



Appeal Decision

Site visit made on 8 December 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 May 2021

Appeal Ref: APP/M0933/W/20/3257476

Land at Saw Pit House, Newland, Ulverston, Cumbria

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Tom Hrynkow against South Lakeland District Council.
 - The application Ref: SL/2019/0985, is dated 29 November 2019.
 - The development proposed is erection of dwelling and agricultural barn.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for Costs

2. An application for costs was made by Mr Tom Hrynkow against South Lakeland District Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have used the site address as stated in the appeal form in the banner heading above as it is more accurate.
4. The appeal was submitted on the basis of the failure of the Council to determine the application within the prescribed timescale. The Council has submitted a statement of case which sets out its main concerns regarding the proposal. I have used this in forming the main issues of the appeal.
5. The Council has confirmed that Section 6 of the Appeal Questionnaire was ticked 'no' in error and that the application was correctly publicised.
6. In the submitted evidence, neither the Council nor the appellant explicitly comment on any effects of the proposal on the setting of the nearby scheduled ancient monument; whether it would preserve the settings of the adjacent listed buildings (Grade II* and Grade II); and whether it would preserve or enhance the character or appearance of the Newland Furnace Conservation Area. With reference to the statutory duties under section 66(1) and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and the guidance in the National Planning Policy Framework (the Framework) relating to designated heritage assets, both parties were given the opportunity to comment on these aspects of the proposal. I have taken the comments received into account in my determination of the appeal. I am satisfied that no party has been prejudiced by this approach.

7. As the proposal lies within the setting of a Grade II* listed building, in line with the requirements as stated in the Planning Practice Guidance¹, the Council was requested to consult Historic England on the proposal. A response was received from Historic England and I have taken it into account in my determination of the appeal.
8. It is common ground between the parties that the proposed dwelling has not been submitted under Policy DM15 of the South Lakeland District Council Local Plan Development Management Policies Development Plan Document, 2019 (SLDMP) regarding essential agricultural worker dwellings in the countryside. Rather, it has been submitted under Policy DM13 of the SLDMP relating to housing development in small villages and hamlets. I have determined the appeal on this basis.
9. Interested parties have submitted concerns regarding the design and materials of the proposed dwelling and the Agricultural Consultant's Report (the AC Report) raised issues in relation to the materials of the proposed agricultural barn (the proposed barn). However, no concerns relating to these issues have been presented by the Council in its statement of case. From the evidence before me, I have no reason to take a different view to that of the Council and, were I minded to allow the appeal, these matters could be adequately dealt with by the imposition of appropriately worded conditions. Therefore, I have not considered these aspects of the proposal in detail in my determination of the appeal.

Main Issues

10. The main issues are:

- Whether or not the need for the proposed barn in this location in relation to the functional operations of the existing business has been demonstrated;
- The effect of the proposed barn on the living conditions of occupiers of neighbouring properties, with regard to noise, disturbance and odour;
- Whether or not the appeal site would be a suitable location for the proposed dwelling, having regard to the character and appearance of the area and local policy relating to housing in small villages and hamlets; and,
- Whether or not the proposal would preserve or enhance the character or appearance of the Newland Furnace Conservation Area, and its effect on the settings of the nearby scheduled ancient monument / Grade II* listed building and Grade II listed buildings.

Reasons

Background

11. The appeal site (the site) comprises a parcel of land which forms part of an agricultural field located to the north east of a minor road within the hamlet of Newland and, for the purposes of the development plan, is considered as open countryside.
12. The field is enclosed to the south, east and north by a combination of dry stone walls, hedgerows, small trees and post and wire fences. The land undulates

¹ Planning Practice Guidance, Paragraph: 065 Reference ID: 18a-065-20190723.

slightly across the field and the site sits at a slightly lower level than the surrounding terrain. The main route of the A590 is to the south of the site and the minor route of Alpine Road lies above and to the east of the site. The land beyond the site to the north, east and south is predominantly characterised by open fields.

