

Application Ref: 13/00608/FUL

Proposal: Continued use of former barn as 2 bed dwelling - Retrospective

Site: 1A Peterborough Road, Crowland, Peterborough, PE6 0AD
Applicant: Mr D Landgrebe

Agent: Mr J S Dadge

Referred by: Head of Planning, Transport and Engineering Services
Reason: Due to the planning history of the site
Site visit: 17.05.2013

Case officer: Mrs J MacLennan
Telephone No. 01733 454438
E-Mail: janet.maclennan@peterborough.gov.uk

Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

The site is located on the eastern side of the A1073 (Peterborough to Spalding Road) approximately 3km north of the village settlement boundary of Eye Green. The site lies to the south of 1 Steamhouse Cottage which is part of a pair of semi detached dwellings. The surrounding character is primarily open agricultural land with sporadic development along Crowland Road comprising primarily agricultural/commercial units. The site is rectangular in shape having a width of 13m and a depth of 31m and is set back from the highway boundary by approximately 6m. The site contains a brick built barn which has been converted to a residential dwelling. A porch/lobby has been added the side of the dwelling and a separate garage has been erected. The land on which the barn is situated is lower than the highway. There is an existing access which is shared with Steamhouse Cottage.

Proposal

The application seeks approval for the continued use of a barn to a 2 bed dwelling and erection of garage (retrospectively). The dwelling has a footprint of 14.7m x 4.6m and there have been limited alterations to the openings of the original building. A porch has been added to the north elevation and a detached garage has been erected to the north side of the building. The application is a resubmission of an identical application ref 12/00078/FUL which was refused on 2nd April 2012 and dismissed at appeal on 6th December 2012 (APP/J0540/A/12/2175375). The Inspector's decision will be referred to in the following report.

The application has been resubmitted as the applicant considers that 'the goal posts keep moving' in planning policy terms and in terms of the interpretation of events surrounding the proposal.

2 Planning History

Reference	Proposal	Decision	Date
12/00078/FUL	Change of use of former barn to a 2 bedroomed dwelling (retrospective)	Application Refused	02/04/2012
08/00504/FUL	Change of use to holiday accommodation	Application Refused	28/07/2008
03/01351/FUL	Alterations and change of use of barn/stables to form 2-bed dwelling	Application Refused	03/11/2003
02/00882/OUT	Erection of 2-3 bed bungalow with garage	Application Refused	01/08/2002
02/00369/OUT	Erection of 2-3 bed bungalow with garage on land adjacent	Application Refused	07/05/2002

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (2012)

Section 6 - Residential Development in the Open Countryside

Housing should be located where it will enhance or maintain the vitality of rural communities. New isolated homes in the open countryside should be resisted unless there are special circumstances.

Peterborough Core Strategy DPD (2011)

CS10 - Environment Capital

Development should make a clear contribution towards the Council's aspiration to become Environment Capital of the UK.

CS13 - Development Contributions to Infrastructure Provision

Contributions should be secured in accordance with the Planning Obligations Implementation Scheme SPD (POIS).

CS14 - Transport

Promotes a reduction in the need to travel, sustainable transport, the Council's UK Environment Capital aspirations and development which would improve the quality of environments for residents.

CS16 - Urban Design and the Public Realm

Design should be of high quality, appropriate to the site and area, improve the public realm, address vulnerability to crime, be accessible to all users and not result in any unacceptable impact upon the amenities of neighbouring residents.

CS22 - Flood Risk

Development in Flood Zones 2 and 3 will only be permitted if specific criteria are met. Sustainable drainage systems should be used where appropriate.

CS01 - Settlement Hierarchy and the Countryside

The location/ scale of new development should accord with the settlement hierarchy. Development in the countryside will be permitted only where key criteria are met.

Peterborough Planning Policies DPD (2012)

PP06A - (a) Conversion of Agricultural Buildings in the Countryside

Permission will only be granted if the agricultural use has ceased, there is no reasonable prospect of use for employment purposes; the building would not require significant reconstruction and it is of traditional character and appearance.

