

11. FULL APPLICATION: CHANGE OF USE OF BARN/FORMER BLACKSMITH'S WORKSHOP TO DWELLINGHOUSE, THE BARN, BACK LANE, ALSTONEFIELD (NP/SM/0615/0548 P.2561 412978/365506 30/11/2015/CF)

APPLICANT: MS MANDY TURLEY

Background

This revised application for the conversion of a barn to an affordable dwelling to meet local need was originally considered at the meeting of the Authority's Planning Committee in November 2015. Notwithstanding an officer recommendation of refusal, a motion resolving to approve this application was moved and seconded, subject to conditions and prior entry in to an appropriate legal agreement. In this case, the original officer's report (see Appendix 1) recommended refusal of the current application for the following reason:

The applicant does not have an eligible local need for new housing within the National Park and the current application is therefore contrary to policy HC1(A) of the Core Strategy and contrary to saved Local Plan policies LH1 and LH2. In this case, there are no exceptional circumstances or any other material planning consideration that would justify a departure from the Authority's adopted housing policies.

The applicant confirmed that she would be willing to enter into a section 106 legal agreement naming herself as the first occupant and then containing the normal obligations that would retain the converted barn as an affordable home and restrict future occupancy of the barn to a person (or people) with a local qualification to address concerns that approval could not be granted for conversion of the barn to an open market house to meet general demand. In this respect, the officer's report set out that the proposed barn conversion was otherwise acceptable in landscape conservation and design terms and would be a suitable candidate for affordable housing. The proposed development was also considered by officers to be compliant with policies in the Development Plan and policies in the National Planning Policy Framework in all other respects.

The reasons given for approval of the application by the Planning Committee were therefore related to the wider benefits of granting planning permission for a departure from the Development Plan arising from the applicant's offer of a legal agreement and were summarised as follows:

In the absence of harm to the valued characteristics of the National Park, members considered the current application proposed a sustainable form of development that would support the viability and vitality of Alstonefield. In this case, an exception to the Authority's normal criteria relating to local qualifications was warranted because of the nature of the barn and the limited availability of one bedroom properties to meet local need within the local area. Furthermore, members considered that the proposals would conserve and enhance a locally distinctive building on the edge of the settlement and these factors weighed in favour of a resolution to approve the current application.

Subsequently, it was resolved that under the Authority's Standing Order no. 1.48, a further report setting out policy issues and conditions shall be brought to the next meeting of the Planning Committee for final determination including further discussion of the requirement for an appropriate legal agreement, and suggested conditions.

Standing Orders

In accordance with Standing Order 1.48, this report covers:

- (i) the policy implications e.g. whether the decision is a major departure from the development plan or other key policy;

- (ii) the budget implications;
- (iii) a risk assessment; and
- (iv) an assessment of the robustness of the provisional reasons, including recommendations on any conditions;

Assessment

(i) Policy Implications

A decision to grant permission for the current application is considered to be a major departure from the Development Plan. This is because the applicant does not have a local qualification as required by Saved Local Plan policy LH1 and set out in saved Local Plan policy LH2. In this case, the applicant who is the intended first occupant of the proposed barn conversion has been living on a house boat in the Leek area, outside of the National Park, for around three years. Consequently, the applicant would not meet any of the criteria in the cascade provisions in the Authority's normal legal agreements for affordable housing either. This means that the applicant cannot be considered to be a person with a proven need for a new house within the National Park or a person with an appropriate local qualification even when taking into account the Authority's cascade provisions, which will be taken forward as policy in the emerging Development Management Development Plan Document (approved by the Authority in October 2015). Therefore, granting planning permission would irreconcilably conflict with the provisions of saved Local Plan policies LH1 and LH2 and would set an unfortunate precedent for future applications where a "non-compliant" (in terms of local residence and need criteria) applicant offers a local occupancy restriction when they cease to occupy the building.

In these respects, the current application is also contrary to policy HC1(A) of the Core Strategy because the applicant cannot demonstrate that the new house would address an eligible local need for new housing in the National Park. On this basis, any approval for the current application would be a departure from the Development Plan, especially when taking into account that the emerging Development Plan Document will carry forward very similar criteria for assessing eligible local needs as set out in LH2 in policy DMH2, which says:

In all cases, new housing must be first occupied by persons satisfying at least one of the following criteria:

- A. A person (and his or her dependants) 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; or
- B. A person (and his or her dependants) not now resident in the parish but having lived for at least 10 out of the last 20 years in the Parish or an adjoining parish, and is currently living in accommodation which is overcrowded or otherwise unsatisfactory; or
- C. 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 infirmity.

Therefore, whilst the proposals may appear to offer some public benefits because the applicant is willing to enter into a legal agreement to maintain the affordability of the converted barn and restrict its future occupancy to a person or persons with an appropriate local qualification, any approval for the current application could harm the future application of the Authority's adopted policies and undermine the consistency of decision making in the National Park.

