



Appeal Decision

Site visit made on 9 March 2004

by **M Middleton BA(Econ) DipTP Dip Mgmt MRTPI**

an Inspector appointed by the First Secretary of State

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Date - **6 MAY 2004**

Appeal Ref: APP/JO540/A/03/1134259

1A Steamhouse Cottage, Peterborough Road, Crowland, Cambridgeshire, PE6 1OD

- 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 David Landgrebe against the decision of Peterborough City Council.
- The application (Ref. 03/01351/FUL), dated 6 September 2003, was refused by notice dated 3 November 2003.
- The development proposed is change of use and alterations to existing barn/stables to form two bed accommodation.

Summary of Decision: The appeal is dismissed.

Procedural Matter

1. At the time of my site visit some of the works that are the subject of this appeal appeared to have already been carried out.

Main Issues

2. The main issues in this case are:
 - (i) whether having regard to the nature of the existing building, the provisions of the development plan and national guidance, the proposal represents an appropriate change of use in the countryside,
 - (ii) whether there is evidence to show that the proposed residential accommodation would not be at undue risk from flooding, given its location on the indicative flood plain and the national advice on Development and Flood Risk.,
 - (iii) the effect of the proposal on highway safety on the A1073.

Planning Policy

3. The Development Plan for the area includes the Peterborough Local Plan 1996 (LP). Policy H18 sets out criteria against which applications for barn conversions in the open countryside will be judged. Among other things, Policy T17 states that planning permission will not normally be granted for any development which would be likely to result in an increase in vehicular movements on nearby highways to a degree which would be a hazard to road safety. The fundamental aspects of these policies are being carried forward into Policies H15 and T1 of the First Replacement Peterborough Local Plan (FRLP). Planning Policy Guidance Note (PPG) 7 *The Countryside- Environmental*

Quality and Economic and Social Development and PPG 25 *Development and Flood Risk* are also relevant.

Reasons

4. The appeal site consists of a complex of brick, former agricultural buildings immediately to the south of Steamhouse Cottages and on the eastern side of the A1073. They are located in a separate curtilage with an existing access to the A1073. The buildings abut the property's southern boundary and there is a carport between them and the road, also abutting this boundary. At the time of the site visit a residential caravan was parked on the site close to the eastern boundary.

Appropriateness of the proposed change of use

5. PPG 7 states that local planning authorities should examine applications for residential re-use of buildings in the open countryside with particular care. They do not, for example, have the same potential for beneficial economic impact which commercial uses may bring. It acknowledges that they may have a part to play in meeting identified housing needs but no such needs have been brought to my attention. The appellant does not claim that the proposal has any links with farming or other rural activities. It therefore falls to be judged against the criteria in LP Policy H18. This includes criteria relating to the conversion of farm buildings. The relevant ones are:

- (a) The building has not been allowed to fall into such a state of dereliction and disrepair that any reconstruction would be treated as a new building,
- (b) The conversion can be undertaken without extensive alteration, rebuilding and/or extension,
- (c) The development can be satisfactorily serviced and the requisite range of facilities provided without due detriment to its setting or the landscape.

PPG 7 includes similar criteria but also emphasises the need to examine the potential to reuse redundant buildings for employment purposes. Criterion (a) of Policy H15 of the FRLP takes this requirement on board and says:

- (a) there is no reasonable prospect of the building being used for employment purposes.

6. Some improvement and alteration works appear to have already been carried out to the buildings but there is no information before me about their previous condition so that it is not possible to judge whether in their previous state they met criteria (a) and (b). However in my judgement, in their current state, they do meet these criteria. I observed at the site visit that there was a satisfactory vehicular access and the appellant has indicated that the property already has all services connected. The Council has not commented on this evidence. I conclude in the absence of information to the contrary that overall the proposal does meet the criteria set out in Policy H18 against which applications for barn conversions in the open countryside should be judged. Other than his personal opinion, the appellant has not submitted any information to judge the proposal against criterion (a) of the FRLP. I therefore consider that criterion (a) to

Policy H15 of the FRLP has not been satisfied and conclude on the basis of the information before me and having regard to the nature of the existing building, the provisions of the development plan and national guidance, that the proposal does not represent an appropriate change of use in the countryside,

