



## Appeal Decision

Site visit made on 28 October 2020

by **A M Nilsson BA (Hons) DipTP MRTPI**

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

Decision date: 25 November 2020

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**Appeal Ref: APP/P3040/W/20/3255919**

**Flawborough Farm, Main Street, Flawborough NG13 9PA**

- 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 Hawthorne against the decision of Rushcliffe Borough Council.
  - The application Ref 19/02676/FUL, dated 15 November 2019, was refused by notice dated 16 January 2020.
  - The development proposed is residential conversion of traditional former agricultural barn plus residential redevelopment of former equestrian centre to create 2no. four bedroom dwellings (one of which is a 'self-build' dwelling) and 4no. two bedroom dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for the residential conversion of traditional former agricultural barn plus residential redevelopment of former equestrian centre to create 2no. four bedroom dwellings (one of which is a 'self-build' dwelling) and 4no. two bedroom dwellings at Flawborough Farm, Main Street, Flawborough NG13 9PA in accordance with the terms of the application, Ref 19/02676/FUL, dated 15 November 2019 subject to the conditions contained in the schedule attached to this decision.

### Main Issue

2. The main issue is whether the appeal site is a suitable location for residential development having regard to development plan policy and the effect of the proposed development on sustainability.

### Reasons

3. The appeal site comprises a traditional brick-built barn, a larger modern agricultural building and a covered horse walker. There is a large hardstanding area, grassed areas and trees along the northern boundary.
4. The site is located within the small settlement of Flawborough that is a linear settlement that broadly follows the 'L' shape of the road. The settlement predominantly consists of residential properties, although there is a disused church that is a Grade II listed building.
5. The appeal proposals consist of the conversion of the traditional barn to a dwelling and the construction of two detached dwellings and a terrace of four

- dwelling following the demolition of the modern agricultural building and the horse walker.
6. Since its original decision, the Council has granted planning permission for the conversion of the traditional barn to a dwelling, and the construction of the two detached dwellings following demolition of the modern agricultural building. These elements that have been granted planning permission are consistent with those elements of the scheme before me. From the submitted evidence, it appears that this consent is capable of being implemented on its own. Therefore, whilst the whole development is before me, the extant consent represents a material consideration of significant weight. It results in the terrace of four dwellings being the only part of the proposal that does not benefit from planning permission.
  7. The appeal site sits between existing buildings that are referred to as Hall Farm, with associated buildings, to the west, and Manor House to the east, where there is a lane that runs between the appeal site and Manor House. Whilst at present the bulk of the existing built development on the site is largely confined to the western half, the remainder of the site is largely made up of hard surfacing, including the horse walk, with a grassed area and trees along the northern boundary beyond which is open countryside. For these reasons, I do not agree with the Council that the site is outside the built-up part of the settlement.
  8. It is not in dispute that the site constitutes previously developed land. I am reminded that the National Planning Policy Framework (the Framework) states that, it should not be assumed that the whole of the curtilage should be developed. I find that in this instance, there is no overriding justification why the whole of the site may not be developed, given that it sits between existing built development and does not extend beyond the clearly identifiable boundary with the open countryside to the north. The layout that is proposed is relatively low density with a significant percentage of the area given over to garden space.
  9. Taking into account these factors, combined with the siting and design of the proposed development, relative to the existing development on the site, I consider that the proposal representing the development of a previously developed site, would not have a harmful impact on the character of the area.
  10. When taking the extant planning permission into account, it is clear to me that the remainder of the proposal, comprising the terrace of four properties, would represent a small-scale infill development within the existing, and proposed, built fabric.
  11. On my site visit I observed that there are no amenities within the village and as a result, residents of the development would be required to travel to nearby settlements to access such services. Although residents are likely to travel by private car for most journeys, there are alternative means available. There is a bus service in the village, albeit at limited times, and the nearby settlements, including those with amenities and services, are within a reasonable cycling distance. I am also mindful that the previous equestrian use would have generated a certain amount of traffic movement that would have likely included the private cars of staff and customers. With the proposed development of the site such movements would no longer occur.

