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## Appeal Decisions

Site visit made on 20 May 2020

**by A Caines BSc Hons MSc TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 June 2020**

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### **Appeal A - Appeal Ref: APP/A2335/W/19/3243241**

#### **Higher Barn, Aughton Road, Aughton LA2 8LU**

- 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 Jeffrey Metcalf against the decision of Lancaster City Council.
  - The application Ref 19/00905/FUL, dated 11 July 2019, was refused by notice dated 10 September 2019.
  - The development proposed is change of use of offices and workshops (B1 / B2) to one dwelling and one holiday let.
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### **Appeal B - Appeal Ref: APP/A2335/W/19/3243242**

#### **Higher Barn, Aughton Road, Aughton LA2 8LU**

- 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 Jeffrey Metcalf against the decision of Lancaster City Council.
  - The application Ref 19/00904/FUL, dated 11 July 2019, was refused by notice dated 11 September 2019.
  - The development proposed is change of use of joiners workshop, associated store/office, caretakers accommodation and associated land to 4 residential properties and 2 holiday lets and change of use of agricultural land to gardens and stables to domestic garages, installation of new windows, doors and roof lights, demolition of part of building and creation of parking areas and landscaping (re-submission of 17/014343/FUL).
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## **Decisions**

1. Appeal A is allowed and planning permission is granted for change of use of offices and workshops (B1/B2) to one dwelling and one holiday let at Higher Barn, Aughton Road, Aughton LA2 8LU in accordance with the terms of the application, Ref 19/00905/FUL, dated 11 July 2019, subject to the conditions set out in the attached schedule.
2. Appeal B is dismissed.

## **Procedural Matters**

3. The two appeals relate to the same site and to each other. I have dealt with each appeal on its individual merits but to avoid duplication I have considered the proposals together in this decision.
4. I have had regard to the previous appeal decisions on the site<sup>1</sup>. However, for the avoidance of doubt, I have reached my own conclusions on the current appeal schemes on the basis of the evidence and circumstances before me.

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<sup>1</sup> APP/A2335/W/18/3199554 & APP/A2335/W/18/3199559

## **Main Issues**

5. The main issues pertinent to both Appeal A and Appeal B are:
  - Whether the appeal site is a suitable and accessible location for the development, having regard to national and local planning policies concerning development in the countryside;
  - The effect of the development on the landscape and scenic beauty of the Forest of Bowland Area of Outstanding Natural Beauty (AONB).
  - Whether a satisfactory and robust marketing exercise has been carried out to demonstrate that an ongoing employment use on the site is no longer viable in order to justify the loss of employment land.
6. In addition, in respect of Appeal A, there is a further main issue of whether the development would provide acceptable living conditions for its future occupiers, with particular regard to garden space and noise.

## **Reasons**

### *Location and accessibility*

7. The appeal site lies in the open countryside approximately 400 metres from the small hamlet of Aughton, which has few facilities other than a church and village hall. The closest larger settlements are Gressingham around 3.2 km away and Over Kellet approximately 5.4 km away.
8. Although not specifically identified in the refusal reasons, I note that there is some dispute over whether units 6-8 in the joiners workshop should be treated as a conversion. However, based on the evidence before me I see no reason why that should not be the case given it is a substantial building and the proposal is for its conversion.
9. Policy DM13 of the Local Plan for Lancaster District 2011–2032 Development Management DPD 2014 (DMD) sets out circumstances in which proposals for visitor accommodation will be acceptable. Criterion iv) permits proposals involving the conversion or re-use of suitable existing rural buildings where this is consistent with other relevant policies, in particular DMD Policy DM8. On the basis of the proposals involving the conversion of suitable buildings, I do not find any conflict with DMD Policies DM13 and DM8 in respect of locating new visitor accommodation. Indeed, the Council did not cite conflict with these policies in the refusal reasons.
10. Together, DMD Policies DM20 and DM42, and Lancaster District Core Strategy 2008 (CS) Policy SC1, establish a locational strategy that seeks to direct new housing to certain named rural settlements with a good range of local facilities and better access to public transport. This is broadly consistent with the National Planning Policy Framework (the Framework).
11. I note that it is not being contended that the site is isolated in the terms of paragraph 79 of the Framework due to the proximity to other buildings and the hamlet of Aughton. Nonetheless, the appeal site is not located within any settlement and I have not been provided with evidence that the site is well served by public transport. Furthermore, given the lack of services and facilities nearby and the travel distances to the nearest larger settlements, future residents would be reliant on private car travel for their day to day needs,

particularly for employment, education, leisure and shopping purposes. Thus, the proposals are in conflict with the Council's locational strategy for new residential development as set out in the above-stated Policies. Whilst the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the limited opportunities for travel to shops, services and facilities other than by car also conflicts with the overall sustainable transport objectives of the Framework.

