



Appeal Decision

Site visit made on 6 June 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/E0915/W/23/3315438

The Forge, Skellion Farm, How Street, How Mill, Cumbria CA8 9JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Thomas Day of Equorium Property Company Ltd against the decision of Carlisle City Council.
- The application Ref 22/0214, dated 9 March 2022, was refused by notice dated 5 August 2022.
- The application sought planning permission for erection of 1no. holiday letting unit on site of redundant agricultural building, without complying with conditions 15 and 16 attached to planning permission Ref 14/0003, dated 6 March 2014.
- The conditions in dispute are Nos 15 and 16 which states that:
No 15: 'The building hereby approved shall be used for holiday accommodation only and for no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning [Use Classes] Order 1987), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.'
No 16: 'The building hereby approved shall not be used at any time as sole and principal residences by any occupants.'
- The reason given for condition 15 and 16 is:
'The site is within an area where it is the policy of the Local Planning Authority not to permit additional residential development and to ensure compliance with Policy EC16 of the Carlisle District Local Plan 2001-2016.'

Decision

1. The appeal is allowed and planning permission is granted for erection of 1no. holiday letting unit on site of redundant agricultural building at The Forge, Skellion Farm, How Street, How Mill, Cumbria CA8 9JL in accordance with the application Ref 22/0214, without compliance with conditions 15 and 16 previously imposed on planning permission Ref 14/0003, dated 6 March 2014 and subject to the conditions listed in the attached schedule.

Background and Main Issues

2. The Forge is a two-storey, stone building, constructed on the site of an open metal barn that has been demolished. It is located in the countryside outside the village of How Mill. Planning permission was granted in 2014¹ for the construction of a unit of holiday accommodation with the disputed conditions. The effect of allowing the appeal would be to enable the residential occupation of the building, notwithstanding that the same person or group could not occupy it for more than 8 weeks in any one calendar year, as per condition 18

¹ 14/0003

of the original permission; and for it to be used as a sole or principal residence by the occupants of the building for this period of time.

3. The main issues are whether the conditions restricting the use of the building to holiday accommodation, and for it to not be used as a sole and principal residence by any occupants, are necessary and reasonable, having regard to the policies in the development plan, the effect of the site being in the open countryside, and its accessibility; and whether it would lead to an enhancement of the immediate setting of the building.

Reasons

4. The Forge is in a cluster of buildings, which are part of a former farmstead. This includes the original farmhouse and two former agricultural buildings converted to residential use; one of which is attached to The Forge.
5. The site is located in the open countryside, outside the village of How Mill. However, the site is in close proximity to the A69 and the village of Warwick Bridge which has a number of facilities.
6. Paragraph 79 of the National Planning Policy Framework (the Framework) says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Furthermore, paragraph 80 states that development of isolated homes in the countryside should be avoided, unless one of a number of circumstances apply.
7. At the time of the original approval, an earlier Framework and the Local Plan supported proposals to diversify the rural economy. This included the conversion of barns and the removal of modern extensions leading to the enhancement of the immediate area. However, the Council consider that the appeal proposal would not accord with paragraph 80 and Policy HO6 of the Carlisle District Local Plan 2015-2030 (CDLP), both of which seek to avoid the development of isolated homes in the countryside.
8. Policy HO2 of the CDLP covers windfall housing development and only permits new housing within or on the edge of Carlisle, Brampton, Longtown and villages within the rural area. This site is in the open countryside. However, whilst a new dwelling in this location was not acceptable when planning permission was granted, a holiday let was.
9. Whilst the use of the building was restricted to holiday accommodation, and to not be a sole and principal residence, that comprises a residential use.
10. The Forge is let out for 3, 4 or 7 nights, with different rates for low and high season. The Council consider the rates are too high, although the appellant believes the pricing is correct. Whilst occupancy levels could potentially be increased by reducing the price, the building has been let out as holiday accommodation for several years which will have allowed the appellants to assess how rates of occupancy have changed, and the viability of operating with more frequent turnarounds. However, despite offering different periods of occupation, the building is underused outside the summer months.
11. The original holiday use of the site will already have generated traffic from the comings and goings of tourists to The Forge, who are likely to access the site by private vehicle. Although the location of the building means that there would be reliance on the use of a private vehicle to access the surrounding villages

and facilities, the country lanes around the site, do provide opportunities to cycle.

12. Removing condition 15 to allow, not only holidaymakers, but permanent residents to occupy the building for up to 8 weeks, would likely change the vehicle movements to and from The Forge. Whilst holidaymakers are likely to be visiting tourist destinations, both close to and more distant from the site, if the building was occupied by an individual or family for a period up to 8 weeks, they could be accessing schools or places of work. Conversely, if the occupiers were working from home, there could be less vehicle movements than a holiday use.
13. Consequently, I have no substantive evidence before me to suggest that if the occupancy condition was changed to allow a wider use of the building, it would result in an increase in private vehicle movements. Either use would be dependent on the needs and individual choices of those occupying the building, and so amending this condition would not necessarily lead to the building being accessed less or more frequently by private vehicle.
14. Furthermore, there is equally no substantive evidence relating to the economic benefits of residential, as opposed to holiday use. Anyone living in the property would access goods and services in the local area, whereas holidaymakers could bring their food and requirements for their stay with them. However, the maintenance and servicing of the building for holidaymakers would provide some local employment. Nevertheless, whoever occupies the building would provide some economic benefits to the local area.
15. Moreover, as there is an existing limit on any particular person or group occupying the building for longer than 8 weeks in any calendar year, the building cannot be used by the occupiers as a sole and principal residence beyond 8 weeks. Therefore, removing condition 16 would continue to restrict the long-term residential use of the building and would therefore not cause any harm.
16. The building has been constructed and has been used as holiday accommodation for many years, and so the proposal would not now lead to an enhancement of the immediate setting of the building. Instead, the building already has a residential use but is underused as holiday accommodation. Whilst not preventing it continuing to be used in this way, the proposal would also provide an opportunity for a wider residential use for up to 8 weeks in length. This would not create a new house, or a permanent residential use, but would allow some flexibility to ensure that there is an increased use of the building.
17. It would therefore not conflict with policies 79 and 80 of the Framework and Policies HO2 and HO6 of the CDLP.

Other Matters

18. Whilst the Council contends that the appeal decisions² referred to by the appellant are not relevant, they both relate to existing buildings, like The Forge. Both appeals also dispute conditions relating to holiday accommodation, and so do provide some comparable evidence with this appeal case.

² APP/Q1153/W/20/3245715 and APP/X1118/W/19/3232497

19. The proposal would not impact on the living conditions of neighbouring residents and biodiversity, which is a neutral matter.

Conditions

20. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I shall therefore impose all those that I consider remain relevant.
21. As the development has been implemented, condition 1 that required commencement within 3 years is no longer necessary. Condition 2 which lists the approved plans and documents remains necessary and relevant.
22. Conditions 4, 5, 6 and 8, required details of landscaping, boundary treatments, a scheme for foul and surface water drainage and wildlife enhancement details to be submitted and approved. As these were pre-commencement conditions, and the Council has not suggested including these, it would suggest that these have been discharged and are no longer necessary.
23. Condition 7 which removed permitted development rights for any extensions is not considered reasonable or necessary as the building has been constructed, and it prevents small-scale domestic proposals being undertaken without an application for planning permission. The Council has also suggested a revision of condition 9 in terms of the visibility splays in the interests of highway safety. This has removed the pre-commencement element of the condition but retains the removal of permitted development rights so as not to obstruct visibility splays. This is considered necessary and relevant.
24. Conditions 10 and 11, concerning the surface of the access drive and highway works around the access, have been implemented and are no longer required. However, condition 12 which required the use to not commence until the access and parking requirements had been constructed, should be revised to retain such requirements. Contamination found during the construction phase is covered by condition 13, but as the proposal has been constructed, this is no longer necessary.
25. Condition 14 was a pre-commencement condition regarding the curtilage of the dwellings. I noted when I visited the site that there was a wooden fence separating the garden at the rear of The Forge, from the adjacent building, The Old Barn. As The Forge could be used for residential use, it is important that the occupiers have clearly defined garden space. The Council's suggested condition points to the original condition having been discharged and so the revision of condition 14, as suggested by the Council, is necessary and relevant.
26. Condition 15 is one of the conditions subject to this appeal, and so is no longer necessary or reasonable. Condition 16 is also subject to this appeal and as discussed earlier is unnecessary.
27. Condition 17 which ensures that the property is not a second home, condition 18 restricting the use of the building for a period not exceeding 8 weeks in any one calendar year, and condition 19 requiring a register of all occupants of the building, are still necessary and reasonable.

Conclusion

28. For the reasons given above, I conclude that the appeal is allowed.

M J Francis

INSPECTOR

Schedule of conditions

- 1) The approved documents for this planning permission comprise:
 - a) The submitted planning application form;
 - b) Design and access statement;
 - c) Structural survey;
 - d) Initial bat survey;
 - e) Location plan (Barn B), drawing no. 1213.27 10 Rev B;
 - f) Location plan (Barn B), drawing no. 1213.27 09 Rev B;
 - g) Site plan as proposed (Barn B), drawing no. 1213.27 08 Rev B;
 - h) Plan as existing/elevations as existing (Barn B), drawing no. 1213.27 03 Rev 0;
 - i) Site plan as proposed (Barn B), drawing no. 1213.27 07 Rev B;
 - j) Plans as proposed/elevations as proposed (Barn A), drawing no. 1213.27 02 Rev A;
 - k) Ground floor plan as proposed (Barn B), drawing no. 1213.27 04 Rev 0;
 - l) First floor plan as proposed/elevations as proposed (Barn B), drawing no. 1213.27 05 Rev 0;
 - m) Site visibility – Barn B, drawing no. 1213.27 12 Rev Barn B;
 - n) Notice of decision; and
 - o) Any such variation as may subsequently be approved in writing by the Local Planning Authority.
- 2) The materials (and finishes) to be used in the construction of the proposed development shall be in accordance with the details contained in the submitted application, unless otherwise agreed in writing by the Local Planning Authority.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes, hedges or other plants shall be permitted to grow so as to obstruct the visibility splays provided in accordance with Drawing 1213.27.12 (Site Visibility Barn B, received 24 February 2014).
- 4) The access and parking requirements constructed in accordance with the approved plan shall be retained and shall not be removed or altered thereafter, without the prior consent of the Local Planning Authority.
- 5) The proposed curtilage of the dwellings shall be in strict accordance with the details discharged under application 15/0505.

- 6) The building hereby approved shall not be used as a second home by any person.
- 7) The building hereby approved shall not be let to any person or connected group of persons for a period exceeding eight weeks in any one calendar year.
- 8) A bound register of all occupants of the building hereby approved shall be maintained at all times and shall be made available for inspection by the Local Planning Authority on request. The register shall comprise consecutively numbered pages which shall be kept in order, and each entry shall contain the name and address of the principal occupier together with the dates of occupation.

End of conditions