the adoption of the Craven Local Plan 2012 to 2032 (CLP) on 12 November 2019, saved Local Plan Policy ENV1 is no longer relevant to this case as it has been superseded by policies in the CLP, which now attract full weight as they form the development plan for the District. Revisions have also been made to the Framework in 2019. I have had regard to the main parties' comments insofar as the changes to local and national policy in reaching my decision. I note the appellant's view that CLP policies ENV1 and ENV2 are relevant to the case and the Council's view that CLP policies SD1, SP1, SP4 and ENV1 are relevant to the case.
6. During my site visit I observed that works to the approved dwelling have reached a reasonably advanced stage. Internal and external works are not, however, complete to the extent that the dwelling is ready to be occupied.
7. Given this, and as a result of the appellant's proposal to remove the disputed condition, which would, allow the existing farmhouse to be retained, if I were to allow the appeal, then it would, in the interests of clarity and completeness, be appropriate to omit reference to 'the demolition of existing farmhouse' from the description of development in my formal decision.

Main Issue

8. The main issue is the effect of removing the disputed condition would have on the provision of housing, having regard to the site's countryside location and accessibility to facilities and services; and the provision of agricultural small holdings in the Forest of Bowland Area of Outstanding Natural Beauty (AONB).

Reasons

9. The appeal site includes both the existing farmhouse and the dwelling currently under construction. Both are at the end of a long track leading from the narrow

unlit Keasden Road. Near to the existing farmhouse are a small complex of farm buildings, including two stone barns. Ground levels fall from the road to the site, which is located on the side of a valley. There are long-range views across the valley to the west. The surrounding area is characterised by a rural undulating landscape with individual dwellings or farm complexes on either side of the road. The site is outside of any development limits and in the AONB.

10. CLP Policy SD1 explains that at the heart of the local plan is the aim to deliver sustainable growth. CLP Policy SP1 explains that to meet the housing needs of Craven, provision is made for 4,600 net additional dwellings in the plan area over the period 1 April 2012 to 31 March 2032. This is a minimum provision. Although the housing requirement will mainly be provided existing completions, sites with planning permission or under construction and from site allocations, provision will also be delivered through a housing allowance for Tier 5 settlements, open countryside and small sites across the plan area identified in accordance with the distribution strategy set out at Policy SP4.
11. CLP Policy SP4 states that a sustainable pattern of growth will be promoted to deliver the spatial strategy of the plan over the plan period 2012 to 2032. This will be achieved by directing a low level of growth (around 4.5%) to Tier 5 settlements and the open countryside to support a sustainable, vibrant and healthy rural economy and communities. CLP Policy SP4 (K) outlines the Council's approach to residential development in the countryside. The policy sets out that proposals will be limited for new homes in the countryside away from existing settlements. Criteria G, I and J of this policy do not apply to the proposal before me. The policy does however set out a number of criteria whereby development will be supported. This approach is similar to that expressed in Framework paragraph 79 which states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the listed circumstances apply.
12. Due to the site's considerable distance from existing settlements and the poor access to local services and facilities, occupants of the dwelling would not be able to fulfil their everyday needs without relying on the private motor vehicle for travel. Occupants would not benefit from a choice of transport modes, even allowing for the site's rural location and Framework paragraph 103. Therefore, the potential upshot of allowing the appeal would be the development of an isolated home in the countryside.
13. Having regard to the criteria of CLP Policy SP4 (K) and Framework paragraph 79, the removal of the disputed condition would allow the dwelling to be retained, and it could potentially be sold in association with part of the agricultural holding. This could potentially result in the formation of two agricultural small holdings. However, there is no substantive evidence before me that there is an essential need for a rural worker to live permanently at or near to the small holding next to the site. The existing dwelling, according to the appellant, is currently occupied, but it could also be occupied, leased or sold on the open market. Hence, the proposal would not be for the re-use of a redundant or disused building. The removal of the disputed condition would not result in the subdivision of an existing residential dwelling, having regard to Framework paragraph 79 d).
14. The existing dwelling is not a designated heritage asset, but the main parties dispute whether the building is a non-designated heritage asset. To provide context to the dispute, CLP Policy ENV2 outlines that Craven's historic

environment will be conserved and, where appropriate, enhanced and its potential to contribute towards the economic regeneration, tourism and education of the area fully exploited. This will be achieved through paying particular attention to the conservation of those elements which contribute most to the District's distinctive character and sense of place. Various elements are listed but include: the legacy of traditional barns and other buildings and structures associated with the farming industry and historic land estates.