Flooding

7. The Environment Agency has formally objected to this proposal on the grounds that the site is believed to be at risk from flooding, as it is shown to be within the fluvial floodplain on the Agency's indicative floodplain maps. Their representation indicates that the site is subject to a 1% or greater, annual probability of flooding. PPG 25 gives guidance on how to assess development proposals against flood risk. It points out that Zone 3b areas: - undeveloped and sparsely developed areas, at high risk of flooding (the appeal proposal is located within such an area), are generally not suitable for residential development and that general-purpose housing should not normally be permitted.
8. I accept that there may be circumstances where the specific flood risks can be identified and that these can sometimes be overcome by appropriate mitigation measures. However, I have no information by way of a Flood Risk Assessment to demonstrate that these matters have been properly examined and addressed in the terms advised in PPG 25. In these circumstances, I consider that it would be inappropriate to permit the development in the absence of a Flood Risk Assessment to demonstrate that there would be no undue flood risk to the building or its occupants. I therefore conclude that given its location on the indicative flood plain and in the absence of evidence to show that the proposed residential accommodation would not be at undue risk from flooding, the proposal would be in conflict with national guidance dealing with the effects of development on flood risk.

Highway matters

9. The A1073 links Peterborough with Spalding. Outside the appeal site it is a comparatively narrow but heavily trafficked road. Visibility at the access to the site is good but I observed at my site visit that some of the traffic was travelling at excessive speeds so that turning out of the access and accelerating along the road cannot be an easy or safe manoeuvre, particularly at busy periods. I am told that the road has an accident rate that is well above the average and that many of these have involved vehicles turning off or onto the highway. In these circumstances I consider that the proposal, which would lead to increased use of the access, would be a hazard to road safety and contrary to LP Policy T17. I note that it is proposed to construct a new road during the next three years that would replace the section of the A1073 next to the appeal proposal. In such circumstances I consider that there would be a substantial reduction in traffic flows outside the appeal site and that its access would then be considerably safer. However until that time, I agree with the Council that in a highway context this proposal is premature and conclude that it would have an adverse effect on highway safety on the A1073.

Conclusions

10. I conclude that although the proposal satisfies LP Policy H18, in the absence of appropriate information in support of the proposal, it does not meet criteria (a) set out in FRLP Policy H15 or the guidance in PPG 7 and PPG 25. I also conclude that prior to the implementation of the A1073 Improvement Scheme the implementation of the proposal and regular use of the access would constitute a hazard to road safety and be contrary to LP Policy T17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

11. I dismiss the appeal.

Information

12. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



INSPECTOR

SPARE



Appeal Decision

Inquiry held on 29 August 2007
Site visit made on 29 August 2007

by Mr K L Williams BA MA MRTPI

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

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Decision date:
25th Sept 2007

Appeal Ref: APP/J0540/C/07/2038313

1A Steam House Cottage, Peterborough Road, Crowland, Peterborough, PE6 0AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr David Landgrebe against an enforcement notice issued by Peterborough City Council.
- The Council's reference is 07/00026/ENFNOT.
- The notice was issued on 16 January 2007
- The breach of planning control as alleged in the notice is without planning permission a change of use from agricultural use of land and buildings into use of land and buildings for residential purposes including use of the barn/stables as a two bedroom dwelling together with the associated operational works of alteration comprising the new doors, windows, internal kitchen, bathroom fittings, internal walls, extension and garage building.
- The requirements of the notice are to revert the residential dwelling back to an agricultural building by carrying out the following works:
 - i) Demolish and permanently remove the garage unit and extension on the north elevation as shown hatched black on Plan B;
 - ii) Remove all external domestic doors and windows;
 - iii) Remove all kitchen and bathroom fittings and appliances; and,
 - iv) Remove all internal domestic doors and those internal walls hatched black on Plan C (Existing layout).
- The period for compliance with the requirements is six months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary of Decision: The appeal on ground (f) succeeds in part but the appeal as a whole is dismissed. The enforcement notice is corrected, varied and upheld and the application for deemed planning permission is refused.

Preliminary Matters

1. Evidence at the Inquiry was taken on oath. The appeal was initially made on grounds (a), (f) and (g) but was later extended to include ground (d).
2. The appeal site comprises No.1A Steam House Cottage, which is a two bedroom bungalow, together with land around it. Within this area there is a detached garage, a vehicle parking and turning area and small front and rear gardens. In November 2003, the Council refused planning permission for a

change of use of the appeal premises to form a two bedroom dwelling. The appellant appealed against that decision and, in March 2004, his appeal was dismissed.

