



Appeal Decision

Site visit made on 4 February 2020

by M Seaton DipTP MRTPI

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

Decision date: 2 July 2020

Appeal Ref: APP/X1355/W/19/3241101

Barn to the North of High House Farm, High Stoop, Bishop Auckland, DL13 4HL

- 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 & Mrs B & G Lockhart against the decision of Durham County Council.
 - The application Ref DM/19/00625/FPA, dated 19 February 2019, was refused by notice dated 14 May 2019.
 - The development proposed is the change of use from an agricultural building to form 1 No. dwelling, creation of residential curtilage and demolition of lean-to to the rear.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would accord with the aims and objectives of national and local planning policies relating to housing, the effect of the proposed development on the character and appearance of the area, and whether the proposals would preserve or enhance the character or appearance of nearby heritage assets.

Reasons

3. The appeal site is located in open countryside to the east of the B6296 and is just to the north of a historic farmstead known as High House Farm, which comprises a series of stone buildings including a farmhouse and outbuildings of varying ages which have been converted for residential occupation. The land to the north and east of the Dutch Barn the subject of this appeal, is indicated and observed to be agricultural land. Other small clusters of buildings sporadically punctuate the landscape.
4. The Development Plan is comprised of the saved policies of the Derwentside District Local Plan adopted 1997 (the Local Plan). In this respect, the Council has contended that the proposed development would conflict with saved Policies GDP1, EN1, and EN4 of the Local Plan.
5. These policies address the protection of the countryside, the conversion of rural buildings, and general development principles. The Council has also referred me to saved Policy EN3 of the Local Plan, which addresses extensions to buildings in rural areas, but as the proposed development does not include any

extension to the existing building, I am satisfied that this policy cannot therefore be of relevance in this instance.

6. In addition to the above saved policies, the Council has highlighted the proposed development to be in conflict with Sections 12 and 16 of the National Planning Policy Framework (the Framework). These address the achievement of well-designed places and the conservation and enhancement of the historic environment.
7. The proposed development seeks the conversion of the existing Dutch Barn from use for agricultural purposes to residential occupation, with the building currently deemed to be surplus to requirements. The existing building is comprised of metal columns, sheeting and a barrel roof, and possesses a bare earth floor. As I observed, it was being used for the storage of both agricultural and non-agricultural equipment. The proposal would also involve the removal of the lean-to element attached to the northern elevation of the existing building.
8. Saved Policy EN4 of the Local Plan sets out the change of use or conversion of existing buildings in the countryside will be permitted for uses including for economic and employment generating purposes, including diversification of agricultural enterprises, for recreation or tourist facilities, or for visitor accommodation. The policy continues to make it clear that consideration will be given to the conversion of buildings to a residential use or a mix of uses where the aforementioned uses are not to be pursued.
9. In addition to the above a series of criteria are set out in saved Policy EN4 for the change of use or conversion of existing buildings in the countryside to be permitted. These criteria include (A) the building being structurally sound and physically capable of conversion without significant rebuilding or extension; (B) the form, bulk and design of the building being in keeping with the surroundings, including the retention of existing door/window openings and any architectural or historic features; (C) there being no adverse effect on the setting of the buildings and/or the character and appearance of the surrounding countryside; (D) no loss of amenity to neighbouring occupiers from the new use; and, (E) vehicular access provided without adversely effecting the appearance of the surrounding area.
10. In respect of these criteria, the Council has not raised any concerns with regards the impact of the proposed development on existing residential amenity or that the existing available arrangements for access to the appeal site and highway network would not be suitable, with no objections raised by the Highways Team.
11. On the basis of the submitted evidence, representations, and my own observations of the appeal site I would agree with the conclusions, and therefore find there to be no conflict with criteria (D) & (E) of saved Local Plan Policy EN4.

