
Appeal Decision

Site visit made on 9 July 2014

by **Graham M Garnham BA BPhil MRTPI**

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

Decision date: 24 July 2014

Appeal Ref: APP/N1350/A/14/2217484

Black Banks Farm, Snipe Lane, Hurworth Moor, Darlington, DL2 1QB

- 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 Joe Burnside against the decision of Darlington Borough Council.
 - The application Ref 13/00792/FUL, dated 8 October 2013, was refused by notice dated 18 February 2014.
 - The development proposed is conversion, extension and alteration of existing outbuildings (former kennels and cattery) to create 2 residential units.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion, extension and alteration of existing outbuildings (former kennels and cattery) to create 2 residential units at Black Banks Farm, Snipe Lane, Hurworth Moor, Darlington, DL2 1QB in accordance with the terms of the application Ref 13/00792/FUL, dated 8 October 2013, subject to the conditions in the Schedule at the end of this decision.

Procedural Matters

2. The original application was amended from 3 to 2 proposed residential units during the application process. Planning permission was refused on the basis of an amended drawing that was used at the site visit (no. 1356.BBF.Sk.04, Rev D). I have considered the proposal on the same basis as the Council, using this amended drawing.

Main Issues

3. I consider that these are whether the proposal would firstly, be an acceptable change of use of buildings in the open countryside; and secondly, provide satisfactory living conditions for the incoming occupiers.

Reasons

4. The proposal would create two residential units from a range of single storey buildings located in the open countryside. The western unit would have 3 bedrooms, and was measured by the parties from the amended drawing as
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being around 12.4 metres wide by 8.8 metres deep. It would be separated from the eastern unit by demolishing the connecting part of the buildings. The eastern unit is described by the appellant as having 2 bedrooms, though the amended drawing referred to above shows 3 bedrooms. This unit is shown as being about 14.6 metres wide by 8.4 metres deep. The yard that lies in front of both units would be used for amenity space and parking. The site is part of the ownership of the adjoining former bungalow, which is currently under reconstruction as a detached house.

First main issue – the acceptability of the change of use in the countryside

5. The Council's objection to the proposal derives from its use of Policy E5 in the Borough of Darlington Local Plan (1997 & 2001). This policy is permissive of changes of use of buildings in the countryside provided that certain criteria are met. The text supporting the policy implies that it is intended to help diversify the rural economy. It says further that the adaptation of rural buildings to residential use is covered by Policy H7. However, the Council has not referred to this second policy, and it does not oppose the proposal on principle.
6. The key relevant criterion in Policy E5 is that "the structure is sound and capable of adaptation without significant rebuilding or extension". What is meant by "significant rebuilding or extension" is not defined in the Local Plan, and no building survey has been provided by the appellant. I therefore have to base my judgement on my own visual appraisal at the site visit.
7. The main part of the western unit appears to be constructed of single skin brickwork. A lean-to addition at the western end appears to be of single skin blockwork. I consider that the light weight roof with a profiled sheeting surface would be unlikely to be adequate for human occupation, and would need to be rebuilt. It would also be extended over the present lean-to structure. All internal walls would be replaced, while the outer walls would need to be doubled up or otherwise be made suitable for human habitation. There would be no openings on the northern (rear) wall. Rooms in the northern half of the building would be largely lit by rooflights. The written submissions and the proposed elevation drawing show no openings on the west elevation, although the proposed plan shows 2 windows for bedroom 1 (at the rear). The windows and doors would appear to be new openings.
8. The eastern unit similarly has a light weight roof that would need to be rebuilt; would need a reinforced outer wall; and all internal walls would be rebuilt. I noticed that the transverse gutter between the two inward facing roof planes provides a restricted headroom at present, suggesting further reconstruction or heightening works may be needed. Most of the doors and windows would use existing openings. The building on site was measured as being 0.6 metres deeper than shown on the drawing. This discrepancy was not of critical significance to the local planning authority, who said that the Council had assumed that it was intended to remodel the existing building rather than reduce its depth (a view supported by the appellant's agent).
9. The existing structures appeared to be sound from my limited visual inspection. The footprint of the existing buildings would be retained, and the site coverage reduced a little. While there would be only limited extension, I consider that

the sum total of rebuilding works that appear to me to be necessary would amount to "significant".

10. Local Plan policy has to be considered in the light of the much more recent National Planning Policy Framework (2012). Paragraph 51 says that local planning authorities should normally approve planning applications for change to residential use where there is an identified need for additional housing in that area. The Council has not contested the appellant's evidence that such a need exists. Paragraph 55 of the Framework says that new isolated homes in the open countryside should be avoided unless there are special circumstances. An example of such a circumstance is where the development would re-use redundant or dis-used buildings and lead to an enhancement to the immediate setting. I consider that both these outcomes would occur.
11. The appellant has also referred to recent changes in the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014. These allow for the change of use of agricultural buildings and the creation of new dwellings up to a maximum of 450 square metres. This does not apply to the appeal buildings as they are no longer in agricultural use. However, it is indicative of a more relaxed stance towards new housing in the countryside than has been the case historically.
12. On balance, on this occasion, I consider that the more recent provisions of the Framework are a material consideration that indicates a decision otherwise than in accordance with the criteria of Local Plan Policy E5. On this basis, I conclude that the proposal would be an acceptable change of use of buildings in the open countryside. A planning condition would be needed to ensure all the rebuilding works were approved before development started on site, to ensure a satisfactory character and appearance and to resolve the apparent anomalous depth of the eastern unit (paragraph 8 above).

Second main issue – the living conditions for incoming occupiers

13. Both units abut the northern boundary of land held by the appellant. There are buildings and land in agricultural use on this adjoining land that is not in the appellant's control. Immediately adjoining the western unit is a barn that appears to have been used for stock, which seems to be separated from it only by the width of some guttering. There is concern that this could give rise to noise and odour nuisances for the incoming occupiers.
14. Against this is the possibility of such a change of use now being permitted development if the existing buildings had continued to be in agricultural use. Incoming occupiers would be aware of this rural and agricultural setting, which might to some extent be addressed by the Building Regulations.
15. Given these circumstances I conclude, again on balance, that the proposal would not provide unsatisfactory living conditions for the incoming occupiers to the extent that planning permission should be withheld for this reason. No development plan policy has been cited with regard to this issue.

Overall conclusion

16. Whilst I consider that there are significant shortcomings with the proposal, I have found that they would be of insufficient weight to justify the refusal of planning permission.
17. In addition to the planning condition identified as being necessary in paragraph 12 above, and otherwise than as set out in this decision and that condition, for the avoidance of doubt and in the interests of proper planning, it is necessary that the development shall be carried out in accordance with the approved plans. Also the former use of the site indicates that contamination may be present. I consider that this needs to be investigated and, if found necessary, remediated before development takes place, in the interests of satisfactory living conditions for incoming occupiers.
18. I am not persuaded that conditions suggested by the Council concerning passing places, access by commercial vehicles or restrictions on commercial activities are matters that would justify refusing planning permission or are necessary if planning permission is to be given. Consequently they should not be imposed, as they fail the tests for planning conditions now contained in paragraph 206 of the Framework.
19. There is therefore no reason to withhold planning permission and I allow the appeal.

G Garnham

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision
- 2) Subject to condition (3) following, the development permitted shall be carried out in accordance with the following approved plans: 1356:BBF:Ex.01, 1356:BBF:Ex.02, & 1356:BBF:Sk.04 Rev D.
- 3) No development shall take place until details of both the residential units hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details shall include the dimensions, siting, height and roofs of each unit, the elevational treatments and the materials to be used in the construction of their external surfaces. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology that has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course

of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