The Enforcement Notice

3. At the Inquiry the appellant said that the appeal site, including the building now converted to a dwelling, had formed part of an agricultural smallholding. That use had ceased and the land and buildings, including the appeal site and the neighbouring property No.1 Steam House Cottage, had been transferred from Cambridgeshire County Council to a new owner in 1996. The building which is now No.1A was then used for storage and as a workshop, in a manner incidental to the use of No.1 as a dwelling. The Council suggested that the notice be corrected to reflect this.
4. Having regard to the above, I shall correct the notice to delete reference in the allegation to a change from agricultural use and to refer instead to a change of use from land and buildings incidental to the use of No.1 Steam House Cottage. I am satisfied that this will not result in injustice to the appellant, who was aware of the relevant facts and that the notice was directed against the change of use to residential purposes.
5. The Council also suggested that the requirements of the notice be corrected to delete reference to reversion back to an agricultural building and to refer instead to reversion to a use incidental to No.1 Steam House Cottage. However, Nos.1 and 1A are in different ownerships and it is not in the appellant's control to secure such a requirement. I shall therefore correct the notice to delete reference in the requirement to reverting to an agricultural building and to refer instead to ceasing use of the building for residential purposes. This would do no more than correspond with the alleged use and I am therefore satisfied that it will not result in injustice to the appellant.

The Appeal on Ground (d)

6. The allegation refers to a change of use of the land and buildings to a residential use and to operational development. The land around No:1 is small in area and closely related to the dwelling, forming a curtilage to it. The change of use alleged amounts to a change of use to a single dwelling house. The onus under ground (d) is on the appellant to demonstrate that, on the balance of probabilities, this use persisted for four years from the date on which the premises were substantially completed for use as a self-contained dwelling and thereby capable of providing viable facilities for living. The operational development referred to in the notice is associated with the alleged change of use. As a result, if the alleged change of use is not lawful, the associated operational development is not itself immune from enforcement action.
7. The appellant considers that the site and building were in residential use from 1996, when the agricultural use ceased. However, before April 2003, when ownership of the appeal site was transferred to the appellant, it formed part of the land associated with No.1 Steam Cottages. A mobile home was placed on the site late in 2000. The appellant lived in it from January 2002, while undertaking conversion works on the building to create a dwelling. He considers that No.1A became a separate residential unit from that date. He moved into the converted dwelling in late 2003 and the mobile home was

- removed in 2004. A letter from East Midlands Electricity, dated 30 November 2001, offers to provide an electricity connection to No.1A. The appellant says that this connection was provided soon after that date. A letter from BT(Contract Returns), dated 22 March 2002 refers to an order for telephone equipment to be used at No.1A.
8. The appellant says that at the beginning of 2003 the conversion work was "half-done". Works to the roof were complete and external doors and windows had been installed. The bathroom had been installed earlier and was in use while the appellant occupied the mobile home. The kitchen had not been installed and other internal works remained to be done. The garage and the small extension were later additions, completed in 2005.
 9. Evidence from other sources does not contradict this timing of events. The occupier of No.1 Steam House Cottage, who moved into that property in January 2002, says that the appellant lived in the mobile home from about the end of that month. The Inspector who determined the previous appeal visited the site on 9 March 2004. He refers to some of the works the subject of that appeal has having been carried out, to the property having all services connected and to a residential caravan being on the site. A 2005 aerial photograph submitted by the Council appears to show the porch extension under construction.
 10. I see no reason to doubt the sequence of events described by the appellant. Although the appeal site was in a residential use from 1996, until January 2002 that use was incidental to the use of No.1 as a single dwelling. It did not amount to use as a separate dwelling house. From January 2002, the appeal site was occupied by the appellant. However, the appellant's evidence with regard to the occupation of the converted dwelling from late in 2003 confirms that, at the time the notice was served, on 16 January 2007, No.1A had not been in use as a separate dwelling house for four years. The appellant's occupation of the mobile home until late in 2003 also suggests that the building was not capable of providing viable facilities for living before then.
 11. I have had regard to the appellant's use of the mobile home from January 2002. Occupation of a mobile home on the site amounts to a use of the land in itself, separate from use of the building as a dwelling house. Use of the mobile home cannot, therefore, be included with the period of use of the building as a dwelling house in considering whether there is immunity from enforcement.
 12. Having regard to all of the above, I conclude that the appellant has not demonstrated that the development is immune from enforcement action. The appeal on ground (d) fails.

