

Appeal Decision

Site Visit made on 11 October 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2021

Appeal Ref: APP/X1355/W/21/3275023

Land and buildings to the south of Old Quarrington DH6 5NW

- 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 Ms Kaitlin Francis against the decision of Durham County Council.
 - The application Ref DM/18/02158/FPA, dated 17 July 2018, was refused by notice dated 10 December 2020.
 - The development proposed is the conversion of an existing agricultural structure into a family dwelling (includes works to external site area such as road access).
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of an existing agricultural structure into a family dwelling (includes works to external site area such as road access) at Land and buildings to the south of Old Quarrington DH6 5NW in accordance with the terms of the application, Ref. DM/18/02158/FPA, dated 17 July 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 20 July 2021, and this post-dates the Council's decision notice. Furthermore, the Cassop-cum-Quarrington Neighbourhood Plan (the CCQNP) was 'made' on 20 October 2021 and therefore now forms part of the local development plan for decision-making purposes. A copy of the plan was submitted as part of the appeal submissions and relevant policies drawn to my attention.
3. It is incumbent upon me to take into account the most up to date information in reaching a decision. I have, therefore, had regard to both the CCQNP and the revised Framework in my decision. I am satisfied that this has not prejudiced the main parties as they have had the opportunity to address this during the course of the appeal proceedings.

Main Issue

4. The main issue is the effect of the proposed access arrangements on the safety, and the recreational experience, of users of the bridleway.

Reasons

5. The appeal relates to a single storey stone and brick built agricultural building laid out in a U-shaped formation and located in the countryside. Access is via a single width track that also serves as a bridleway (bridleway No.39) which provides access to adjoining fields and connects Old Quarrington to Park Hill. The proposal would see the building converted to provide a single dwelling.
6. The Council is concerned that the development would result in an intensified use of the access track, and the potential conflicts that this may bring with its users which

include walkers, horse riders and cyclists. This view is supported by the Highway Authority.

7. Policy 10 of the County Durham Plan (2020) (CDP) sets out the Council's policy position with regard to development in the countryside and, among other things, seeks to ensure that new development is not prejudicial to highway safety or adversely impacts upon residential or general amenity. In addition, CDP Policy 26 expects development to maintain or improve access to the countryside for pedestrians, cyclists and horse riders. Proposals that would result in the loss of, or deterioration of, existing public rights of way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is maintained.
8. The Framework expects development proposals to provide safe and suitable access to the site for all users. At paragraph 111 the Framework is clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
9. The access track/bridleway comprises a long narrow country lane with an unbound surface. The appeal site is located approximately 525 metres along the lane from its junction with the adopted public highway at Old Quarrington. In parts, there is a notable step down in level from the main running surface of the lane to the adjacent verge.
10. Whilst I have not been provided with any quantitative evidence as to the current levels of usage of the lane, interested parties suggest that it is well used by walkers, cyclists and horse riders, including pedestrians with prams and wheelchair users. They are of the view that motorised vehicular traffic is very light and mainly associated with the agricultural use of the surrounding land. The Highway Authority estimate current vehicular traffic to amount to approximately two movements per day and that the proposal would likely generate a further eight movements per day along the lane.
11. The likely increase in vehicular movements along the lane would be significant in the context of its current levels of use. However, the use of the lane by motorised vehicles would remain relatively low. Despite its narrow width, the horizontal and vertical alignment of the track is such that vehicles using it would have very good forward visibility and would likely see any opposing vehicles, or other users, well in advance of meeting them at close quarters. There is a slight bend in the lane towards the proposed site entrance, but this does not significantly restrict forward visibility between users. Also, given the gravel surface of the track, vehicle speeds are likely to be low, further reducing any potential safety risks.
12. Whilst only a snapshot in time, it was clear from my site visit that the lane is well used by walkers and horse riders, as I encountered several walkers and a rider on horseback using the lane during my visit. Nevertheless, I travelled the length of the lane to the appeal site in a motorised vehicle and, despite its narrow width and step down to the grass verges on either side, I was able to safely pass pedestrians without issue.
13. Furthermore, I observed several gateways at various points along the length of the track where the verge widens and where vehicles traveling in opposing directions could pass safely. These are at sufficient intervals that would negate the need for vehicles to reverse for any great distance. This would also enable a motorised vehicle to safely pass a cyclist, wheelchair user, pedestrian with a pram or a horse rider. I also note that the junction with the public highway at Old Quarrington provides a further area capable of allowing vehicles and other users to pass safely.

14. Two additional passing places are proposed as part of the proposal. However, there is a question over whether they can be secured. In any event, for the reasons I have set out, I am satisfied that sufficient areas already exist where vehicles can pass without difficulty or risk to the safety of other users of the lane. Accordingly, the provision of additional passing places is not necessary to make the development acceptable in this regard.
15. There are concerns that regular use of the lane associated with the proposal would degrade its surface to the detriment of other users of the bridleway. However, the limited increase in vehicular traffic associated with access to a single dwelling would be unlikely to result in any significant damage to the surface of the lane. Ongoing maintenance of the lane would be a private matter between the relevant parties.
16. Interested parties suggest that the use of the lane for agricultural vehicles is to be expected but residential traffic is not, and that the latter is inappropriate. Nonetheless, to my mind there is nothing unusual about a single dwelling in the countryside being accessed by a private narrow country lane with an unbound surface.
17. Given the anticipated low level of vehicular movements, the opportunity for conflict between motorised vehicles and other users remains low. On this basis, the recreational experience of users of the bridleway would not be significantly affected and therefore it is unlikely that existing or future users of the lane would be deterred from using it.
18. Overall, I must make an assessment as to whether the proposal would result in an unacceptable intensification of traffic using the lane, to such a degree that it would compromise the safety, and recreational experience, of users of the bridleway. I have been provided with limited evidence to prove that, in this case, the effect could be considered severe, or the risks unacceptable. I am sympathetic to concerns that the increased use of the bridleway by motorised vehicles could lead to an unacceptable safety risk for users of the lane, but on the basis of the evidence before me and on my own observations, the proposal would not represent such a risk. It follows, therefore, that the proposed access arrangements would not have an unacceptable effect on the safety, and recreational experience, of users of the bridleway.
19. Consequently, I find no conflict with Policies 10 or 26 of the CDP, the aims of which are set out above, or Policy CCQ4 of the CCQNP which is concerned with achieving beautiful and successful development that improves the negative qualities of a site. In this regard, I also find no conflict with the associated provisions of the Framework.

Other Matters

20. My attention is drawn to Section 34 of the Road Traffic Act 1988 where objectors point out that, without lawful authority, it is an offence for a person to drive a mechanically propelled vehicle on any road being a footpath, bridleway or restricted byway. However, the appellant has declared that, while they do not own the lane, they have a legal right over it to access their property, and no evidence has been submitted to the contrary. In any case, this is a civil matter between the parties involved, and relates to another regulatory regime beyond the planning system. Therefore, this does not alter my assessment of the planning merits of the case.
21. Interested parties question the principle of development at this countryside location, which they consider to be unsustainable and would negatively affect the tranquillity of the area. However, the Council raise no concern with the principle of the development and has assessed this against its local plan policies for development in the countryside and found it to be compliant. On that basis, I am satisfied that the principle of the conversion of the building would be in accordance with the development plan.

22. To support the Council's case, my attention has been drawn to other developments in the surrounding area. However, I have been provided with very little information regarding these other schemes and therefore I am unable to make any meaningful comparisons to the appeal proposal. Instead, I have assessed the case on its own merits and reached my own conclusions on the evidence before me.

Conditions

23. The Framework sets out that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the Council's suggested conditions on this basis and made some minor revisions in the interests of precision and clarity. I have also made some amendments in order to eliminate the need for pre-commencement clauses where this is not necessary for the condition to achieve its purpose.
24. I have imposed the standard timescale condition (Condition 1) for implementation and a condition specifying the approved plans (Condition 2) for the avoidance of doubt and in the interests of certainty. Conditions are also imposed to secure details of the materials for all external surfaces, the specification of windows and doors, and details of the rainwater goods to be installed (Conditions 3, 4 and 5). This is necessary to safeguard the character and appearance of the building and that of the surrounding area.
25. Conditions 6 and 7 are imposed to ensure that adequate areas of hardstanding and waste management facilities are in place prior to the first occupation of the dwelling. The Ecological Appraisal submitted with the planning application recommended a series of measures to mitigate any adverse effects on local wildlife. Condition 8 is therefore necessary to secure the recommendations of the Ecological Appraisal.
26. The Framework advises that conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Exceptionally, I have considered it necessary to remove specific permitted development rights that would allow the dwelling to be extended or enlarged. This is necessary to maintain the character of the building and avoid any overly domestic extensions or alterations that may harm its appearance or that of the surrounding area.
27. Given that the proposal relates to only a single dwelling and the fact that landscaping details are included within the approved plans, it is not necessary or reasonable to require the submission of a full landscaping scheme.

Conclusion

28. I have found the proposal to be compliant with the above cited policies of the Council's development plan and the associated provisions of the Framework.
29. There are no material considerations, of sufficient weight, that would indicate that the appeal should be determined other than in accordance with the development plan. Accordingly, for the reasons given above, I conclude that the appeal should succeed.

J M Tweddle

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i. Location Plan, Drawing No. 002 Revision A
 - ii. Proposed Plans & Elevations, Proposed Site/Roof Plan, Drawing No. 201 Revision G
- 3) Prior to their first use, details of the materials to be used for the external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 4) No external windows and doors shall be installed until full details including drawings at a scale of 1:20, including cross sections and details of the colour finish, of the proposed windows and doors have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the windows and doors shall be installed and retained in accordance with the approved details.
- 5) No rainwater goods shall be installed until full details of materials, hoppers and junctions have been submitted to and approved by the Local Planning Authority. Thereafter, the rainwater goods shall be installed and retained in accordance with the approved details.
- 6) The development shall not be occupied until details of the surface treatment and construction of all hardsurfaced areas have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the approved details and prior to first occupation of the dwelling.
- 7) Prior to the first occupation of the development hereby approved, details of refuse bin storage facilities and a management plan for the disposal of domestic waste shall be submitted to and approved in writing by the Local Planning Authority. The refuse bin storage facilities shall be provided in accordance with the approved details and prior to the first occupation of the dwelling. The approved management plan shall be adhered to in perpetuity.
- 8) Development shall be carried out in accordance with the recommendations set out in Section 6 of the Preliminary Ecological Appraisal Report prepared by Dendra Consulting Ltd, received 17 July 2018.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any order revoking and/or re-enacting that order with or without modification, no development under Article 3, Schedule 2, Part 1, Classes A to D shall be carried out unless a further planning permission has been sought and granted by the Local Planning Authority.