(ii) Budget Implications

It is not considered that a decision to approve this application would have any significant budget implications as the only costs arising would be officer time processing the decision notice and the necessary legal agreement.

(iii) Risk Assessment

There is an expectation amongst local communities and other communities of interest that the Authority applies policies in the Development Plan neutrally, fairly and consistently, especially where they are up-to-date, relate specifically to the development concerned and are otherwise consistent with more recent national planning policies in the Framework as they are in this case. In these respects, the applicant's case is broadly based on her personal circumstances, supplemented by the offer of the legal agreement, but a highly personalised decision to make a departure from policies based on the applicant's personal circumstances would carry a significant risk to the Authority's reputation.

Moreover, whilst the proposals may give rise to some public benefits because the applicant is willing to enter into a legal agreement to maintain the affordability of the converted barn and restrict its future occupancy to a person (or people) with an appropriate local qualification, any approval for the current application would harm the future application of the Authority's adopted policies and consistency of decision making in the National Park. Notably, the emerging Development Plan Document does not suggest that the local qualification in saved Local Plan policy LH2 will change, which means there is no support in the emerging policy to consider relaxing the local qualification on an exceptional basis.

This strong position is justified by the need to control development of all types and to repel the high demand to live in the National Park. The applicant is proof of such demand. The applicant has no local connection to Alstonefield in the terms required by the adopted development plan and emerging policies. Neither has the applicant proven an essential need to live within the local area. The offer of entering into a legal agreement restricting the future occupancy and maintaining the affordability of the converted barn that might justify approval of the current application could be too easily repeated by others without the required local connection who simply want to live in the Park. Applicants may be unconcerned by the legal agreement because they may have no intention of moving. Therefore, the offer of entering into a legal agreement restricting the future occupancy and maintaining the affordability of the converted barn could be too easily repeated if a decision on this application cannot be clearly distinguished from other similar cases. In these respects, any approval for this application may form an unfortunate precedent for future decisions made by the Authority in similar cases and which would undermine the Authority's reputation.

(iv) Robustness of Provisional Reasons for Approval and Suggested Conditions

The provisional reasons given by Members for approval of the application were as follows:

In the absence of harm to the valued characteristics of the National Park, members considered the current application proposed a sustainable form of development that would support the viability and vitality of Alstonefield. In this case, an exception to the Authority's normal criteria relating to local qualifications was warranted because of the nature of the barn and the limited availability of one bedroom properties to meet local need within the local area. Furthermore, members considered that the proposals would conserve and enhance a locally distinctive building on the edge of the settlement and these factors weighed in favour of a resolution to approve the current application.

These reasons for approval are based on planning grounds but the very limited connection the applicant has with the local area undermines the robustness of these reasons for approval. In

short, it could be seen that the only criteria that determines the acceptability of the applicant as the first intended occupant is that she actually owns the barn and is willing to enter into a legal agreement. It is also of particular concern that the benefits of accepting the legal agreement may not be achieved in any defined timescale primarily because the intended first occupant does not appear to be intending to sell the property in the near future.

Nonetheless, the reasons for approval do clearly set out that Members gave weight to the particular nature of the barn (in terms of its location, size, and its locally distinctive character and appearance), the lack of landscape harm that the conversion would cause, and the opportunity to deliver of a one bedroom affordable house of which there is a shortfall within the National Park. In these respects, the individual planning merits of this case could distinguish it from other cases and would not therefore indicate that the conversion of larger barns or structures would be acceptable where an offer of a legal agreement were to be made in similar circumstances where the applicant does not meet to local occupancy criteria. However, if Members consider that this building is suitable for conversion to an affordable local needs dwelling and that this would be otherwise acceptable in terms of landscape impact, design and access, Officers would recommend that the application be refused as recommended and that the applicant be advised that an application which proposes to meet local need on first occupancy is submitted, although this would clearly not meet the applicant's aspirations.

If Members consider that there are robust grounds to approve this application, notwithstanding the above advice, any approval should be subject to a legal agreement and the conditions suggested below, which are considered reasonable and necessary to ensure the completed development robustly complies with policies in the Development Plan and national planning policies in the Framework in all other respects.

In the first instance, the legal agreement would include obligations relating to the first intended occupant (i.e. the applicant), affordability and local occupancy criteria in accordance with the requirements of the Authority's adopted guidance on affordable housing. Therefore, it is considered that the legal agreement would be directly related to the development; and fairly and reasonably related in scale and kind to the development as well as being necessary to make the development acceptable in planning terms taking into account the Authority's housing policies require the proposed development to be maintained as affordable housing to meet local need in perpetuity, notwithstanding that the applicant does not have a local qualification in this case. Consequently, the requirement to enter into the proposed legal agreement before the permission is issued can be justified.