The Appeal on Ground (a)

13. The appeal on ground (a) is that planning permission should be granted for what is alleged in the enforcement notice. The main issues with regard to this appeal are, firstly, the effect on highway safety and, secondly, whether the development is consistent with local and national planning policies with regard to development in the countryside. The development plan includes the Peterborough Local Plan (First Replacement), 2005 (LP). Policy T1 requires safe and convenient access and avoidance of unacceptable impact on the transportation network. Policy T17 safeguards land for the Eye to Spalding

(A1073) Improvement. Policy H19 deals with the conversion of agricultural buildings to residential use in the open countryside and policy H13 deals with housing in the open countryside.

Highway Safety

14. The site access is immediately adjacent to that for No.1 Steam House Cottages. It provides vehicular access directly onto the A1073. The Council considers that the manoeuvring of vehicles related to the residential use of the site is harmful to highway safety having regard to the high volume of traffic on the A1073, including numerous commercial vehicles, the high traffic speeds and the narrowness of the road. The Council also refers to a high number of accidents in the area, including accidents related to vehicle turning movements, particularly right turns. The proposed A1073 improvement scheme would address these problems, bypassing this part of the A1073, so that the road in the vicinity of the appeal site would attract only local traffic. That scheme is programmed to begin in 2008, with completion due in 2010. The Council considers the change of use premature in that respect.
15. The appellant points out that the appeal site access, and that to No.1 Steam House Cottage, have been used over a long period, with many vehicle movements into and out of the properties made without a problem. He refers to accidents as being primarily related to a staggered junction to the south of the appeal site and to commercial premises to the north. None of the accidents referred to by the Council relate to the appeal site or to vehicles entering or leaving properties close to the site. There would be no additional traffic beyond that which has now occurred for over four years. Road conditions are well known and treated with caution. He considers that other planning decisions made by the Council have generated additional turning movements on the A1073 and the alternative of commercial use of the site would generate more vehicle movements than a residential use. He points out that the proposed A1073 improvement scheme will soon commence and will improve safety.
16. Notwithstanding the appellant's arguments, I share the concerns of the Council and of the Inspector who determined the 2004 appeal. Although visibility at the site access is good, traffic volumes and speeds are high. A high proportion of traffic exceeds the 60 mph speed limit which applies on this part of the A1073. The unauthorised change of use has created an additional dwelling, thereby increasing vehicle movements, including right turning movements onto and off the A1073. Such manoeuvres are likely to be made not only by the appellant, who is familiar with local conditions, but by others who are not. While I appreciate that accidents to date have not been related to the site or nearby dwellings, the development nevertheless has the effect of increasing the risk of further accidents. It is therefore harmful to highway safety and conflicts with LP policy T1. My concern is not allayed by the proposed A1073 improvement, which will not be in place until 2010. I agree with the appellant that a commercial use would be likely to generate more traffic than the current residential use. However, such a use is not before me.
17. I conclude that the development is harmful to highway safety. It conflicts with policy T1

Development in the Countryside

18. Policy H19 concerns the conversion of agricultural buildings to residential use and is referred to in the notice. However, as the building was not in agricultural use prior to its conversion, that policy does not apply. Policy H13 restricts residential development in the open countryside. The Council considers that this policy does not apply in this case as it does not refer to a conversion within the curtilage of an existing dwelling. Having regard to the objectives of policy H13, to protect the character of the open countryside and prevent unnecessary development of greenfield sites, I agree that it is of limited relevance. I have been referred to no other LP policy with regard to this issue. However, I have also had regard to relevant national planning policies and guidance. Prior to the change of use, the appeal site comprised a building and land within the curtilage of No.1 Steam House Cottage. While it can therefore be regarded as previously developed land, Annex B to Planning Policy Statement 3: Housing makes it clear that there is no presumption that such land is necessarily suitable for housing development.
19. Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) supports the re-use of appropriately located and suitably constructed buildings in the countryside where this would meet sustainable development objectives. Re-use of buildings adjacent to or closely related to country towns or villages is to be particularly supported. In some respects, this conversion meets sustainability objectives by providing a small dwelling through the re-use of an existing building, rather than by the use of a greenfield site. Although the character of the surrounding area is generally one of open countryside with sporadic development, the site is close to a small number of other dwellings and, in that sense, is not isolated. However, PPS7 also says that accessibility should be a key consideration in all development decisions and the thrust of national planning policies is to locate housing development where there is good access by public transport, walking and cycling. In this case, this site is well outside any town or village and, while there is an hourly bus service along the A1073, I consider it likely that most journeys would be made by car.
20. On balance, I find that the poor accessibility of the site outweighs the benefit of re-using an existing building. The development does not therefore meet sustainability objectives and conflicts with relevant national policies in that respect.