15. I note that the farmhouse has not been included on the local list of heritage assets. However, this does not mean that it cannot be considered to be a heritage asset, which is defined in the Framework. The farmhouse dates from the 18th century and forms part of a small complex of farm buildings, including two stone barns. This group of buildings resemble a traditional farmstead, which includes two traditional barns. Neither barn would be demolished if I were to dismiss the appeal, but the farmhouse is of a vernacular design and constructed from local natural stone, with well-proportioned windows with natural stone surrounds. The dwelling has traditional chimneys. Overall, the farmhouse is part of the legacy of the site's farming use and the landscape which is populated by other buildings and structures associated with the farming industry. I therefore consider it to be a non-designated heritage asset.
16. By removing the disputed condition, the continued use of the dwelling for residential purposes would represent the optimal viable use of the heritage asset. The proposal would accord with CLP Policy SP4 (K) and Framework paragraph 79 despite its location within the countryside. Furthermore, the quality of the countryside and landscape would be conserved for future generations to enjoy and there would not be any harm to the setting of the AONB, to which I give great weight to the conservation of its special qualities, as required by CLP Policy ENV1. For completeness, I do not consider the design of the farmhouse to be of exceptional quality.
17. While I note the Council's position in terms of demonstrating a five-year supply of deliverable housing sites, the retention of the farmhouse would only add to the provision of houses in the District, which in the context of CLP Policy SP1 is a minimum, and although new homes in the countryside will be limited, CLP policies SP1 and SP4 do envisage some new dwellings in the open countryside.
18. The evidence submitted to the Council as part of planning applications for the approved dwelling indicated that the farmhouse "had deteriorated to such an extent, it is not practical, nor sustainable to repair the existing building." The description of development for the schemes considered by the Council also clearly included the 'demolition of existing farmhouse'. While I am mindful of these matters and the change in the circumstances relating to the appeal scheme that have occurred over the last few years, it remains to be the case that any proposed condition that fails to meet one of the 6 tests set out in Framework paragraph 55 should not be imposed.
19. Leaving aside the merits of imposing the disputed condition at this time, circumstances have changed, and so have the development plan and the Framework. My decision relates to the current circumstances. I recognise the site's isolated location and the reliance that occupants would place on the private motor vehicle, and even if I were to agree with the Council about the disputed condition being relevant to planning, enforceable, precise and reasonable in all other respects, for the reasons set out above, the disputed condition is not necessary and relevant to the development to be permitted.

20. I conclude that the effect of removing the disputed condition would accord with CLP policies SD1, SP1, SP4, ENV1 and ENV2 and Framework paragraph 79; which jointly, among other things, seek to deliver sustainable growth in line with the District's settlement hierarchy, countryside and the AONB by limiting proposals for new homes in the countryside away from existing settlements unless they meet certain criteria.

Other matters

21. I note the concerns raised about an increase in traffic, noise nuisance, and strain on existing community facilities, but I do not agree that by removing the disputed condition harm would be caused in respect of these matters.
22. As I have no evidence that this same situation would repeat itself in the open countryside, where some development is envisaged by the development plan, I do not consider that my decision sets a precedent. I have, in any event, even if the property is listed for sale and the two barns are earmarked for holiday lets, determined the scheme that is before me in accordance with the development plan, unless material considerations have indicated otherwise. If other development is sought, this would be a matter for the appellant to address.

Conclusion and conditions

23. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have little information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. If some have in fact been discharged, that is a matter which can be addressed by the parties. If necessary I have amended the wording to ensure consistency with Framework paragraph 55.
24. I have concluded that condition No 10 should be removed. As the development has been started, I have not imposed a time limit condition. Based on the site's planning history, I have not imposed condition nos 4 and 5 as these were discharged by the Council (Ref: 18/2014/14949). I have imposed an approved plans condition in the interests of certainty. Due to the site's location within the AONB and in the interests of the character and appearance of the landscape, I have imposed a condition to restrict certain works to the dwelling house, the erection of outbuildings and boundary walls or fences. Conditions are necessary so that bargeboards, fascia boards or soffit boards are not used and so that soft landscape works are carried out in the interests of visual amenity and to achieve a quality form of development. I have imposed conditions about roof lights and stone walls in the interests of the character and appearance of the area. To avoid any detrimental impacts on protected species, I have imposed a condition so that mitigation measures are carried out. To avoid unnecessary light pollution within the AONB, I have imposed a condition so that details of external lighting are submitted to and approved to the Council.
25. On this basis, the appeal should be allowed, and I will grant a new planning permission without the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.
26. For the reasons set out above, I conclude that the appeal is allowed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

1. The approved plans comprise Drawing 11; Drawing 12; Drawing 10; Drawing 03 Rev 03. The development shall be completed in accordance with the approved plans except where conditions attached to this planning permission indicate otherwise or where alternative details have been subsequently approved following an application for a non-material amendment.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no development consisting of: the enlargement, improvement or other alteration of the dwellinghouse; the erection of any garages or ancillary buildings; or the erection of boundary walls or fences, shall be carried out other than those expressly authorised by this permission.
3. No bargeboards, fascia boards or soffit boards shall be used in the carrying out of the development hereby approved and the roof shall have slated verges.
4. No occupation of the dwelling hereby permitted shall commence until details of the landscaping of the site including wherever possible the retention of existing trees and hedges have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in the first planting season following completion of the development, or first occupation/use, whichever is the soonest. The approved scheme shall be maintained by the applicant or their successors in title thereafter for a period of not less than 10 years to the satisfaction of the local planning authority. This maintenance shall include the replacement of any tree or shrub which is removed, becomes seriously damaged, seriously diseased or dies, by the same species or different species, and shall be agreed in writing by the Local Planning Authority. The replacement tree or shrub must be of similar size to that originally planted.
5. The development hereby approved shall be carried out in accordance with the mitigation measures specified in the Bat, Barn Owl and Swallow survey carried out by Envirotech and received by the Council on the 25th March 2013.
6. The roof-lights hereby approved shall be 'Conservation' roof-lights which shall fit flush with the plane of the roof slope unless otherwise agreed in writing by the Local Planning Authority.
7. The stone walls forming the boundary of the proposed development shall match in appearance those forming the field boundary to the south of the dwelling hereby approved.
8. Prior to their installation on the site, details of any lighting outside of the dwelling hereby approved, shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include:
 - (i) the location and height of any external lighting;
 - (ii) the details of the light fittings;
 - (iii) the colour of the lights;
 - (iv) the lux levels; and
 - (v) the details of any louvers on the light fittings.

The approved lighting details shall be installed prior to the occupation of the dwelling and retained in an effective state thereafter.

END OF SCHEDULE