12. For these reasons, I conclude that although the site would be a suitable location for the proposed holiday accommodation, it is not an accessible location for residential development, and in that regard, the proposals would not fully accord with Policies SC1 of the CS, Policies DM20 and DM42 of the DMD, and the Framework, which seek to locate new developments in accessible locations where there is a choice of means of transport.

#### *AONB*

13. The appeal site is within the Forest of Bowland AONB and therefore in determining this appeal I have had regard to the statutory duty under section 85 of the Countryside and Rights of Way Act 2000. This requires that decisions have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The AONB is a valued landscape with a nationally designated status where, in accordance with paragraph 172 of the Framework, great weight is to be given to the conservation and enhancement of its landscape and scenic beauty.
14. The site lies on the hillside in an attractive rural landscape, which is punctuated by small hamlets and farmsteads along the Lune Valley. It comprises a complex of buildings previously used for offices, a joiners workshop, a caretaker's house, garage and stables. These adjoin a further dwelling, High Tarn. In wider views, including from Aughton Road, the complex of buildings is prominent, particularly the buildings on the edge and at the bottom of the site.
15. In respect of Appeal A, the buildings (Units 1-2) are located more centrally within the site and already have a residential character. No further external alterations are proposed to these buildings to facilitate their use as a dwelling and holiday let. Their garden areas and parking arrangements would have limited visual impact beyond the site. The Council did not raise concern with this element of the proposals in visual terms and I have no basis to take a different view. Consequently, the proposal forming Appeal A would not result in harm to the landscape and scenic beauty of the AONB and there would be no conflict with the development plan or the Framework in this regard.
16. In respect of Appeal B, the building described as the joiners workshop at the bottom of the site (Units 6-8), resembles a farm building in appearance. The introduction of a large number of new windows, doors and roof windows to this building, together with their design, would result in it having a distinctly domestic character, not of that resembling a barn conversion. This would cause harm to its character and appearance. The roof windows in particular, due to their number, size, the manner in which they would extend below the eaves, and their visual prominence at a high level, would be highly intrusive and incongruous features. Whilst similar roof windows are present on one of the existing buildings, they have limited visibility outside the site and in any event, they do not contribute positively to conserving or enhancing the protected landscape, so do not justify poor design. Furthermore, I acknowledge the

intention for new planting to be introduced, but indications are that this would be between 1-2 metres in height so it would not offer effective screening. Irrespective, it would be impractical to completely screen the development and would not overcome the harm I have identified.

17. I have noted the inconsistencies in the plans for Unit 3. The elevations indicate that the first floor accommodation would be served by rooflights, but the floor plans appear to indicate the presence of dormer windows. In the previous appeal decision the Inspector considered that dormer windows to Unit 3 would be harmful. It is imperative that plans are accurate to avoid uncertainty about what is proposed. However, as I have found harm for other reasons, any further harm arising from this matter is not going to change my conclusion on this main issue, so it is not necessary for me to consider this any further.
18. Other aspects of the scheme include replacement of the stable building with a triple garage. I understand this aspect is unchanged from the previous appeal scheme and did not feature in the refusal reasons, or draw concern from the previous Inspector. I have no basis to disagree, but it does not outweigh the harm I have identified above.
19. I conclude, on this issue, that the development in respect of Appeal B would not conserve or enhance the landscape and scenic beauty of the AONB. As such, it conflicts with paragraph 172 of the Framework, Saved Policies E3 and E4 of the Lancaster District Local Plan 2008 (LP) and DMD Policies DM28 and DM35. Taken together, these policies seek to conserve and enhance the landscape and scenic beauty of the AONB. The proposal would also conflict with the Framework's similar objectives related to protected landscapes.

#### *Employment land*

20. The majority of the site is associated with employment uses, albeit the evidence suggests that this has either ceased or is currently at a very limited level. I am informed that the joinery business relocated some time ago.
21. DMD Policy DM15 aims to retain land and buildings which are in active employment use or still have an economic value worthy of retention. The reuse of employment land for residential purposes will only be permitted where a number of criteria are met. It seems to me that the main point of contention between the parties is whether there has been a satisfactory and robust marketing exercise carried out to satisfy criterion IV of Policy DM15.
22. In respect of Appeal A, the buildings have been advertised as offices since September 2018. The evidence demonstrates that interest in the buildings is low with only 4 viewings, which have not progressed. The Council suggests that the marketing exercise has been undermined by the use of the buildings as holiday accommodation during the marketing period. However, the marketing brochures are clearly aimed at office use and do not give any indication of the existence or unavailability of the buildings due to an active holiday use. Furthermore, I am informed that feedback from those who viewed the site were deterred by its location rather than any holiday use. I am therefore satisfied that the marketing exercise has been carried out appropriately and has not been undermined.
23. In respect of Appeal B, additional marketing evidence has been submitted with the appeals showing that the workshop buildings have been marketed since

November 2019 with no interest. I acknowledge that this period is less than 12 months, but the joiners workshop has never been in active employment use and is no longer required for its original intended purpose. Moreover, the site is not allocated for employment purposes and it is apparent that the workshops on the site have grown organically in relation to the specific needs of a business that has not operated from the site for a considerable time. I have no evidence that indicates a further period of marketing would be likely to generate interest in the site for employment purposes. Nor is there any evidence that the proposals would prejudice the supply and availability of employment land in the District. In the circumstances, I am satisfied that the marketing exercise for these particular buildings has been carried out over a reasonable period of time.