Other Matters

21. Having regard to updated information, the Environment Agency considers the site to be outside the floodplain and not at high risk of flooding. The change of use is therefore acceptable with regard to flood risk. Although the occupiers of No.1 Steam House Cottage are concerned about the effect of the garage and an outbuilding on the outlook from their garden, this effect is not overbearing or unacceptable. These other matters do not outweigh my conclusions with regard to the main issues.

Conclusions with regard to the Appeal on Ground (a)

22. I have concluded that the change of use to a dwelling is harmful to highway safety and conflicts with national planning policy with regard to sustainability. I therefore conclude that the appeal on ground (a) should fail.
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The Appeal on Ground (f)

23. The appeal on ground (f) is on the basis that the requirements of the enforcement notice exceed that required to remove the alleged harm. The requirements include removal of all the operational development related to the residential use. The appellant considers the garage and extension to be small in scale and the external doors and windows to be in keeping with the building. He also considers that each element of the operational development could be used in association with any reversionary use.
24. The purpose of the notice was to secure the cessation of the residential use and restoration of the site to its former condition. In that context I do not consider the demolition of the garage, and the removal of all kitchen and bathroom fittings and appliances and of internal domestic doors to be excessive. However, I am also mindful that national planning policy favours the re-use of rural buildings. I consider that the removal of external doors and windows and of the small extension would, in time, lead to the deterioration of the building, reducing the likelihood of its re-use. Nor do I consider the removal of the internal walls shown on Plan C necessary to achieve the purposes of the notice.
25. Having regard to the above, the appeal on ground (f) succeeds in part and I shall vary the notice to delete the requirements with regard to external doors and windows, internal walls and the extension. I shall also delete Plan C, which shows the relevant internal walls.

The Appeal on Ground (g)

26. The appellant considers that a period of 12 months, rather than the 6 months specified in the notice, would be required to identify, acquire and move into alternative premises and undertake the specified work. In considering the appeal on ground (g), I am mindful that my conclusion with regard to ground (f) reduces the amount of work to be undertaken. In addition, the Council has power under s173A(1)(b) to extend the period for compliance should it be appropriate. Taking this into account, I find the period for compliance to be reasonable and the appeal on ground (g) fails.

Conclusions

27. Having regard to the above and to all other matters raised I have concluded that the appeal on grounds (a), (d) and (g) should fail and that the appeal on ground (f) should succeed only in part. Subject to the corrections and variations I have referred to above I shall therefore dismiss the appeal, uphold the notice and refuse to grant planning permission on the deemed planning application.

Formal Decision

28. I direct that the enforcement notice be corrected as follows:
- i) At paragraph 3 by the deletion of the words "Without planning permission a change of use from agricultural use of land and buildings" and the insertion of the words "Without planning permission a change of use from land and buildings incidental to the use of No.1 Steam House Cottage".

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- ii) At paragraph 5 by the deletion of the words "To revert the residential dwelling back to an agricultural building by carrying out the following works" and the insertion of the words "To cease the residential use of the building by carrying out the following works"

29. I further direct that the enforcement notice be varied as follows:

i) By the deletion of requirements (i) to (iv) in paragraph 5 and the insertion of the following:

- i) Demolish and permanently remove the garage unit on the north elevation as shown hatched black on Plan B;
- ii) Remove all kitchen and bathroom fittings and appliances; and,
- iii) Remove all internal domestic doors.

ii) By the deletion of Plan C.

30. Subject to the above corrections and variations, I dismiss the appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

K Williams

INSPECTOR



Appeal Decision

Site visit made on 30 March 2009

by **J P Watson** BSc MICE FIHT MCMI

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

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Decision date:
1 May 2009

Appeal Ref: APP/J0540/A/09/2094049/NWF

**1A Steam House Cottages, Peterborough Road, Crowland, Peterborough
PEG 0AD**

- 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 D Landegrebe against the decision of Peterborough City Council.
- The application Ref **08/00504/FUL**, dated 4 April 2008, was refused by notice dated 28 July 2008.
- The development proposed is use of building as holiday accommodation.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are:
 - a) The effect the appeal proposal would have on road safety;
 - b) The effect the appeal proposal would have on the character and appearance of the area; and,
 - c) Whether the proposed use would accord with sustainable development objectives.

Reasons

Effect On Road Safety

3. Peterborough Road near the site is a busy road and traffic often passes at high speed. Accidents occur on the road at almost twice the frequency that might be expected. Almost one-third of the accidents recorded near the site involved right turning traffic. The appeal proposal would lead to more right turns and it is clear to me that, if current conditions on Peterborough Road continued, the appeal proposal would be likely to have an adverse effect on road safety.
4. During my visit I saw that construction is under way on the re-aligned A1073. The evidence is that this will leave Peterborough Road near the appeal site as a minor road, serving mainly local traffic. In those circumstances it seems to me that the road safety effect of the appeal proposal, subject to the condition suggested by the Council that would allow vehicles to turn on the site, would be indiscernible. Therefore, a condition to allow the proposed use only once

the diverted A1073 is fully open to traffic could properly address the road safety implication of the appeal proposal.

Effect On The Character And Appearance Of The Area

5. The building is of modest size, set at a lower level than the road. It is not prominent. Its appearance would not change. The planning history of the site shows that no change of use of the building from its pre-2003 use as a barn and stables has been approved. A previous Inspector allowed the retention of alterations of the building shell to its current external form. The proposed use would draw more people into the area than would its use as a barn and stables and to that extent there might be additional intrusion into the open countryside. But such an effect would be slight, and is not regarded by Planning Policy Statement 7 *Sustainable Development In Rural Areas* ("PPS7") as an impediment to tourism development in the countryside. I conclude that the effect on the character and appearance of the area would be acceptable.

Whether The Proposed Use Would Accord With Sustainable Development Objectives

6. Paragraph 40 of PPS7 says that self-catering holiday accommodation in rural areas should be supported where this would accord with sustainable development objectives. There is a cycle-route some distance to the south and west of the appeal site. An hourly bus service passes the site. The appellant argues that the current financial climate will lead more people to holiday closer to home. He seeks to put the building to the proposed use rather than taking what he submits to be the unsustainable option of letting it fall into disrepair.
7. It seems to me that many holidaymakers who might stay at the site, were the appeal allowed, would find little there to divert them and so they would be likely to travel elsewhere, and in various directions to reach attractions such as those identified by the appellant. The hourly bus service and the distant cycle route might be useful for some trips, but it is probable that many trips to and from the site would be made in unsustainable ways. The building appeared to be in good repair when I viewed the site from the road, and I noted that external doors and windows had been retained as allowed by a previous Inspector in order to prevent the deterioration of the building. It seems to me that the suggestion that the appellant might allow the residual building to fall into disrepair if the appeal is not allowed is not a compelling reason that would override the appeal proposal's long term effect in generating unsustainable travel. Nor do I accept that the current financial climate, which is expected to be transitory, would justify the permanent change that the appeal seeks.
8. The site is unsustainable in transport terms and I find nothing that outweighs that. The appeal proposal would not accord with sustainable development objectives and therefore would not comply with paragraph 40 of PPS7. The appeal should therefore be dismissed.

Other Matters

9. I have considered all other matters raised but find nothing to alter my decision.

J.P. Watson

INSPECTOR

Appeal Decision

Hearing held on 10 October 2012

Site visit made on 10 October 2012

by Ian Radcliffe BSC (Hons) MCIEH DMS

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

Decision date: 6 December 2012

Appeal Ref: APP/J0540/A/12/2175375

**1A Steam House Cottage, Peterborough Road, Crowland, Peterborough
PE6 0AD**

- 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 D Landgrebe against the decision of Peterborough City Council.
 - The application Ref 12/00078/FUL, dated 19 January 2012, was refused by notice dated 2 April 2012.
 - The development proposed is continued use of former barn as 2 bedroomed dwelling (retrospective).
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Procedural matters

1. As the development has been carried out before the date of the application, I shall treat the application as one made under section 73A of the Act. A unilateral undertaking was submitted which I have taken into account.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues in this appeal are
 - whether the proposal would comply with the development plan and national policy in terms of its location;
 - the effect of the proposal on the risk to safety and property from flooding; and,
 - the effect of the proposal on local services and facilities.