Structural conversion

12. In seeking to address the requirements of saved Policy EN4(A), the appellant has submitted a Structural Report for the proposed development. The report reflects upon the impact of corrosion on the structure including localised areas of section loss at column bases and some connections, and that the majority of

the floor is bare earth. The report recommends that the existing building would need to be strengthened to support a residential conversion, with the works to be completed in structural masonry, and with supplementary foundations and a new structural floor installed to ensure no excess loading is transferred to the existing structure. The building would be completed with a barrel roof to retain the feature of the existing building. The structure would also require weather proofing or insulation.

13. I have carefully considered the Council's contention that the extent of the works to the building as proposed would be significant and would call into question whether the building would accord with the circumstances whereby its conversion to a residential use would be judged to be suitable.
14. I accept as inevitable that in order to facilitate the conversion of non-residential buildings for residential occupation, there would clearly be a requirement for at least a limited degree of alteration and adaptation from the existing condition of the buildings. However, based on the submitted evidence the extent of the structural and conversion works which would be required to facilitate the buildings to be occupiable as habitable accommodation in this instance would be substantial. The proposal would require a significant amount of work to necessarily strengthen and supplement the existing structural soundness of the building in addition to the replacement of existing walls and roof, and provision of a structural floor. Whilst I accept that the extent of works deemed to be reasonably acceptable is not defined, as proposed the nature of the works would clearly not accord with the constraints of the policy in this respect.
15. Both the Council and appellant have referred to a High Court judgement in the form of *Hibbitt and another v Secretary of State for Communities and Local Government*(1) and *Rushcliffe Borough Council*(2) [2016] EWHC 2853 (Admin). In this judgement the meaning of "convert" in the context of *Class Q, Part 3, Schedule 2, of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO)* was addressed, with both parties contending that the judgement supports their own assessment and conclusions related to the proposed development. Reference has also been made to the national Planning Practice Guidance (PPG) and paragraph 105: *What works are permitted under the Class Q permitted development right for change of use from an agricultural building to residential use?* of the section entitled *When is permission required?*
16. However, whilst I have had regard to the references to this judgement and the section of the PPG and the interpretation placed upon them by the parties, the appeal before me is not pursuant to an application for prior approval under the GPDO. Irrespective of any contended similarities regarding the nature of the development, I do not accept that the criteria for assessment of the conversion of agricultural buildings to dwellinghouses should be regarded as anything more than a basis for assessing applications in the context of the GPDO. I do not regard it is appropriate to 'cherry-pick' elements from the GPDO assessment in order to support a non-GPDO case, or that these criteria should be regarded as transferrable. I have not determined the appeal on this basis but have exercised my planning judgement based on the wording of the saved policy, and I have not therefore attributed any weight to the assessment approaches advanced by the parties related to the GPDO and PPG.

17. I have also had regard to the references made by the appellant to the support that paragraph 79 of the Framework gives to the re-use of redundant or disused buildings. However, this paragraph specifically refers to the avoidance of the development of isolated homes in the countryside.
18. I am mindful that the word 'isolated' is not defined in the Framework, and that it has been held in the Courts that the word should be given its ordinary objective meaning of *far away from other places, buildings or people; remote*. In these terms, given the adjacency of the appeal site to existing development, it cannot be considered to be 'isolated' in terms of proximity to other dwellings and people. I have not therefore given any weight to the appellant's assessment of the proposal against paragraph 79 of the Framework as irrespective of my conclusions on the suitability of the building for conversion, it cannot be of relevance to the appeal proposal.
19. On this basis, this reasonably leads me to the conclusion that the existing building is not capable of conversion without significant re-building and structural support, and therefore the proposed development in this regard is contrary to criterium (A) of saved Policy EN4, and would represent a new dwelling in the open countryside.