24. On the available evidence, I conclude that a satisfactory and robust marketing exercise has been carried out to demonstrate that an ongoing employment use on the site is no longer viable, such that the loss of employment land is justified. The proposals therefore comply with criterion IV of DMD Policy DM15 in this respect.

*Living conditions – Appeal A*

25. The allocated garden for Unit 1 falls outside of the red line application boundary for Appeal A. I accept that without this garden area, Unit 1 would have insufficient garden space for its occupiers.
26. However, the garden area and its intended use for Unit 1 is clearly shown on the plans. Moreover, the land falls within the blue line plan, indicating that it is within the appellant's control. Accordingly, I see no reason why its provision could not be secured by a condition and I have the agreement of the parties to that approach.
27. The Planning Practice Guidance (PPG) states that when used properly, conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. Subject to a condition securing the identified garden for Unit 1, I am satisfied that adequate garden space would be provided.
28. I note that the Council also raised concerns over potential noise impacts for the occupiers of the Appeal A scheme in the event that the buildings that are the subject of Appeal B remain in employment use. However, notwithstanding my conclusions on the likely prospects of continued employment use at the site, there is no substantive evidence that the use of the site has been problematic for nearby existing dwellings when it has been fully operational. It is also apparent that the large joiner's workshop building is subject to hours of operation controls. Accordingly, I am satisfied that the occupiers of the Appeal A scheme would not experience unacceptable noise impacts.
29. I conclude, on this issue, that the development would provide acceptable living conditions for its future occupiers with particular regard to garden space and noise. Thus, it would comply with DMD Policy DM35 where it seeks to minimise adverse impacts arising from noise and ensure adequate provision of garden space for the health and well-being of residents. It would also comply with paragraph 127 of the Framework which seeks to ensure a high standard of amenity for all existing and future users.

## Other Matters

30. It has been put to me that various provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) for the change of use of buildings to dwellinghouses should be given weight as a fall-back position, particularly in relation to matters such as accessibility. However, I am not aware of any prior approval being given on this site. Irrespective, the appeal schemes do not involve conversion of agricultural buildings so Class Q is not relevant to this case. The joiners workshop has yet to be brought into any use so it would not benefit from any of the permitted development (PD) rights. Class O permits the change of use of offices to dwellinghouses, but prior approval cannot be granted for development that has already begun, whether or not it is wholly or partially completed. It is not disputed that the buildings have already been put into use for residential purposes in the form of holiday accommodation with associated internal fittings, so it seems to me that the PD right would not apply in this case. Thus, it has not been a determinative factor in my considerations.
31. My attention has been drawn to a number of other appeal decisions in the District that relate to new dwellings in the countryside<sup>2</sup>. Whilst I have had regard to those decisions, they are the same decisions that were put to the previous Inspector, and for the same reasons, I agree that they are not directly comparable to the schemes before me. Just as each of those cases turned on their own merits having regard to the circumstances presented and an overall balancing exercise specific to those schemes, I must consider the schemes before me on their own merits, which is the approach I have taken.
32. The appellant has also highlighted various planning permissions granted by the Council for conversions in the area of Aughton. However, these are all of considerable age and pre-date current local and national policies, so they do not provide a justification for the appeal proposals, which must be considered against the development plan and any relevant material considerations at this current time.

## Planning Balance

33. It is common ground between the parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites (5YHLS). As such, paragraph 11 d) of the Framework is engaged. This means granting permission unless the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole.
34. The provision of 1 dwelling in Appeal A and 4 dwellings in Appeal B would boost the supply of housing in the area. In addition, the provision of 1 holiday let in Appeal A and 2 holiday lets in Appeal B would contribute to the rural economy. These are positive benefits of the schemes that I shall take into account.
35. Set against that, I have found that the proposals would not be in a suitable location for housing and are therefore in conflict with Policy SC1 of the CS and Policy DM20 of the DMD. I consider these policies to be largely consistent with the Framework's approach in relation to sustainable rural development and

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<sup>2</sup> APP/A2335/W/17/3171031; APP/A2335/W/17/3183370; APP/A2335/W/17/3181882