Planning History

4. The building was converted to a dwelling in 2003. A planning application to regularise the change of use was refused and dismissed at appeal (ref APP/J0540/A/03/1134259). An appeal against the resulting enforcement notice was dismissed (APP/J0540/C/07/2038313). A subsequent planning application for a change of use to holiday accommodation was dismissed at appeal (APP/J0540/A/09/2094049).

Reasons

5. The building is a small rectangular single storey building which has been converted to create a 2 bedroom bungalow. The porch and garage are modest subservient additions to the building.
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Principle of development

6. The appeal site is located outside the settlement boundary of Eye Green and Newborough. As a consequence, for the purposes of planning policy it is located within the open countryside. Policy CS1 of the Peterborough Core Strategy restricts new development within the open countryside to that which is essential. It is common ground that the residential use of the building would not provide living accommodation for workers who have to live in the countryside near their place of work. As a result, it would not be essential development and so would be contrary to policy CS1.
7. Nevertheless, subject to certain criteria of saved policy H19 of the Peterborough Local Plan (First Replacement) and policy PP5 of the Planning Policies Development Plan Document (submission) (DPD) the conversion of agricultural buildings to residential use in the open countryside is supported. However, it was determined at a previous enforcement appeal (reference APP/J0540/C /07/2038313) that as the building was not in agricultural use prior to its conversion to a dwelling in 2003 that policy H19 of the Local Plan does not apply. I agree with that assessment and as a result find also that policy PP5 of the DPD does not apply.
8. The National Planning Policy Framework ('the Framework') was published earlier this year. Paragraph 55 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.
9. The development plan is therefore in conflict with the Framework. 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. As I consider that the degree of conflict to be more than limited 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.
10. A previous Inspector (reference APP/J0540/C /07/2038313) found that prior to its conversion the building was in use as a workshop and for storage. In the absence of any evidence to the contrary the building was not redundant or in a state of disuse. Conversion of the building to a dwelling therefore falls outside 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.
11. Other planning permissions granted by the Council for the conversion of buildings within the countryside into dwellings have been referred to by the appellant in support of the proposal. However, on the basis of the information submitted these buildings all appear to have been in agricultural use prior to their conversion or were redundant agricultural buildings. As a consequence, these permissions are not directly comparable to the appeal proposal and they do not alter my finding on this issue.

Sustainable development

12. Sustainable development and the presumption in its favour are at the heart of the Framework. In terms of its location the appeal site is located on a main

road linking Eye approximately 2 miles to the south with Crowland approximately 2 miles to the north. Eye is identified in the Core Strategy as a key service centre having a wide range of services and facilities.

13. The appellant states that an hourly bus service (No 37) operates in both directions during the day to Eye and Crowland. Whilst the bus stops immediately outside No 1A the appeal site in being dependant on motorised transport to access basic services and facilities is therefore only in a relatively sustainable location. In my view, 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 .
14. 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. Taking all these matters into account, I therefore concur with the findings of the 2 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.

Conclusion on the first main issue

15. For the reasons given above, I therefore conclude that the conversion of the building to a dwelling would be contrary to the policy CS1 of the Core Strategy and paragraph 55 of the Framework. It would also not be a sustainable development.

Flooding

16. The thrust of the Framework is to direct new development to areas at lowest risk of flooding and not to allow development in higher risk areas if sites at lower risk are available. The Environment Agency categorises the site as having less than a 1 in 200 chance of flooding in any one year. This means the site is within Flood Zone 2 and has a medium probability of flooding.
17. Policy CS22 of the Core Strategy requires all new development in Flood Zones 2 and 3 to have passed the sequential and exception tests before permission will be granted. The sequential test directs new development to land within Flood Zone 1 which has the lowest probability of flooding. However, it was agreed at the hearing that as a consequence of paragraph 104 of the Framework these tests are not necessary for development involving the change of use of a building. As this is consistent with paragraph D15 of Planning Policy Statement 25: '*Development and Flood Risk*' (PPS25), which the Framework replaced, this exclusion has been national policy for several years.
18. As the degree of conflict between the development plan and the Framework is more than limited in accordance with paragraph 215 of the Framework greater weight should be given to the Framework. Therefore in accordance with paragraph 104 of the Framework, subject to an acceptable site specific flood risk assessment, the change of use would be acceptable.