Character and appearance

20. Turning to criteria (B) & (C), I would agree with the Council's assessment that the existing building is not particularly characteristic of agricultural buildings within the wider area, and despite the appellant's contention to the contrary, the structure was quite visible from the passing B6296. I also note that the appellant considers the building to be of no visual merit.
21. With the exception of the removal of the existing lean-to extension the bulk and form of the resultant building would be broadly similar, the punctuation of windows, doors and other openings within the eventual building would introduce a degree of architectural domesticity to an otherwise non-descript yet functional structure. Although this visual change must be viewed in the context of the existing residential conversion of much of the range of buildings associated with the original farmstead, its location on the periphery of the site would ensure that any domestic character would be visually prominent in the vicinity. Furthermore, the introduction of a modest area of residential curtilage in the location of the lean-to extension would also have the potential to introduce domestic paraphernalia to the site which, even allowing for the potential for some landscaping, would have a limited adverse effect on the rural character and appearance of the area.
22. With regards the detailed design, I have noted the Council's concerns over the lack of detail relating to the use of materials for the proposed works. Whilst the appellant envisages that the scheme will be finished in high quality materials appropriate to the rural location and that such details could have been provided to the Council, I note that despite the reason for refusal details of materials have still not been submitted in support of the proposal at the appeal stage.
23. The continued absence of any indication of the nature of materials to be used is unhelpful and renders it impossible to draw the conclusion that the final appearance of the building will be acceptable. Whilst I have noted the appellant's contention regarding the hope that they would have been able to work with the Council in order to find an acceptable design solution, I

understand the Council's reticence to rely solely upon a condition to secure the details of the materials where they will prove so fundamental to the visual impact of the scheme.

24. I have also considered the suggestion of a detailed landscaping plan as a means of softening any potential visual impact from the residential occupation of the building and site. However, whilst it is undeniable that such a scheme would be likely to provide a certain degree of screening, the absence again of any details of the landscaping and how the scheme would relate to the proposed dwelling in respect of maintaining living conditions for future occupiers has not been demonstrated. It is not therefore possible to conclude that the imposition of such a condition would ultimately secure an appropriate scheme.
25. The removal of permitted development rights for future extensions and alterations would allow the Council to exercise a degree of control over any resultant dwelling. However, for the above reasons, I am satisfied that the proposed development would not represent a high standard of design and would have an adverse effect on the character and appearance of the rural area. The proposal would therefore conflict with criteria (B) & (C) of saved Policy EN4 and saved Policy GDP1 of the Local Plan with regards the incorporation of measures of a high standard of design and protection of existing landscape, as well as Section 12 of the Framework.

Non-designated heritage asset

26. Paragraph 197 of the Framework addresses the need to take into account the effect of development on the significance of a non-designated heritage asset. The paragraph sets out that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
27. The Council has identified High House Farm as an historic farmstead shown on the first edition OS map of the mid-nineteenth century as 'Wards End' and comprising a historic stone farmhouse and outbuildings of varying ages. The stone buildings are indicated to be well-presented and would be considered as non-designated heritage assets due to their age and intact character. In contrast, the appeal building is highlighted as dating from the twentieth century and is set apart from the historic group of buildings.
28. Whilst the existing stone buildings have been largely converted for residential occupation, I would agree with the Council's assessment of their quality and significance. I recognise the physical separation of the appeal site from the historic group and acknowledge that farmsteads will often comprise a mixture of traditional and more modern buildings, with the existing appeal building not making a positive visual contribution in the context of the non-designated heritage asset. However, despite the position of the building set apart from the farmstead, as above the absence of any indication or details of materials to be utilised prevents a conclusion that the proposal would not have an adverse effect on the significance of the non-designated heritage asset.
29. As a consequence and being mindful of the significance of the non-designated heritage asset, I must conclude that the development as proposed would have the potential to result in at least a limited adverse impact. In the absence of

the identification of a relevant policy within the saved Local Plan, I find that there would be conflict with paragraph 197 of the Framework.

Other Matters

30. I have had regard to the references made by the parties to other developments which are contended to either support or oppose the proposal, including the recent development known as Barn Building to the north west of High House Farm.
31. Whilst I have had regard to the various appeal decisions dated between 2010-2019, I note that none relate to the Council's area with locations including Cornwall, Wiltshire and Somerset and would specifically have been assessed in the context of the Development Plans related to these areas. Furthermore, I note that two of the appeal decisions address proposals for prior approval under the GPDO. However, I have already concluded that the basis for an assessment under the GPDO would not be directly comparable to that undertaken as part of a Section 78 appeal and therefore does not have a bearing on my decision-making.
32. With regards the development which was approved nearby at the Barn Building to the North West of High House Farm (*LPA Ref. DM/19/02445/FPA*), I note from the Council's Fast Track Report that the principle of the conversion of the building to a dwelling had already been established by a previous prior approval. It is also indicated that the residential conversion and occupation of the building represented the optimal use for a non-designated heritage asset. The circumstances are therefore clearly not comparable with those of the appeal proposals.

Planning Balance and Conclusion

33. The proposed development would result in the provision of an additional dwelling to the local housing market which would in itself be an undoubted benefit, albeit given the quantum of development the social weight to be attached would be very limited. Whilst the local economy would have the potential to have some limited benefit during the construction period and from future occupation, I have been mindful of the requirement of paragraph 78 of the Framework that housing in rural areas should be located where it will enhance or maintain the viability of rural communities, and especially where it would support local services.
34. In this instance, the nearest settlement possessing a reasonable selection of services and facilities has been identified as Tow Law, which is located 1.4km away, although I note there to be some limited facilities at High Stoop nearby. Nevertheless, there is no evidence adduced to support the contention that the existing services and facilities would need the support of additional housing beyond the extent of development opportunities within existing settlements, or that it meets a specific community need as advocated by paragraph 84 of the Framework.
35. I acknowledge that there is a bus stop within a reasonable walking distance of the appeal site. However, the absence of any footway for pedestrians combined with evidence of only a very limited number of services utilising the bus stop on a daily basis would severely limit the likelihood of regular use of public transport as an alternative to the private car. Additionally, the absence of

demonstrable footpaths linking the appeal site to Tow Law as well as the distance involved, reduces the likelihood of walking routes being considered as an alternative. The proposed development would therefore be reliant on the private car for services and facilities, and this would further weigh against the development.

36. In addition to the harm to the spatial aspects of the development, I have already identified that the proposed development would result in environmental harm to the character and appearance of the area as a consequence of its design, form and occupation, and that there would be harm to the non-designated heritage asset. The development of the site would also not represent the re-use of previously developed land as having been identified by the appellant as being most recently in use in connection with an agricultural enterprise, the appeal site would not accord with the definition of previously developed land as set out within the Annex 2: Glossary in the Framework. The harm in these respects would therefore be considerable.
37. The appellant has highlighted that given the age of the Local Plan, it's policies are out of date in comparison with those of the Framework, and in particular where the Framework encourages a significant boost in the supply of housing. The appellant has also indicated an inconsistency in approach to development with other saved Local Plan's within the Council's area, contending that the Council has previously concluded that the Teesdale Local Plan adopted in 2002 was time expired and no longer up-to-date, although has omitted to provide any specifics of the instance to which is referenced. The appellant concludes therefore that paragraph 11 of the Framework and the presumption in favour of sustainable development is therefore engaged.
38. The Council dispute this conclusion citing Policy EN4 and the environmental policies of the Local Plan as being reasonably consistent with the Framework and that a 5-year housing supply can be demonstrated, albeit that this latter point has not been disputed by the appellant. Whilst I am mindful that the Framework advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework, I would agree with the Council that there is a broad consistency between the policies most relevant to the decision-making in this instance and the Framework.
39. In any event, even if it was my conclusion that paragraph 11 was engaged, I have been mindful of the contents of paragraph 11(d)(ii) of the Framework which states that permission should be granted 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*.
40. In this regard, even when taken together, the considerations being put forward in favour of the development would be comparatively limited in contrast to the accumulation of the spatial harm caused by the proposed conversion of an unsuitable building, the harm to the character and appearance of the area, the harm to the non-designated heritage assets, and the lack of sustainability of the location.
41. I am therefore satisfied that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

42. For these reasons, the appeal is dismissed.

Martin Seaton

INSPECTOR