13. It is common ground between the parties that the site lies in the setting of the scheduled ancient monument of Newland Blast Furnace (the Furnace) and associated buildings, which is also a Grade II* listed building, and within the settings of other Grade II listed buildings. It is also located within the Newland Furnace Conservation Area (the CA).
14. The proposal comprises the erection of a detached, two-storey, three-bedroomed dwelling with integral garage extension and the erection of a general purpose barn for storage and animal housing. The buildings would be located in the north east corner and along the eastern boundary of the site respectively. Access would be gained from a minor road within the hamlet to the south west of the site.

First Main Issue: Need for the proposed barn in this location

15. Policy DM25 of the SLDMP aims to ensure that new agricultural buildings are essential to the operational needs of an existing farm or agricultural business. It advises that new agricultural buildings requiring planning permission will be supported where there is a demonstrable essential need in relation to the functional operations of an existing farm or agricultural business. It goes on to state that new agricultural buildings should be located within or adjacent to the existing farm or agricultural building complex unless it can be demonstrated that such a location is not available or suitable.
16. The appellant submitted an appraisal in January 2020 to support this element of the application. This provided details of the appellant's farming enterprise in terms of the land holding, existing stock levels, current buildings and existing farm machinery, along with an overview of future farming operations and justification for the proposed barn. In addition, the Council commissioned the AC Report in May 2020 which examined the agricultural need in relation to the proposed barn on the site.
17. The submitted evidence confirms that the appellant and his partner have built a beef cattle and sheep farming enterprise at Newland on a part-time basis over the past 10 years. The enterprise comprises a total of some 37 hectares (90 acres) of land in a variety of parcels and tenures situated between Ulverston and Newby Bridge. The enterprise is based on the land at Newland, where all of their animal housing and stock handling facilities are situated and machinery is stored, whilst they live some 9-10 km away.
18. The existing buildings at Newland comprise a makeshift timber structure along with a stone and slate building which has planning permission for conversion to a small dwelling². Together the buildings possess a total footprint of 177m². The proposed barn would be a standard steel portal framed building. It would measure about 18.5m by 9.2m, with a ridge height of 5m and an eaves height of 3.7m and with a total footprint of about 168m².

² Application Ref: SL/2017/1019.

19. Having regard to the submitted evidence and my observations on site, I have no reason to disagree with the AC Report's conclusions that, in relation to the functional operations of the appellant's farming business, there is an agricultural need for the proposed barn; and that, subject to consideration of comments made regarding the proposed roofing material and walling to the lower elevations, the proposed structure would be suitable for its intended use.
20. Nevertheless, the AC Report highlights that the location of the proposed barn would be on a fairly constrained site which would not be well located in relation to the majority of the current land holdings. Furthermore, it is evident that, when considered as a standalone structure without the benefit of an associated dwelling nearby, it would fail to meet some of the practical requirements of a new livestock building on a farm.
21. The appellant contends that, of the various parcels of land he utilises, Newland is the most practical and preferable for the construction of a general purpose barn. Nonetheless, although issues relating to the other land holdings of land tenure, flood risk, landscape sensitivity, poor accessibility and vulnerability to rural crime are specified, no substantive evidence has been provided to verify these matters.
22. I acknowledge the Framework's support for the development and diversification of agricultural and other land-based rural businesses³. However, as the proposed barn would not be located within or adjacent to an existing farm or agricultural building complex, the very limited and unsubstantiated evidence provided does not sufficiently demonstrate that, for the purposes of Policy DM25 of the SLDMP, such a location is not available or suitable within the area.

Conclusion on First Main Issue

23. Accordingly, I conclude that, whilst an agricultural need for the proposed barn in relation to the functional operations of the existing business has been demonstrated, the need for the proposed barn in this location has not been adequately demonstrated. In this respect, there would be conflict, in part, with Policy DM25 of the SLDMP as referred to above.