- travel patterns. However, it is not disputed that the proposals are unlikely to generate a greater level of vehicular traffic than the use of the buildings for employment purposes. Furthermore, the proposals involve the reuse of existing buildings. In these circumstances I attach moderate weight to this conflict.
36. In respect of Appeal B, I have also found that the proposal would not conserve or enhance the AONB and is therefore in conflict with Saved Policies E3 and E4 of the LP and Policies DM28 and DM35 of the DMD. These policies are consistent with the Framework in regard to good design and protecting and enhancing valued landscapes, so in accordance with the Framework, I attach great weight to this conflict.
37. Footnote 6 to paragraph 11 d) i of the Framework clarifies that the Framework's policies that protect areas or assets of particular importance include AONBs. Accordingly, in respect of Appeal B, the harm I have found to the AONB provides a clear reason for refusing the development and therefore this proposal does not benefit from the presumption in favour of sustainable development.
38. In respect of Appeal A, I did not identify harm to the AONB and therefore the 'tilted balance' of Framework paragraph 11 d) ii applies.
39. It is common ground between the parties that the development would not be isolated in the countryside and thus would not need to meet any of the exceptions set out in paragraph 79 of the Framework. The Appeal A development would provide 1 additional dwelling in the context that the Council is unable to demonstrate a deliverable 5YHLS, albeit this would be a very small contribution. The economic benefits from 1 holiday let are limited by the small amount of development that is proposed. Nonetheless, in the circumstances and mindful of the Government's objectives of significantly boosting the supply of homes and supporting a prosperous rural economy, as set out in the Framework, these benefits carry meaningful weight in favour of the proposal.
40. I am satisfied that all other aspects of the Appeal A development would either not be harmful, or can be adequately addressed by conditions. A lack of harm in these respects is neutral and weighs neither for nor against the proposal.
41. In the context of the above, I find that the identified adverse impacts of the Appeal A development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, I conclude that the proposal would deliver a sustainable form of development. This is a material consideration of very significant weight.

### **Conditions – Appeal A**

42. I have considered the planning conditions that have been suggested by the Council against advice in the Framework and the PPG to ensure they meet the relevant tests. Where necessary, I have amended the wording to ensure clarity and precision.
43. A condition that the development is carried out in accordance with the approved plans is necessary to provide certainty. A condition regarding the agreement and implementation of boundary enclosures is necessary in the interests of character and appearance. A condition relating to parking and turning areas is necessary in the interests of highway safety. A condition requiring the accommodation to remain as holiday accommodation is necessary

in the interests of supporting the rural economy. A further condition in relation to the garden for Unit 1 is necessary in the interests of the living conditions of the occupiers of that unit.

44. The Council has suggested the blanket removal of PD rights. However, the Framework states that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. I am also mindful that there are already certain PD restrictions on AONB land, as set out in the GPDO. Moreover, these buildings already have a domestic character and are not prominent. In light of these factors, and in the absence of any substantive evidence to justify why removal of PD rights is necessary in this case, the condition is not imposed.

## **Conclusions**

### *Appeal A*

45. For the foregoing reasons, I am satisfied that there are material considerations in respect of Appeal A which justify a decision other than in accordance with the development plan, and therefore, subject to conditions, the appeal should be allowed.

### *Appeal B*

46. For the foregoing reasons, whilst I have found that the loss of employment land is justified, I conclude that the development in respect of Appeal B would conflict with the development plan as a whole and there are no material considerations which justify a decision otherwise. Therefore, the appeal should be dismissed.

*A Caines*

INSPECTOR

## **Schedule of Conditions – Appeal A**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and reports: 2616/01-C; 2616/02-A; 2616/03-A; 2616/04-B; 2616/05-A; Bat, Barn Owl & Nesting Bird Survey by Envirotech.
- 3) No part of the development shall be occupied until the boundary treatments and other means of enclosure for all parts of the development have been provided in accordance with details which have first been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be retained in accordance with the approved details.
- 4) No part of the development shall be occupied until the parking and turning areas have been laid out within the site in accordance with Dwg No. 2616/01-C and this space shall thereafter be kept available at all times for those purposes.

- 5) Unit 1 shall not be occupied until 'Garden 1', shown on Dwg No. 2616/01-C, is available for the use of its occupiers and thereafter the garden shall be retained as such.
- 6) The holiday accommodation hereby approved (indicated as unit 2 on the approved site plan):
  - (i) Shall be occupied for holiday purposes only;
  - (ii) Shall not be occupied as a person's sole, or main place of residence;
  - (iii) Shall not be let to any person or connected group of persons for a period exceeding eight weeks in any one calendar year; and
  - (iv) Shall require the owners to maintain an up-to-date register of all occupiers of the holiday accommodation, their length of stay and their main home address and shall make this information available at all reasonable times to the Local Planning Authority.

End of Schedule