Community Infrastructure Levy (CIL) Regulations 2010

Paragraphs 203-205 of the National Planning Policy Framework: Planning Conditions and Obligations

Requests for planning obligations whether CIL is in place or not are only lawful where they meet the following tests:-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In addition obligations should be:

- (i) relevant to planning;
- (ii) reasonable in all other respects.

Planning permissions may not be bought or sold. Unacceptable development cannot be permitted because of benefits/inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Neither can obligations be used purely as a means of securing for the local community a share in the profits of development.

4 Consultations/Representations

Newborough & Borough Fen Parish Council – No objections

Archaeological Officer - No objections - There are no implications for archaeology.

Transport & Engineering Services – No objections - There is parking provision within the site for 2 vehicles to park and available visibility splays. The Local Highways Authority (LHA) raises no objections subject to conditions.

S106 Planning Obligations Officer – No objections - A S106 contribution using POIS is not required, however a Bereavement Services Contribution of £154.40 and a Waste Management Contribution of £620 are both sought. A 2% Monitoring Fee of £15.49 is also required.

Environment Agency – No objections - No objections subject to the measures to mitigate against flood risk in accordance with the Flood Risk Assessment are secured by condition.

Local Residents/Interested Parties

Initial consultations: 2

Total number of responses: 1

Total number of objections: 0

Total number in support: 0

No neighbour representations have been received

5 Assessment of the planning issues

a) Background

The application site and building were formerly part of the curtilage to 1 Steam House Cottage

which was originally part of an agricultural smallholding. However that use ceased when the land and buildings were transferred from Cambridgeshire County Council to a new owner in 1996. In 2002 the application site was severed from the ownership 1 Steam House Cottage.

There is considerable planning history to the site including a number of refusals and appeal dismissals as follows:

02/00369/OUT – Refused - 07.05.2002 - erection of 2-3 bed bungalow with garage refused as development in the open countryside without agricultural justification, impact on the character of the open countryside and the site lies within a flood risk area and the application was not supported with FRA.

02/00882/OUT – Refused - 01.08.2002 erection of 2-3 bed bungalow with garage refused as development in the open countryside with no agricultural justification and harm to the character and appearance of the open countryside.

03/01351/FUL – Refused - 03.11.2003 Alterations and change of use of barn/stables to 2 bed bungalow refused due to impact on the adjoining public highway (A1073) and failure to demonstrate that the development would comply with relevant policy for conversion of agricultural buildings. The application was subject to appeal ref. APP/J0540/A/03/1134259 (decision dated 6th May 2004) where the Inspector concluded that the proposal did not meet criteria (a) of policy H15 of the Peterborough Local Plan (Second Stage Deposit) 2002 in that the application had failed to demonstrate that the building could not be used for employment purposes also supported in PPG7; and the absence of a Flood Risk Assessment contrary to PPG25. The inspector was also of the opinion that prior to the implementation of the A1073 improvement scheme the proposal would constitute a road safety hazard.

Appeal Decision dated 25th September 2007 ref APP/J0540/C/07/2038313 against enforcement notice 07/00026/ENFNOT. The Inspector concluded that the change of use to a dwelling would be harmful to highway safety and conflicts with national planning policy with regard to sustainability. The appeal was dismissed other than an amendment to the wording of the Enforcement Notice requiring the removal of the garage, the removal of all kitchen and bathroom fittings and appliances and the removal all internal domestic doors.

08/00504/FUL – Refused - 28.07.2008 Change of use to holiday accommodation – refused due to the additional vehicle movements the site would generate and the number of right turn manoeuvres at the site access would be detrimental to highway safety, the unsustainable location and the conversion would be detrimental to the character and appearance of the open countryside. This application was subject to appeal ref. APP/J0540/A/09/2094049/NWF where the inspector concluded that the site was unsustainable in transport terms and would not accord with paragraph 40 of PPS7 regarding the sustainability of the site.