Second Main Issue: Living conditions of occupiers of neighbouring properties

24. The residential dwellings of The Nook and Rowan Cottage and their curtilages are sited immediately to the west of the site. The properties are located between approximately 50-100m away from the site and the position of the proposed barn.
25. I recognise that the existing farming business is fairly modest and that the appellant does not aim to grow the enterprise significantly or create a new farmstead. I also note that there would be no new activities introduced onto the site beyond those that currently take place within the existing buildings, located in the centre of the hamlet, and that any work carried out would be at the same times, mainly outside of working hours.
26. Nonetheless, the proposal would result in an increased number, albeit modest, of livestock. Furthermore, given the dispersed nature of the other land holdings and the intended enhanced facilities within the proposed barn, in my judgement, it would be likely to lead to a concentration and intensification of

³ National Planning Policy Framework, Paragraph 83.

the existing activities on the site, particularly at certain times of the year, such as lambing season and winter months. This would give rise to increased noise and disturbance from the animals, farm traffic and associated lighting, along with the potential for odours. Given the close proximity of the adjacent dwellings and their curtilages, this would result in harmful effects on the living conditions of occupiers of the neighbouring properties.

27. I am mindful of the AC Report's comment that when the farming enterprises are modest in size, such as the appeal proposal, the effects are insignificant. However, it is also true that these types of activities are not recommended so close to residential properties. Furthermore, even though there have been no recorded complaints regarding the presence of livestock and farming equipment within the existing barns to date, this does not attest to a lack of conflict or harm to the living conditions of occupiers of nearby properties.

Conclusion on Second Main Issue

28. Accordingly, I conclude that the proposed barn would have a harmful effect on the living conditions of occupiers of neighbouring properties, with regard to noise, disturbance and odour. As such, the proposal would conflict with Policy DM1 of the SLDMP in so far as it seeks to ensure the delivery of acceptable levels of amenity for existing, neighbouring and future users and occupants. It would also conflict with Paragraph 127 of the Framework which, amongst other things, requires new development to create places with a high standard of amenity for existing and future users.

Third Main Issue: Suitable location for the proposed dwelling

29. Policy DM13 of the SLDMP allows for new housing development in small villages and hamlets and is relevant to the appeal. New small-scale housing development on sites within or on the edge of small villages and hamlets are required to meet five criteria to be considered acceptable. The criteria aim to ensure that new development is appropriate to the form of the village, enhances or maintains the vitality of the rural settlement and does not result in an unacceptable intrusion into open countryside.
30. It is common ground between the parties that the proposed dwelling meets criteria Nos 2, 4 and 5. However, there is disagreement on its conformance with criteria Nos 1 and 3, which require that: No 1. the scale and design of the proposed development is appropriate to the scale, form and character of the existing settlement, including taking account of the cumulative impact of incremental development; and, No 3. the site is well contained within existing landscape features, is physically connected, and integrates with, the settlement, and does not lead to an unacceptable intrusion into open countryside.
31. Newland is a rural hamlet located just off the A590, set within a wider open and undulating pastoral landscape which is delineated by field boundaries and interspersed by tree belts and wooded areas. Although small, the settlement has a strong character and distinct sense of place. Following the construction of the Furnace along with its associated buildings and worker's housing in the mid-18th century, a modest hamlet developed, possessing a compact core with the buildings informally aligned with the unclassified routes running through it.