12. Although the whole scheme is before me, and it is to be determined on its own individual planning merits, I am mindful of the fact that the Council have very recently sought to grant planning permission for three of the dwellings that are subject to this appeal, assumingly having satisfied themselves that they represented a sustainable form of development, as required by both local and national policy.
13. Therefore, taken as a whole, I do not consider that the development would result in an unacceptable level of unsustainable travel, with alternative travel choices being available. As outlined in the Framework, I acknowledge that sustainable travel solutions vary between rural and urban areas, and that development in rural locations may not be in locations well served by public transport.
14. I therefore conclude that the proposed development would represent a suitable location for the residential development proposed. It would not have an unacceptable impact on sustainability in relation to travel. It would therefore comply with Policies 1, 3 and 14 of the Rushcliffe Local Plan Part 1 – Core Strategy (2014) which require, amongst other things, that developments are sustainably located, with reference to, amongst other things, small scale infill development.

### **Other Matters**

15. The Council do not consider that the proposed development would harm the setting of the nearby listed building. From the evidence before me, I do not have reason to disagree, and accordingly conclude that the development would not have an adverse impact on the setting of the listed building.
16. I note objections received in relation to the pressure to remove trees on the site. Although this is not pertinent to the main issue, said trees are shown to be retained and an appropriately worded planning condition can be imposed to secure their protection during construction.
17. I also note concerns relating to the possibility of future amendments being made to the development. I can only consider the plans that are before me and a condition can be imposed requiring the development be carried out in accordance with the approved plans. It would be for the appropriate authority to consider whether any future amendments are acceptable.
18. I note concern expressed in relation to surface water drainage and the impact on hydrology. Such matters are not referred to in the Council's reasons for refusal and I do not find them to be pertinent to the main issue. There is no evidence before me to suggest that the development would be at risk of flooding or lead to an increased risk of flooding elsewhere.
19. I note the County Highways comments on the application. It is unclear from the evidence if these have been resolved to the satisfaction of the County Highways Department, however none of the issues raised are included in the Council's reasons for refusal. Given that there is an existing footpath along the site frontage it is unclear why a continuous footpath along the site frontage is requested. Works to the adopted highway would be subject to the specification of the Highways Authority and there is nothing before me to suggest the proposed access arrangements, subject to a condition regarding visibility splays, would be unacceptable in highway safety terms. There appears to be

sufficient space for the provision of a refuse collection point, and it has not been made clear to me why reconsideration of the turning provision for Barn 1 is required.

### **Conditions**

20. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty. The Council has suggested several conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others. The Council requests that in addition to the standard time limit and approved plans condition, another 13 conditions are imposed.
21. A condition requiring the submission of a Contaminated Land Report, and in the event that contamination is found, a remediation report and validation statement, and that all remediation shall be carried out prior to development commencing, is necessary to ensure the site is free from contamination in the interests of public health and safety. It is required prior to commencement to ensure that any remediation can be carried out in the first instance.
22. A condition requiring a Construction Management Plan is necessary to ensure the impacts of the construction phase are minimised on the local area. It is required prior to commencement to ensure that the measures are in place for the duration of construction.
23. A condition requiring the submission of tree and hedge protection measures is necessary to ensure protection of landscape features which are to be retained. It is necessary that tree protection measures are installed prior to commencement of development to ensure the protection of landscape features for the duration of the construction phase.
24. A condition requiring the submission of an archaeological investigation is necessary to ensure that any archaeological items are recorded. It is required prior to commencement of development to ensure that measures are in place to record any items of archaeological interest during the implementation of the development.
25. A condition requiring the submission of external materials and surfaces is necessary in the interests of character and appearance. A condition requiring the dwellings to meet the higher 'Optional Technical Housing Standard' for water consumption of no more than 110 litres per person per day is necessary in the interests of water efficiency and sustainability. A condition requiring the implementation of the mitigation recommendations of the ecology survey is necessary in the interests of the protection and enhancement of wildlife and biodiversity. Conditions requiring the implementation of parking and visibility splays are necessary in the interests of highway safety. A condition requiring the use of obscure glazing in the lower panes of windows to bedrooms 1 and 4 in the north-east elevation of 'barn 2' is necessary in the interest of the living conditions of future occupants of the proposed adjacent dwelling. A condition regarding the submission of landscaping details and its implementation is necessary to ensure the appearance of the development is acceptable.

26. It is not necessary to impose a condition requiring the submission of a further protected species surveys if the development has not commenced within one year. The condition requiring implementation of the mitigation recommendations deals with the necessary requirements for any further survey work. The removal of permitted development rights should only be imposed in exceptional circumstances that I do not consider exist in this instance.

### **Conclusion**

27. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*A M Nilsson*

INSPECTOR

### **Schedule of Conditions**

- 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:
  - CC17-08-08-02A (Proposed Layout Plan)
  - CC17-08-08-03 (Landscaping Plan)
  - CC17-08-08-08 (Barn 1 Site Plan)
  - CC17-08-04-09 (Barn 1 Floor Plans)
  - CC17-08-08-10 (Barn 1 Elevations)
  - CC17-08-08-11 (Barn 1 Elevations)
  - CC17-08-08-13 (Barn 2 Site Plan)
  - CC17-08-05-14 (Barn 2 Ground floor Plan)
  - CC17-08-05-15 (Barn 2 First Floor Plan)
  - CC17-08-08-16 (Barn 2 Elevations)
  - CC17-08-08-17 (Barn 2 Elevations)
  - CC17-08-08-19 (Barn 3 Site Plan)
  - CC17-08-06-20 (Barn 3 Ground Floor Plan)
  - CC17-08-06-21 (Barn 3 First Floor Plan)
  - CC17-08-08-22 (Barn 3 elevations)
  - CC17-08-08-23 (Barn 3 Elevations)
  - CC17-08-08-25 (Cottages Site Plan)
  - CC17-08-07-26 (Cottages Floor Plans)
  - CC17-08-08-27 (Cottages Elevations)
  - CC17-08-08-28 (Cottages Elevations)
- 3) The development shall not commence until a Contaminated Land Report has been submitted to and approved in writing by the local planning authority. If the report confirms that contamination exists, a remediation report and validation statement will also be required, and all remediation shall be carried out prior to development commencing.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for measures to control the emission of dust and dirt, and vibration during demolition and construction. The approved Construction Method

Statement shall be adhered to throughout the construction period for the development.

- 5) All the trees and hedges shown on the landscaping plan as "to be retained" and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 6) No demolition or development shall take place until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority and the scheme has been implemented in full accordance with the approved details.
- 7) No external materials shall be applied to the barn to be converted to a dwelling and construction of the new dwellings shall not proceed beyond damp proof course level until details of facing and roofing materials to be used on all external elevations and on the hard surfaced areas of the site have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 8) The dwellings hereby permitted shall be designed to meet the higher 'Optional Technical Housing Standard' for water consumption of no more than 110 litres per person per day.
- 9) The mitigation recommendations in Section 5 of the ecology survey by B J Collins dated October 2019 shall be adhered to and implemented during demolition of the existing buildings and conversion of the barn and shall be completed before the development is first occupied. Thereafter the bat roost provision shall be retained for the lifetime of the development.
- 10) None of the dwellings hereby permitted shall be occupied until the vehicular accesses/driveways/parking areas have been constructed and surfaced in a bound material for a minimum of 5m behind the highway boundary including the provision of drainage to prevent the discharge of surface water on to the public highway. The driveways/parking areas shall thereafter be retained available for parking at all times for the lifetime of the development.
- 11) None of the dwellings shall be occupied until the visibility splays shown on drawing no. CC17-08-08-03B (approved under application ref. 20/00833/FUL) have been provided, and the visibility splays shall be retained free from obstruction for the lifetime of the development.
- 12) 'Barn 2' shall not be occupied until the lower panes of the windows to bedrooms 1 & 4 in the north east elevation walls have been fitted with glass which has been rendered permanently obscured to Group 5 level of privacy or equivalent, and fixed shut. The windows shall be retained to this specification for the lifetime of the development.

- 13) None of the dwellings shall be occupied until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in the first tree planting season following the substantial completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.