12/00078/FUL – Refused. 02.04.2012. Change of use of former barn to a 2 bed roomed dwelling (retrospective). The application was refused on grounds of new dwelling in the open countryside contrary to CS1, insufficient information submitted regarding Flood Risk Assessment contrary to policy CS22 and failure to complete a S106 Agreement. An appeal against refusal notice ref. APP/J0540/A/12/2175375 was heard at informal hearing. In the Appeal Decision dated 6th December 2012 the Inspector concluded that the proposal would be contrary to policy CS1 and para 55 of the NPPF as the building at the time of its conversion could not be regarded as redundant. He also concluded that the location was not sustainable.

The above appeal decisions are attached at Appendix A for information.

b) The principle of development

Conversion of buildings in the open countryside

The description of the proposal is for the continued use of a former barn as a two bedroom

dwelling (retrospective). The proposal is considered primarily against policy PP6 of the Adopted Peterborough Planning Policies DPD (previously H19 of the Adopted Peterborough Local Plan (First Replacement)). However, having reviewed the case history, the building, the subject of this application has not been used for agricultural purposes since at least 1996 when the land was transferred from Cambridgeshire County Council and the building was used for storage and a workshop in a manner incidental to the use of No 1 Peterborough Road as a dwelling. In the appeal decision against the refusal of planning ref 03/01351/FUL the Inspector makes clear that the proposed dwelling would not have any links with farming or other rural activities.

Furthermore, an appeal against the enforcement notice ref 07/00026/ENFNOT (appeal ref APP/J0540/C/07/2038313) refers to the appellant stating that the site and building were in residential use from 1996, when the agricultural use ceased. The Inspector's view was that as the building was not in agricultural use prior to its conversion Policy H19, which at that time, had regard for the conversion of agricultural buildings to residential use, did not apply.

In the appeal decision against refusal of the previous planning application (ref. 12/00078/FUL) the Inspector contended that subject to certain criteria of the saved policy H19 of the Peterborough Local Plan (First Replacement) 2005 and policy PP5 of the Planning Policies Development Plan Document DPD (submission version), now replaced by PP6 'Conversion and Replacement Dwellings in the Countryside', the conversion of agricultural buildings to residential use in the open countryside is supported. The Inspector referred back to a previous appeal against an enforcement notice (reference APP/J0540/C /07/2038313) which concluded that as the building was not in agricultural use prior to its conversion to a dwelling in 2003, policy H19 of the Local Plan did not apply and agreed with that assessment and therefore also found that policy PP5 of the DPD does not apply.

However as stated in the supporting statement submitted with this revised application, there has been an update in policy introduced by the NPPF notably, para. 55 of The National Planning Policy Framework advises that isolated new homes in the countryside should be avoided unless there are special circumstances. Such circumstances include where the development would re-use redundant or disused buildings and lead to an enhancement of the immediate setting. There is no requirement that such buildings are, or once were, agricultural buildings.

The development plan is therefore in conflict with para. 55 of the NPPF. As paragraph 215 of the Framework makes clear, where there is more than a limited degree of conflict between the Framework and the approach of the development plan, greater weight should be given to the Framework. In his determination of the appeal for the previous application (ref. 12/00078/FUL), the Inspector considered the degree of conflict to be more than limited and therefore if the building was redundant or disused its conversion to a dwelling, subject to it enhancing its immediate setting and being a sustainable development, would be acceptable in principle.

However, referring back to a previous appeal decision (reference APP/J0540/C /07/2038313) the Inspector found that prior to its conversion the building was in use as a workshop and for storage and indeed not redundant. Therefore the conversion of the building falls outside of the special circumstances set out in paragraph 55 of the Framework. The proposal is therefore contrary to the policy imperative in the Framework to restrict isolated new dwellings in the countryside. The Inspector concluded that the proposal would be contrary to the policy CS1 of the Core Strategy and paragraph 55 of the Framework.

Sustainable development

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. It states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that isolated new dwellings in the open countryside should be avoided unless there are special circumstances such as the need for a rural worker to live permanently at or near their place of work in the countryside and so on.