19. The Environment Agency has accepted the site specific flood risk assessment in relation to the site subject to the attachment of suitably worded conditions. As a result, the development would not place the property or its occupiers at an unacceptable risk of harm from flooding. For all of these reasons, whilst the proposal would be contrary to policy CS22 of the Core Strategy it would comply with established national policy contained within the Framework on this matter.

Local facilities and services

20. A properly completed section 106 agreement for the payment of £4,000 has been drawn up having regard to policies CS12 and CS13 of the Core Strategy and the supplementary planning document '*Planning Obligations Implementation Scheme*' (POIS). The POIS requires standard charges to be paid in respect of residential development. The provisions sought have been assessed having regard to the tests in paragraph 204 of the Framework and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
21. I have been referred to appeal decisions by both the appellant and the Council where Inspectors have come to differing conclusions regarding planning obligations in Peterborough. The Inspectors in those decisions exercised their judgement on the evidence in relation to the particular cases before them. I have similarly applied my judgement in respect of the evidence presented to me in relation to this appeal. I therefore attach little weight to the submitted decisions in relation to this issue.
22. In relation to waste management and bereavement services there are deficiencies in service provision due to the need to construct new recycling facilities and expand cemetery capacity. The creation of a dwelling house would increase demand on these services. The monies sought are therefore directly related to the development and are necessary to make the development acceptable in planning terms. The sums sought are also fairly and reasonably related in scale and kind. As a consequence, the contributions in relation to these matters accord with the Regulation and the Framework and I shall take them into account.
23. In relation to the remaining types of infrastructure (transport and communications, community and leisure, education and learning, emergency services, environment, health and social care) only 3 projects have been identified in the local area relating to 2 of these areas. The Eye Green traffic calming scheme and the A1703 improvement scheme have been completed. The upgrade of a nearby sewage pumping station is not relevant as the new dwelling has a cess pit and so would not make use of this service.
24. I am not therefore persuaded that the remaining contributions sought would be spent on infrastructure directly related to the development. I therefore conclude that the contributions other than in relation to waste management and bereavement services fail the tests in the Framework and do not accord with the Regulation. As a consequence, a section 106 agreement securing monies in relation to these other areas is not necessary to enable the development to proceed and I shall not take these aspects of the agreement into account.

Other matters

25. The appellant is elderly and the converted building is his home in which he has lived for almost 10 years. Whilst I have given the appellant's personal

circumstances careful consideration, I am mindful of the advice contained in 'The Planning System: General Principles' (Office for the Deputy Prime Minister 2005), that personal circumstances will seldom outweigh more general planning considerations. I therefore consider that these factors are 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.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr John Dadge
Dip TP MRTPI

Barker Storey Matthews

Mr Landgrebe

appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs MacLennan
BSc MA MRTPI

Senior Development Management Officer,
Peterborough City Council

Mr Cundy

Area Manager, Peterborough City Council

Mr Freeman

Planning Obligations Officer, Peterborough City
Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter of notification detailing the time, date and location of the hearing.
- 2 Policy H19 of the Peterborough Local Plan
- 3 Policy PP5 of the Planning Policies Development Plan Document (Submission)
- 4 Copies of the 3 previous appeals relation to 1A Steam House Cottage.
- 5 Site specific flood risk assessment August (2012), Environment Agency letter confirming withdrawal of objection subject to conditions.
- 6 Unilateral undertaking in relation to the appeal, title documents and associated e-mail.
- 7 Appeal decisions involving the application of the Planning Obligations Implementation Scheme (POIS) in Peterborough (references APP/J0540/A/12/2169836, APP/J0540/A/12/2149336 and APP/J0540/A/12/2170043)
- 8 Statement in support of the planning obligation from the Council, together with the Planning Obligation Implementation Scheme (POIS), Peterborough Integrated Development Programme (IDP) and e-mail confirming that these documents had been submitted to The Planning Inspectorate.

PLANS SUBMITTED AT THE HEARING

- A Roof plan (reference 03/831/03)