In terms of conditions, a time limit for commencement is required and the Authority's adopted guidance on affordable housing requires a start to be made on the development within two years, if it were to be approved, primarily because of the pace of change in terms of need and cost. A condition specifying the submitted plans is necessary in the interests of the proper planning of the local area also taking into account the acceptability of the design of the proposed conversion, including landscaping and parking and access provision, supports the resolution to approve the current application. It would also be necessary to require the conversion to be completed in the existing shell of the building not least because permission would be granted for conversion of an existing building rather than a newly-built house in open countryside. Similarly, it would be necessary to specify minor design details such as materials for windows and doors, and rain water goods to ensure the locally distinctive character of the existing building is not lost.

In this case, there is no evidence to suggest further survey work or mitigation would be required for any protected species not least because the barn has very limited potential to provide suitable habitat for bats and birds primarily because of its condition and in the absence of any recognisable access points for either species. However, it is recommended that details of a package treatment plant should be agreed and the approved treatment plant be installed prior to first occupation in the interests of safeguarding the quality of the environment also taking into account the application site is within a Nitrate Vulnerable Zone.

Finally, Planning Practice Guidance says that permitted development rights should not be removed other than in exceptional circumstances. In the first instance, it is considered necessary to remove permitted development rights for extensions and outbuildings in accordance with the Authority's adopted guidance on affordable housing. If the current application were to be approved, it is considered that managing further extensions to the house and any additional outbuildings is important to ensure the house remains affordable and within the 'size limits' for affordable housing. It would also be important to manage future alterations to the property to minimise the impact of the proposed development and safeguard the character of the building itself and the surrounding landscape. Moreover, the access and parking provision for the proposed conversion are only acceptable on the basis that the permission would be granted solely for a one bedroom house. It is therefore considered that the exceptional circumstances do exist in this case that justify removing permitted development rights.

Conclusions

In conclusion, the Planning Committee is respectfully urged to reconsider its resolution to approve the current application, which would be a departure from the Development Plan that could harm the future application of the Authority's adopted policies and undermine the consistency of decision making in the National Park. However, if members were minded to approve this application, it is recommended that planning permission should be granted subject to prior entry into a section 106 legal agreement containing obligations relating to first occupancy, subsequent local occupancy restrictions and affordability, and subject to the following conditions:

Statutory Time Limit

1. The development hereby permitted shall be begun within 2 years from the date of this permission.

Approved Plans

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans (contained in the submitted design and access statement): 'PROPOSED GROUND FLOOR PLAN'; 'PROPOSED FIRST FLOOR PLAN'; 'PROPOSED ROOF PLAN'; 'PROPOSED ELEVATIONS AND SECTIONS'; and 'PROPOSED SITE PLAN'.

Landscaping

3. All hard and soft landscape works shall be carried out in accordance with the approved plans. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme to be submitted and agreed in writing with the National Park Authority.

Conversion within Existing Shell

4. The conversion shall be carried out within the shell of the existing building

Underground Service Lines

5. All new service lines associated with the approved development, and on land with the applicant's ownership and control, shall be placed underground and the ground restored to its original condition thereafter.

Disposal of Foul Sewage

6. Prior to the first occupation of the dwelling hereby permitted, a scheme for the disposal of foul sewage to a package treatment plant shall be submitted to and approved in writing

by the Authority. Thereafter, the package treatment plant shall be installed in complete accordance with the approved plans prior to the first occupation of the dwelling hereby permitted.

Parking and Access

7. Prior to the first occupation of the dwelling hereby permitted, a specification or sample of the material to be used for the surfacing of the drive, parking and manoeuvring areas shall be submitted to and approved in writing by the National Park Authority.
8. Prior to the first occupation of the dwelling hereby permitted, the access, parking and turning areas shall be completed in accordance with the specifications approved under Condition 7 (above).

Residential Curtilage

9. Prior to the first occupation of the dwelling hereby permitted, the curtilage of the converted barn shall be defined with a drystone wall constructed in complete accordance with the approved plans in locally obtained natural stone, and the drystone wall shall be coursed and pointed to match the stonework of the existing boundary walls.

External Lighting

10. Unless otherwise agreed in writing by the National Park Authority, there shall be no external lighting and the converted building and associated curtilage shall not be provided with any other external source of illumination at any time during the lifetime of the development hereby approved.

Design Details and Architectural Specifications

11. All external windows and doors shall be of timber construction.
12. At the time of its installation, the external flue pipe shown on the approved plans shall be painted black.
13. All pipework, other than rainwater goods and the external flue pipe shown on the approved plans, shall be completely internal within the building.
14. The rainwater goods shall be cast metal, painted black. The gutters shall be fixed directly to the stonework with brackets and without the use of fascia boards. There shall be no projecting or exposed rafters.
15. The roof verges shall be flush cement pointed, with no barge boards or projecting timberwork.
16. The roof shall be clad with plain clay tiles to match the existing tiles in terms of size, texture and colour.

Permitted Development Rights

17. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking or re-enacting that Order) no alterations to the external appearance of the converted building shall be carried out and no extensions, porches, sheds, or ancillary outbuildings shall be erected on the site without the National Park Authority's prior written consent.

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