In terms of its location the appeal site is located on a main road linking Eye and Crowland. The application states that a frequent bus service passes Steam House Cottage and the bus stop is within easy walking distance. It also states that the site is in easy reach of a well established farm shop. However, it was the Inspector's view that notwithstanding the available bus service the appeal site is dependant on motorised transport to access basic services and facilities is therefore only in a relatively sustainable location. He also concluded that the convenience of private transport would mean that a car is more likely to be used than the bus service. Furthermore, prior to its conversion the building was used for storage and as a workshop ancillary to No 1. This was a more sustainable use than the creation of an isolated new home in the countryside which is likely to generate more journeys than the previous use.

The Inspector acknowledged that the re-use of the existing building rather than the construction of a new dwelling has minimised waste and significantly reduced the emission of carbon dioxide. The development in tidying up the site has also improved the setting of the building. However, these sustainable aspects of the development are insufficient to overcome the isolated location of the dwelling which the Framework seeks to prevent unless there are special circumstances. He agreed with the findings of the two previous Inspectors who considered this matter (appeal references APP/J0540/C/07/2038313, APP/J0540/A/09/2094049) that the conversion is not a sustainable development.

The proposal therefore would not represent a sustainable development and is contrary to the policy objectives of the NPPF.

The application refers to a site at Glass House Farm, Dairy Drove, Thorney where planning permission was granted for conversion of farm buildings into 3 x 4 bedroom properties ref. 10/01494/FUL. The application states that the Local Planning Authority should adopt a consistent approach in relation to applications where there are similar issues. It goes on to state the application is more sustainable than that at Glass House Farm as it is closer to the nearby settlement, has a regular bus service and is not at an isolated location.

It is considered however, that Glass House Farm comprised former agricultural buildings and the proposal therefore could be considered against the relevant planning policy H19 of the Adopted Peterborough Local Plan (First Replacement) 2005. The proposal met with the criteria of this policy which included the farm buildings being suitable for conversion by virtue of the limited scope of repair works; the proposed design being sympathetic to the existing buildings and surrounding character and the proposal not resulting in any highway implications

c) Character and appearance of the open countryside

There have been minor changes to the south elevation of the building and on the northerly approach along the A1073 the building has the appearance of a barn and does not detract from the existing character of the rural setting. However, when viewed from the front of the site the building clearly has a domestic character, which is accentuated by the addition of the garage which could typically be found in any residential location. There is a long history to the site and the proposal to convert the building has consistently been resisted by the Local Planning Authority.

The converted building has been in situ for a number of years and it is considered that the dwelling has little visual impact, taking into account the existing dwellings to the north and the high conifer hedge to the front of the site however it is considered that while the direct impact on the open countryside would be limited this is not a compelling argument to favour the proposal and the same could be said of any dwelling in the open countryside with a similar ancillary building within its curtilage.

If the Local Planning Authority were to approve this application there would be no reasonable grounds for refusing similar applications where ultimately the character and appearance of the open countryside would be eroded.

The application refers to the Solar Park proposal which abuts the eastern boundary to the site (ref. 12/01906/R3FUL) and the limited impact upon the character and appearance of the open countryside compared with the Solar Park proposal.

The impact on the character and appearance of the open countryside resulting from the Solar Park proposal is not for discussion here and in any event the impact on the character and appearance on the open countryside is not a reason for refusing the application, as discussed above in this report.

d) Flood Risk

The site lies within flood risk zone 2 as identified on the Environment Agency (EA) flood maps. As this is an existing building and the proposal is for a change of use a sequential approach to site selection to demonstrate that there are no sites available on a site which is at less risk of flooding is not required. A Flood Risk Assessment has been submitted in support of the application and the EA has raised no objections to the proposal subject to the measures contained within the Flood Risk Assessment being implemented. These measures include the occupiers signing up to the EA's Flood Warnings Direct and safe refuge being made available in the loft space leaving it free from obstruction. These details could be secured by condition. Hence the proposal accords with para 104 of the NPPF.

e) Residential amenity

The building is situated at a reasonable distance to its neighbour at no. 1 Peterborough Road and as such would not result in any adverse impact on the amenity of the occupiers of this property. Furthermore in terms of layout the use of the building for residential purposes would provide a satisfactory level of amenity for future occupiers. Hence the proposal accords with policies PP3 and PP4 of the Adopted Peterborough Planning Policies DPD.

f) Highway implications

The A1073 bypass has now been opened which has significantly reduced the level of traffic using this road and subsequent danger for people accessing and exiting the site. There is an existing shared access with no 1 Peterborough Road. The Local Highway Authority (LHA) has advised that there appears to be ample space within the site frontage for the parking and turning of 2 vehicles and there are appropriate visibility splays. The LHA have recommended that details of the parking and turning provision are secured by condition. The proposal would not result in any adverse highway implications and accords with policy PP12 and PP13 of the Adopted Peterborough Planning Policies DPD and policy CS14 of the Adopted Peterborough Core Strategy DPD.

g) S106

A completed S106 agreement was submitted with the previous appeal however, the Inspector found that only contributions in relation to waste management and bereavement services were justified in this instance and a draft heads of terms has been submitted accordingly. This has been agreed with by the S106 Officer and accords with the principles of policy CS13 of the Adopted Peterborough Core Strategy DPD.

The applicant is willing to enter into a S106 agreement with the City Council however; as the application is recommended for refusal there is no merit in initiating the agreement. This will form the second reason for refusal of the scheme as in the event that members agree with the Officer's recommendation to refuse the application and the applicant appeals the decision, the Inspector will be able to consider the requirements of a S106 Agreement as part of the appeal process.

h) Archaeology

There are no known archaeological implications.

i) Personal circumstances of the applicant

The application states that the applicant is now in poor health and has had major heart surgery and is becoming increasingly anxious about the prospect of having to leave his home where he has lived for 10 years. The Inspector was also mindful of the personal circumstances of the applicant. However, he considered that these factors were not sufficient to outweigh the harm which would be caused by permitting the establishment of a new dwelling contrary to development plan and national policies which seek to protect the countryside from unrestricted development.

There is also the fact that the property has been occupied since 2003 and the City Council has not progressed with enforcement beyond the serving of an enforcement notice.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The Head of Planning, Transport and Engineering Services recommends that planning permission is **REFUSED**

R 1 Prior to its conversion to a dwelling the building was part of the residential curtilage of 1 Steam House Cottage and used as a workshop and for storage incidental to the domestic use of the dwelling. The building was not redundant. The site lies in the open countryside and the dwelling is not essential to the effective operation of local agriculture, horticulture, forestry, and so on. The site is not within easy reach of services and facilities and there would be a reliance on motorised transport. The proposal is therefore contrary to paragraph 55 of the National Planning Policy Framework and policy CS1 of the Adopted Peterborough Core Strategy DPD which state:

Para. 55

‘Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where the development would re-use redundant or disused buildings and...’

CS1 Decisions on investment in services and facilities and on the location and scale of new development will be taken on the basis of a Peterborough settlement hierarchy. ‘...Development in the countryside (i.e. outside the boundary of all settlements in the hierarchy) will be restricted to that which is demonstrably essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation and access to natural greenspace, transport or utility services; and to residential development which satisfies the ‘exception’ test set out in policy CS8; and to

minerals or waste development in accordance with separate LDDs within the Peterborough LDF.

- R 2 The development would give rise to a S106 contribution towards the community and infrastructural needs of the City in accordance with the Planning Obligations and Implementations Scheme. No agreement has been entered into and hence the proposal is contrary to policy CS13 of the Adopted Peterborough Core Strategy DPD which states:

CS13 The City Council will encourage developers to enter into a planning obligation for contributions based on the payment of a standard charge. Subject to arrangements as set out in a separate Planning Obligations Implementation Scheme SPD, contributions received via this standard charge may be assembled into pools at an authority-wide level and to the relevant Neighbourhood Management Area (as described in policy CS6).

Copy to Councillor Harrington

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