32. Even though the Furnace ceased production in the 1890s, the street pattern along with many of the structures associated with Newland's historic past still survive and some have been converted to new uses. Consequently, the settlement as a whole maintains the character and appearance of an industrial hamlet.
33. Within the hamlet's core, the buildings are predominantly residential. The houses are slightly set back from the adjacent highway and their curtilages are typically enclosed by traditional stone walls, hedges or railings. They are generally constructed of local sandstone and/or render with natural slate roofs. The differences in size, scale and position of the properties in relation to each other and to the adjacent highway, give some visual variety to the street scene, while their generally consistent robust and austere form along with the limited palette of materials provide some uniformity.
34. Even though the appeal site is formally enclosed, it sits very much detached from the main core of built form and on the periphery of the settlement. The site's open nature and verdant appearance, devoid of built development, provides an area of transition from the industrial structures of the hamlet to the open landscape beyond. In these respects, the site provides an important green buffer and rural setting to the compact cluster of Newland's historic built structures and makes a positive contribution to the general character and appearance of the hamlet.
35. The erection of a new dwelling in the location proposed would introduce a residential structure set some distance from the unclassified routes through the hamlet and beyond the most extreme building line of The Nook and Rowan Cottage. This would be wholly out of keeping with the hamlet's historic pattern of development and would result in a detrimental encroachment into Newland's essential rural setting. The physical and visual severance of the dwelling from Newland's built core would mean that it would not appear as an incremental or organic addition to the hamlet. Rather it would be discordant built form which would not integrate with the settlement and would intrude into open countryside.
36. I am aware that this part of the site sits at a slightly lower level than the surrounding land and is partially screened by the existing boundary treatment. I also note that additional planting is offered by the appellant which could be controlled by an appropriately worded condition. Nevertheless, I am not persuaded that the topography of the site and surrounding land causes the location of the proposed dwelling to be well contained within existing landscape features. Moreover, whilst the existing and any additional planting may mitigate the physical presence of the dwelling and any associated domestic paraphernalia to some extent, from my observations on site, they would still be readily visible and unduly conspicuous from Alpine Road, highlighting their incongruity within the landscape.
37. I acknowledge that, of themselves, the scale, design and materials of the proposed dwelling would not offend. However, these factors would not overcome the fundamental objections to the inappropriateness of this type of development in this location in relation to the established character and appearance of the settlement and its unacceptable intrusion into open countryside.

38. I recognise the Framework's support for housing in rural areas⁴. Nonetheless, the Framework is also clear in stating that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting⁵.
39. In support of the appeal, the appellant has submitted a historic map dating from 1890 which he contends illustrates the site's location within the settlement and that there was once two buildings in the immediate vicinity of the position of the proposed dwelling. Nevertheless, no additional substantive evidence has been provided regarding the scale, form or use of any structures which may have been on the site. Furthermore, no remnants of any structures were apparent at the time of my site visit. Consequently, this severely limits the weight I can attach to this matter in my determination of the appeal.

Conclusion on Third Main Issue

40. Accordingly, I conclude that the appeal site would not be a suitable location for the proposed dwelling, having regard to the character and appearance of the area and local policy relating to housing in small villages and hamlets. As such, the proposal would conflict with Policies CS1.1 and CS8.2 of the South Lakeland District Council Core Strategy Development Plan Document, 2010 (SLCS) in so far as they aim to retain distinctive character and/or sense of place and protect and enhance landscape and settlement character. It would also not accord with Policies DM1, DM2 and DM13 of the SLDMP which, amongst other things, seek to ensure development responds positively to its locational context. It would also conflict with Paragraph 127 of the Framework in so far as it requires development proposals to be sympathetic to local character and history.

Fourth Main Issue: Character or appearance of the CA and the settings of the nearby scheduled ancient monument / Grade II* listed building and Grade II listed buildings

Conservation Area

41. The CA encompasses the built core and immediate landscape setting of Newland, which includes the appeal site. The special interest and significance of the CA is largely derived from the characteristics of the area as outlined above. Namely, its historic development as an 18th century industrial complex of buildings focussed around the Furnace and situated within an open pastoral setting. The tangible remnants of the industrial complex are visible and discernible. The fact that, since the closure of the Furnace the hamlet has remained relatively unaltered, results in it being of even greater importance.
42. The open character of the appeal site makes an important and positive contribution, historically and aesthetically, to the character and appearance of the CA as a whole and, thereby, to its special interest and significance as a designated heritage asset.
43. Given my findings above, it reasonably follows that the introduction of the proposed barn, proposed dwelling, associated paraphernalia and formal access into this space would fail to preserve or enhance the identified character and

⁴ National Planning Policy Framework, Paragraphs 77 and 78.

⁵ National Planning Policy Framework, Paragraph 127 c).

appearance of the CA. As such, it would detrimentally diminish and cause harm to the special interest and significance of this designated heritage asset.

44. I acknowledge the efforts of the appellant in seeking to establish a location for the proposal which would limit any harmful effects on the settings of the nearby scheduled ancient monument and listed buildings, a matter to which I return to below. However, in choosing the proposed location as a compromise, the proposal would be wholly contrary to the definitive character and appearance of the settlement and thus the CA.
45. Similar to my comments above, whilst any existing and supplemental planting may go some way to screen the physical bulk of the proposed barn and dwelling, the structures would still be adversely prominent in views from Alpine Road, particularly in the Autumn and Winter months.

Settings of scheduled ancient monument and listed buildings

46. The appeal site lies within the setting of the Furnace and attached ancillary buildings which is a scheduled ancient monument, a designated heritage asset of the highest significance, as well as a Grade II* listed building. It is also within the settings of other Grade II listed buildings.
47. The submitted information confirms that the Furnace was built in 1746-7, to produce pig iron from local iron ore. Around the Furnace itself, with its associated charging house, blowing house and casting house, other buildings including barns for storing the fuel and iron ore, a forge and rolling mill (later converted to a blacking mill) and housing for the Furnace workers, were added.
48. From the evidence before me, the significance of the Furnace, ancillary buildings and other listed buildings is largely derived from their industrial archaeological interest, architectural interest and historic interest, to which their location within the hamlet, surviving historic fabric, historic use and relationship with each other positively contribute.
49. I am mindful of the Framework's definition of 'setting' as being the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
50. The closely connected built core of the hamlet provides an immediate setting to the scheduled ancient monument and listed buildings. Beyond this, the expansive spaciousness of the wider area provides a rural context which forms an integral part of the historic setting of this important industrial complex. The immediate and wider settings allow an appreciation of the interrelationship of the structures with each other which, in turn, contributes to their significance. Having regard to the above, the open pastoral nature of the appeal site forms part of the assets' wider spacious setting and makes a positive contribution to the significance of the scheduled and listed structures.
51. The proposal would introduce sizeable built form into this space. However, given the considerable separation distances between the proposed development and the scheduled and listed structures, combined with the low lying topography of the land, I consider that the proposal would not harmfully compromise the wider setting of these designated heritage assets or affect the ability to experience or appreciate their significance. As such, it would preserve

the settings of the nearby scheduled ancient monument / Grade II* listed building and Grade II listed buildings.

52. In coming to my conclusion on this element of this main issue, I have had regard to the comments made by the Council's Conservation Officer and Historic England. Whilst I consider that the perceived minimal inter-visibility between the proposed development and the historic structures is not a primary factor in determining whether the proposal would preserve the settings of these designated heritage assets, from the evidence before me, I do not dispute their ultimate findings.

Conclusion on Fourth Main Issue

53. Drawing all of the above together, I find that the proposal would not preserve or enhance the character or appearance of the CA. As such, it would harm the significance of this designated heritage asset. Although I find that the proposal would preserve the settings of the nearby scheduled ancient monument / Grade II* listed building and Grade II listed buildings, a lack of harm in this regard does not amount to a consideration in support of the appeal.
54. With reference to Paragraphs 195 and 196 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the scale and extent of the proposal in relation to the CA as a whole, I find that the harm would be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight.
55. Under such circumstances, Paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The proposal would contribute one additional dwelling to the housing supply and one additional barn to an existing rural business. Some economic and social benefits would accrue from their construction and occupation or use. Future occupiers of the proposed dwelling would support local services and facilities and the proposed barn would provide for animal welfare and facilitate the continuation of an existing farming business. Heritage and environmental benefits would be gained from the removal of the existing timber structure currently used to house animal livestock and machinery. These public benefits carry moderate weight in the proposal's favour.
56. Nevertheless, in my judgement, the public benefits identified are not of sufficient weight to outweigh the considerable importance and weight that I attach to the identified harm. In this respect, the proposal would fail to satisfy the clear expectations of section 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment.
57. In addition, it would also conflict with Policies CS1.1, CS3.1 and CS8.6 of the SLCS and Policies DM1, DM2 and DM3 of the SLDMP which, together and amongst other things, aim to safeguard and enhance heritage assets and the District's historic environment.

Other Matters

58. I have given consideration to the letters of support for the proposal and the fact that it would provide a home for a local couple and support an existing agricultural business within this small rural community. Nevertheless, these factors do not outweigh the harm I have found.

59. There is no substantive evidence before me which confirms that the proposal would reduce the risk of accidents associated with traffic movements and improve highway safety within Newland. Nor that it would provide positive amenity benefits relating to a reduction in noise, light and odours from locating the buildings on the eastern and northern boundaries of the site. Consequently, I attach limited weight to these matters.
60. Reference is made to the approval of new farm buildings within the area and the fact that the proposal mirrors others in the locale. However, no information has been submitted regarding any other developments or farmsteads in the area to allow me to make any meaningful comparisons with the appeal before me. As such, they carry little weight in my determination. In any event, I have considered the proposal on its own merits and found that it would cause harm as outlined above.
61. I note that the Council raised no significant concerns with regard to the general design and materials of the proposed dwelling and the proposed barn; the effects of the proposed dwelling on the living conditions of the occupiers of nearby properties; and the effects of the proposal as a whole on flood risk, biodiversity or geodiversity, trees and highway safety. Although some of these matters are raised by interested parties, there is nothing in the evidence before me that leads me to take a different view. I also consider that the concerns raised by Newland Furnace Trust regarding the proposal's potential effects in relation to the outfall, tailrace and furnace could be adequately addressed by the imposition of appropriately worded conditions. Nonetheless, these matters are neutral considerations in the planning balance and do not offset the harm I have found or alter my conclusions on the main issues.
62. In coming to my decision, I am mindful of national and local policy support for housing in rural areas and the diversification of farm businesses to assist a prosperous rural economy. However, these matters do not outweigh the harm I have found.
63. I am cognisant of the appellant's frustration regarding the consideration of the application by the Council. Particularly that after receiving positive pre-application advice, an application was prepared and submitted, following which the Council took a contrary view. Nevertheless, informal advice provided before an application is made is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. Furthermore, as I have concluded that the proposal would fail to meet a requirement of the Act and would be contrary to the development plan, this does not lead me to a different view on the main issues.

Planning Balance and Conclusion

64. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise⁶. The Framework is a material consideration.
65. Having regard to the economic, social and environmental objectives of the Framework, the benefits which would accrue from the proposal are as outlined

⁶ S38(6) of the Planning and Compulsory Purchase Act 2004.

above. These benefits are reduced by the limited amount of development that is proposed but, nevertheless, carry moderate weight in the proposal's favour.

66. I have also found that an agricultural need for the proposed barn in relation to the functional operations of the existing business has been demonstrated and that the proposal would preserve the settings of the nearby scheduled ancient monument / Grade II* listed building and Grade II listed buildings. Nevertheless, these are neutral considerations and weigh neither for nor against the appeal.
67. Conversely, I have found that, the need for the proposed barn in this location has not been adequately demonstrated and that the proposed barn would have a harmful effect on the living conditions of occupiers of neighbouring properties. I have also found that the appeal site would not be a suitable location for the proposed dwelling and that the proposal would not preserve or enhance the character or appearance of the CA. These matters attract substantial weight against the appeal and, in my judgement, outweigh the benefits associated with the proposal.
68. The proposal would therefore conflict with the development plan when taken as a whole and there are no other material considerations, including the Framework, that outweigh this conflict.
69. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR