

9. FULL APPLICATION – CHANGE OF USE OF AGRICULTURAL WORKERS DWELLING TO HOLIDAY ACCOMMODATION (RETROSPECTIVE) AT BOOTH FARM, WASHGATE LANE, HOLLINSCLOUGH. (NP/HPK/1017/1120 405727 / 368005 P10689 MN 30/10/2017)

APPLICANT: Mr Kevin Mycock

Site and Surroundings

Booth Farm Bungalow forms part of a small group of buildings in open countryside, located approximately one mile north west of Hollinsclough.

A pre-fabricated chalet (home to the applicant) is sited some 80 metres north east of the application building, and two agricultural buildings are also located in the area between the two properties. To the immediate west of the bungalow is the main former farm house of Booth Farm, which is understood to now be in separate ownership to the bungalow. There are no other neighbouring properties.

The bungalow is an agricultural worker's dwelling approved nearly forty years ago. It has been extended since that time and currently comprises two parallel sections under pitched roofs with a flat roofed section between these two parts. A large area of hardstanding extends in front of the building, with a restricted curtilage to the side and rear.

The submission explains that the dwellings on the site are occupied by persons either commuting to work elsewhere or who have retired, and that the farm is now operated only as a hobby farm. The land in ownership at the site extends to 30 acres.

The bungalow is currently in unauthorised use as holiday accommodation, which this application seeks to regularise.

Proposal

To change the use of the building from an agricultural worker's dwelling to two holiday let units. No physical development requiring planning permission is proposed as part of the conversion.

RECOMMENDATION:

That the application be REFUSED for the following reason:

- 1. The existing dwellinghouse was approved on an exceptional basis to provide accommodation for an agricultural worker.**

Policies LH3 and LC12 of the Development Plan only permit the permanent change of use of such dwellings to other uses where it has been demonstrated that reasonable attempts have been made to allow the dwelling to be used by a person who could occupy it in accordance with the existing occupancy restriction, and where it has been demonstrated that the long term need for the dwelling in the locality, with the occupancy restriction in place, has ceased.

The application fails to meet either of these criteria. This is because the property has not been marketed as an agricultural worker's dwelling and it cannot therefore be established whether or not it could be occupied in accordance with the occupancy restriction.

Key Issues

- Is the principle of removing the agricultural workers dwelling restriction acceptable?
- Is changing the use of the building to two holiday let units acceptable?

Relevant Planning History

1978: Planning permission granted for an agricultural worker's dwelling. The occupation of the dwelling was restricted by planning condition to a person solely or mainly employed, or last employed, in the locality in agriculture or forestry (including dependants of such a person residing with him), or a widow or widower of such a person.

2017: Lawful Development Certificate application refused for use of part of the building as a holiday let unit. In taking that decision the Authority concluded that whilst part of the building had been used as holiday accommodation at times since 1992 there had not been a material change of use of the property from a single dwelling into two separate dwellings. This was because the two parts of the property had not been physically separated until recently, because the use of part of the building as holiday accommodation had not been continuous over that period, and because the dwelling was otherwise occupied in accordance with the terms of the occupancy condition. As such, no lawful change of use had taken place.

Consultations

Highway Authority: Advise that the building is located via a private track access and is unlikely to affect the public highway, and consider that the proposals are unlikely to result in any significant increase in traffic movements. Additionally, they take account of the fact that the proposals would re-use an existing building and have taken commensurate use into its consideration of the proposals.

They also understand that the change of use has already occurred and that the application is to formalise the changed use. Advise that their Authority is not aware of any problems affecting the highway network that have resulted from this change of use. They note that parking and turning space is available and assume that refuse collection is already occurring from the site.

On the basis of the above they do not wish to raise objections.

District Council: No response to date.

Parish Council: Support the application on the grounds that it is only a change of use and will have no landscape or other impacts on the surroundings to the site.

Representations

No representations received to date.

Main Policies

Relevant Core Strategy policies: GSP1, GSP2, GSP3, GSP4, HC2, L1, RT2, CC1 and T7

Relevant Local Plan policies: LC4, LC12, LH3, LT11 and LT18

National Planning Policy Framework

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and saved policies in the Peak District National Park Local Plan 2001. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.

Development Plan Policies

Core Strategy policy HC2 deals with the provision of housing for key workers in agriculture, forestry or other rural enterprises, including detailing the circumstances in which such housing can be supported.

The supporting text for this policy states that applications to remove key worker occupancy restrictions must be carefully assessed. When the exceptional need for this type of home no longer exists it can contribute to the provision of intermediate "more affordable" housing or tourist accommodation to meet the aims of other policies.

Policy LH3 deals with proposals to replace agricultural occupancy conditions and says that the removal of a condition or obligation which restricts the occupancy of a dwelling to a person employed or last employed in agriculture or forestry will not be permitted unless it can be demonstrated that:

- i. reasonable attempts have been made to allow the dwelling to be used by a person who could occupy it in accordance with the restriction;
- and
- ii. the long term need for the dwelling in the locality has ceased and removing the restriction would be more appropriate than a temporary relaxation.

The policy also states that where, exceptionally, permission is granted for the release of an agricultural occupancy restriction, the occupancy of the dwelling will be limited, by an obligation, to local persons as described in Policy LH2. It states that where a local person cannot be found to occupy the dwelling, permission will be given, on a personal basis, to let the dwelling for holiday use until such time as an agricultural or local need arises again.

Policy LH2 defines people with a local qualification and is used, amongst other things, to inform eligibility for the temporary occupation of farm workers dwellings in cases where this is permitted by LH3. This requires the person occupying the dwelling to meet at least one of the following criteria:

- (i) a person (and his or her dependents) who has a minimum period of 10 years' permanent residence in the parish or an adjoining parish and is currently living in accommodation which is overcrowded or otherwise unsatisfactory;
- (ii) a person (and his or her dependents) who has a minimum period of 10 years permanent residence in the parish or an adjoining parish and is forming a household for the first time;
- (iii) a person not now resident in the parish but with a proven need and a strong local connection with the parish, including a period of residence of 10 years or more within the last 20 years;
- (iv) a person who has an essential need to live close to another person who has a minimum of 10 years' residence in the parish, the essential need arising from age or infirmity;
- (v) a person who has an essential functional need to live close to his or her work in the parish, or an adjoining parish within the National Park.

Local Plan policy LC12 also addresses housing for key workers, including agricultural workers. The supporting text provides information relating to the circumstances in which relaxation of the occupancy may be considered. It advises that in cases where adequate assurances exist and there is no ongoing agricultural or forestry need in the locality, the Authority may consider temporary relaxation of the occupancy condition. This would allow the property to be let outside of agriculture on a short term basis.

It also advises that only where there is certainty of no further local agricultural or forestry need should the occupancy condition be permanently removed, and in those cases the dwelling should be made available to meet a local need for affordable housing.

Core Strategy policy RT2 permits the change of use of a traditional building of historic or vernacular merit to serviced or self-catering holiday accommodation, except where it would create unacceptable landscape impact in open countryside.

These policies are supported by a wider range of design and conservation policies including Core Strategy policy L1 which requires all development to conserve and enhance valued landscape character as identified in the Landscape Strategy and Action Plan. Other than in exceptional circumstances, development which will have a harmful impact will not be permitted.

Policy GSP3 of the Core Strategy and saved Local Plan policy LC4 are also directly relevant to the current application because they set out the design principles for development in the National Park, and also seek to safeguard the amenities of properties affected by development proposals, and set out criteria to assess design, siting and landscaping. The Authority's Supplementary Planning Documents (SPD) the Design Guide and the Building Design Guidance offer further advice on design issues.

Policy T7 requires development to be provided with the minimum amount of parking required for operational purposes. Policies LT11 and LT18 of the Local Plan require new development to be provided with adequate access and parking provision but also say that access and parking provision should not impact negatively on the environmental quality of the National Park.

The Authority's emerging Development Management Policies document is also a material policy consideration in this case. Whilst not yet adopted, the document is at an advanced draft stage and has been through an initial consultation, with a further consultation on some modifications currently open.

Officers therefore consider it appropriate to afford this document some limited weight, as it provides a strong and current indication of the Authority's position in relation to a range of planning policy areas, including issues relating to agricultural worker's dwellings.

In particular, policy DMH11 addresses the imposition of legal agreements in relation to the grant of planning permission, including for essential workers dwellings - which includes agricultural workers. This provides context for the current application in so far as it details the circumstances in which the Authority will consider relaxing occupancy restriction, and to what other uses.

It notes that where, exceptionally, permission is granted for the temporary release of an occupancy restriction on an essential workers dwelling outside a named settlement the dwelling will remain tied to the business, or will revert to holiday use, or will be temporarily occupied by local person who has lived in the parish or adjoining parish for ten out of the last twenty years and is in housing need, until such time as a business need arises again.

In relation to the permanent removal of legal agreements on essential worker dwellings it advises that this will not be permitted unless it can be demonstrated that reasonable attempts have been made to allow the dwelling to be used by a person who could occupy it in accordance with the restriction; and the long term need for the dwelling in the locality has ceased and a temporary relaxation therefore serves no purpose.

Notably, it does not impose a requirement for the dwelling to meet a local need for affordable housing in these circumstances – differing from Core Strategy policy HC2 and Local Plan policies LH3 and LC12 in this regard.

Assessment

Is the principle of changing the use of the building from an agricultural worker's dwelling acceptable?

Whilst this application does not seek to vary the 1978 permission that imposed the current occupancy restriction, the effect of granting planning permission for the proposed development would be to circumvent that condition and to allow the building to be used for another purpose. As such, the application is subject to the same policy tests that would be applied to an application to vary or remove the occupancy restriction from the 1978 permission.

As agricultural worker's dwellings are permitted only on an exceptional basis both existing and emerging planning policies require reasonable attempts to have been made to allow the dwelling to be used by a person who could occupy it in accordance with the restriction before consideration will be given to either a temporary relaxation or permanent removal of the restriction.

The applicant's agent has advised that Booth Farm is no longer a viable hill farming enterprise. They note that there are no full time farms in the immediate vicinity of the bungalow and consider that any full-time farms that are still surviving in the area would be employing a family member due to differing employment rights between family and non-family employees, and as such would not be seeking housing away from their family farms.

They also contest that the remote location of the dwelling means that it would not be viable, either practically or financially, for a worker at another farm to live here and commute. On this basis they consider that the likelihood of the bungalow being conveniently situated for the accommodation of an independent agricultural worker is very low and that any marketing of the property would be highly unlikely to attract any eligible occupants.

However, no evidence has been provided to support their case, for example no marketing exercise has actually been undertaken. Officers therefore do not consider that reasonable attempts have been made to allow occupation of the property by somebody who could comply with the occupancy restriction. The application is therefore contrary to policies LH3 and LC12.

Officers consider that marketing of the property as an agricultural workers dwelling for a defined period would be necessary to establish demand. It could be the case, for example, that even if there is no local interest in occupying the building in association with the attached farmland there could still be other people employed in agriculture elsewhere in the area who are seeking housing and who would comply with the occupancy condition.

Only if no eligible occupiers were found within that period would a temporary relaxation of the condition comply with LH3 and LC12.

Further, without an appropriate period of marketing the property the Authority cannot be assured that the long term need for the dwelling in the locality has ceased, which policy LH3 requires before the permanent removal of the restriction, as proposed, would comply with policy.

Officers have considered the statement of the applicant's agent, which states that they are trying to keep the family farm intact and that the additional source of income from holiday letting would benefit this aim. However, they also advise that the farm is no longer viable and now operates only as a hobby farm. On this basis the weight that can be given to the proposal in terms of it supporting agriculture is very limited. The loss of a farm workers dwelling without justification would potentially undermine agricultural viability in the locality rather than supporting it.

Is changing the use of the building to two holiday let units acceptable?

This matter is secondary to the principle of the loss of the building as an agricultural worker's dwelling. As noted above, the proposal is contrary to adopted policy in that regard. The assessment below is included to help explain the planning policy position regarding the proposed use.

Whilst policy RT2 does not typically support the change of use of buildings of this type to holiday accommodation – requiring them to be of historic or vernacular merit – policies LH3 and LC12 do make provision for any farm worker's dwelling to be taken in to such use in specific circumstances, irrespective of character and appearance.

There are two parts to the consideration of when such a change of use may be acceptable:

- i. whether a temporary use of the building for holiday accommodation would be acceptable
- ii. whether the permanent use of the building for such use would be acceptable.

Temporary change of use to holiday accommodation

If it was proved that the building was not currently required as an agricultural workers dwelling then policy would support a temporary change of use. Current policy advises that, in the first instance, this should be to allow occupation by a local person meeting the policy criteria of LH2. Only if no such person was found does the policy support use of the building as holiday accommodation. Emerging policy does not impose such a hierarchy, however, stating that use as either holiday accommodation or accommodation for a local person would be equally acceptable in these circumstances.

In this case, the floor space of the dwelling (almost 150m²) far exceeds what the Authority would generally consider to be affordable. On this basis, restricting the temporary change of use of the building to a dwelling to be occupied by a local qualifying person would serve no planning purpose.

Whilst it could be argued that the building can be split in to two affordable dwellings and that these would then meet the size requirements of such dwellings, this is not what has been applied for and this proposal should be considered on its own merits.

Having considered these points, and given that the provision of holiday accommodation within the Park does fulfil a statutory purpose and Development Plan objective, Officers consider that the temporary use of the building as holiday accommodation could be supported if it was accepted that there was no need for an agricultural workers dwelling in this location at this time.

As noted earlier in this report though, a period of marketing of the property would be necessary before it was proven there is no current need for the dwelling in the locality. This has not been undertaken.

Permanent change of use to holiday accommodation

Current policy advises that where it is accepted that the long term need for an agricultural workers dwelling in this location no longer exists, such dwelling should be made available to meet a local need for affordable housing, rather than for use as holiday accommodation. However, emerging policy does not make such a restriction, allowing conversion to market

dwellings in these circumstances.

As noted above, due to the floor space of the dwelling far exceeding what would be considered to be affordable, restricting the change of use of the building to an affordable dwelling would serve no planning purpose.

Having considered these points, and given that the provision of holiday accommodation within the Park does fulfil a statutory purpose and Development Plan intention, Officers consider that the conversion of the building to holiday accommodation could be supported if it was proven that the long term need for an agricultural workers dwelling in this location no longer existed.

As noted earlier in this report, an appropriate period of marketing the property would be necessary before it was proven that the long term need for the dwelling in the locality has ceased. This has not been undertaken.

Design, siting and landscape impacts

No physical external changes are proposed to the building. It would be unlikely to generate significant further traffic than if used as a single dwelling, and would require no additional parking or outdoor amenity space. The proposal is therefore considered to conserve the built environment and landscape of the area as required by policy.

Amenity impacts

The proposed use would have very similar amenity impacts to the current use as an agricultural workers dwelling. It is not considered that there would be a significant change to noise or privacy levels for neighbours, and no physical works are proposed that would alter the relationship between the buildings already on site. On this basis the amenity of neighbours is considered to be maintained by the proposal.

Environmental management

No detailed information in regard to environmental management considerations has been submitted with the application. As the building is already in use as a dwelling and because no physical works are proposed it is not considered that any such measures are required in order for the proposal to comply with planning policy.

Conclusion

The application has not demonstrated that there is no longer a need for the property as an agricultural workers dwelling – in either the short or long term. As a result its change of use to holiday accommodation fails to satisfy policies LH3 and LC12.

Therefore whilst the landscape, highway, and amenity impacts arising from the development would all be negligible, the proposal remains fundamentally contrary to planning policy. Having considered this and all other material matters and found nothing to outweigh the conflict with adopted policy the application is recommended for refusal.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil