

16/01067/MRC

**Application to vary condition 3 of planning approval 15/02324/MRC (alterations and extensions to existing agricultural buildings to form 3 holiday cottages, summer house, garage and store) to allow one of the holiday cottages to be used as a dwelling
At The Cedars, Carlton Husthwaite
For Mrs C Sunderland**

1.0 SITE DESCRIPTION AND PROPOSAL

1.1 This application seeks permission to vary a condition to allow an approved holiday cottage at the rear of The Cedars to be used as a permanent dwelling. The original approval was for three holiday cottages but that was altered under application 15/2324/MRC to two holiday cottages.

1.2 Condition 3 requires that:

- (i) The holiday cottages are occupied for the holiday purposes only;
- (ii) They are not be occupied as a person's sole, or main place of residence; and
- (iii) The owners/operators maintain data to allow the Local Planning Authority to check that (i) and (ii) are being complied with.

1.3 It is now proposed to use the larger of the two cottages, known as Pear Tree Barn, as a permanent dwelling (initially for independent use by the applicant's daughter and family) by varying the condition to refer to the holiday use of the remaining unit (The Granary) only.

1.4 The site is outside of any Development Limits and within the Husthwaite Conservation Area.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

2.1 09/01351/FUL - Alterations and extensions to agricultural buildings to form three holiday cottages; Granted 17 August 2009.

2.2 15/02324/MRC - Variation of condition 11 (the approved plans condition) of 09/01351/FUL to form 2 holiday cottages: Granted 18 December 2015.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Development Policies DP1 - Protecting amenity
Core Strategy Policy CP4 - Settlement hierarchy
Development Policies DP9 - Development outside Development Limits
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Development Policies DP28 - Conservation
Core Strategy Policy CP17 - Promoting high quality design
Development Policies DP32 - General design
Interim Policy Guidance Note - adopted by Council on 7th April 2015

4.0 CONSULTATIONS

4.1 Village Committee - wish to see refused. Have submitted detailed comments including the following concerns:

- Possible intention to use the grassed Back Lane for vehicular access;
- The applicant is posting staged applications, rather than having set out the final intent from the outset;
- The damage with respect to the scale and impact on the area (a supposed conservation area) and the neighbours has been done; and
- A large residence without proper access and without its own defined boundary is not appropriate.

Further comments have been submitted in respect of the additional information submitted by the Agent relating to the letting of the holiday let. It is noted that the website quoted relates to residential sales and not holiday lets. It is "odd" that the two regular visitors have similar surnames to the applicants neighbours and both live in Warrington close to each other, that all payments were cash only, that only one has provided a phone number and the cottage is not listed with any "normal holiday cottage rental website" and a Google search fails to bring it up at all. It is also noted that "on the Land Registry website that the subject of the application now has its own Registered Title Number separate from Cedar's, so it looks like plans are already afoot to divide the land."

4.2 Highway Authority - no objection.

4.3 Public comment - one letter of objection received from a neighbour who is concerned that to grant consent for this may open the "floodgates" for "householders backing on to Back Lane to apply for planning for residential dwellings at the bottom of their gardens".

5.0 OBSERVATIONS

5.1 The main issue for consideration in this case is the principle of allowing a new dwelling in this location, taking account of the Development Plan and policy development following the publication of the National Planning Policy Framework in 2012. The agent has suggested precedents for this proposal and those should also be considered.

Development Plan policy

5.2 Carlton Husthwaite is a small village with only three main village services - a pub/restaurant, a church and a village hall. It has no defined Development Limits as it was not included in the Settlement Hierarchy defined in Policy CP4 of the LDF.

5.3 Policy CP4 of the Core Strategy sets out specific criteria for development in such locations, which generally precludes new residential development unless an exceptional case can be made under Policies CP1 and CP2 and one or more of six specific circumstances identified in CP4 is considered to apply. These are:

- i. It is necessary to meet the needs of farming, forestry, recreation, tourism and other enterprises with an essential requirement to locate in a smaller village or the countryside and will help to support a sustainable rural economy; or
- ii. It is necessary to secure a significant improvement to the environment or the conservation of a feature of acknowledged importance; or
- iii. It would provide affordable housing or community facilities which meet a local need, where that need cannot be met in a settlement within the hierarchy; or

- iv. It would re-use existing buildings without substantial alteration or reconstruction, and would help to support a sustainable rural economy or help to meet a locally identified need for affordable housing; or
- v. It would make provision for renewable energy generation, of a scale and design appropriate to its location; or
- vi. It would support the social and economic regeneration of rural areas.

None of these exceptions is claimed by the applicant, although it is noted that this would involve the re-use of existing buildings (criterion iv) but not to provide affordable housing and the question of whether it would support a sustainable rural economy is covered in more detail below. Therefore, if the application were determined solely in accordance with the Development Plan it should be refused.

Other policy

- 5.4 Following the publication of the National planning Policy Framework (NPPF) in 2012, the Council has adopted Interim Policy Guidance (IPG) to allow for limited growth in smaller settlements through consistent decision making. The IPG allows for a limited amount of new residential development in or abutting existing villages in the countryside, provided certain criteria are met. A revised Settlement Hierarchy now includes Carlton Husthwaite within the sub category of "Other Settlements". The IPG states "Small scale housing development (i.e. normally up to five houses) will be supported in villages where it contributes towards achieving sustainable development by supporting the functions of the local community AND where it meets ALL of the following criteria:
- i. Development should support local services including villages nearby;
 - ii. Development must be small scale, reflecting the existing built form of the settlement;
 - iii. Development must not have a detrimental impact upon the natural, built and historic environment;
 - iv. Development should have no detrimental impact upon the open character and appearance of the surrounding countryside or lead to the coalescence of settlements;
 - v. Development must be capable of being accommodated within the capacity of existing and planned infrastructure; and,
 - vi. Development must conform with all other relevant LDF policies."
- 5.5 The IPG allows for development in Other Settlements by reference to the concept of Cluster Villages: "Cluster Villages should be comprised of nearby settlements, one of which may be a Service or Secondary Village, given the wider level of services available. If Other Settlements are to form a cluster, these must have a good collective level of shared service provision. Settlements should be linked to each other by convenient public transport, walking or cycling, where the combined settlements offer a range of services contributing to a sustainable community. This could include the sharing of facilities such as a school, post office, health facility or village shop. However it is unlikely to constitute a sustainable community if there are very few services or if there are significant distances (approximately 2km) or barriers between settlements (e.g. rivers with no crossing)".
- 5.6 The main issue to be determined relates to criterion i (above), which only allows new development outside Development Limits (and thus anywhere in Carlton Husthwaite) if it supports local services and can be considered to be part of limited, sustainable development. In this respect the IPG brings forward the concept of Cluster Villages, where two or more settlements enjoy a collective level of shared service provision contributing to a sustainable community and are linked by convenient public transport, walking or cycling. Integral to this are (a) the ease and sustainability of

travel between settlements and (b) the collective availability of services and facilitates within them. The IPG's definition of Cluster Villages, quoted in paragraph 5.5 above, indicates that Carlton Husthwaite could form a sustainable cluster with a sufficiently close Service Village or Secondary Village or with smaller villages if they share sufficient facilities and services and meet the same proximity requirement. In each case, this is subject to there not being significant distances (the IPG defines this as "approximately 2km") or barriers between settlements.

- 5.7 The distance between Carlton Husthwaite and Husthwaite, which is classed within the Settlement Hierarchy as a Service Village, is 2.8km. There is no public transport between the two (although there does appear to be a school bus service) and no pavements or streetlights on the narrow country lane between the two, meaning that there are no suitable links between them. As such they cannot be classed as a cluster. On its own Carlton Husthwaite has insufficient services meaning that this proposed dwelling is not in a sustainable location. The services available within Carlton Husthwaite include a primary school, village hall, shop and church. There are four return bus services to York from Helmsley that passes through Carlton Husthwaite six days per week.
- 5.8 The agent has been advised of the above concerns and has been given the opportunity to provide information on the holiday letting business and why this has not been successful. He was advised to include all evidence of advertisements, marketing and occupation of the property as a holiday let so that a judgement could be made whether the holiday let business was viable or not. Whilst no details have been submitted to show whether the holiday letting of Pear Tree Barn has been successful or not the agent has provided details of lettings of the cottage. This details that the cottage was let out nine times between May 2014 and September 2015 to a total of four different people. The property has had a very low occupancy. A copy of an advertising leaflet has also been provided. This evidence cannot be corroborated as the web site given for the holiday letting agency refers to only a selling agent for residential and commercial properties and not holiday lettings. (The agent states this is done by circulating details to clients only). The properties are not revealed on web searches.
- 5.9 The agent has also provided the statement that "I've discussed your request for more information with the Applicant. Whilst the building is under-used and hasn't been occupied to its full potential, we feel it's important to clarify that the main driver behind the application is a material change in circumstances rather than the relative success of the holiday letting business." The material change referred to is that the applicant's daughter and son-in-law are moving back to the area because of work commitments. The agent has not identified any particular needs of this couple that could only be met by occupation of Pear Tree Barn and this is therefore not considered to be a material planning consideration.

Precedents

- 5.10 The agent has referred to other applications and appeal decisions that he wishes to be taken into consideration. The most relevant of these is application 15/00551/MRC, which permitted the removal of a holiday use condition on one holiday unit at Carlton Court, Carlton Husthwaite. This was considered shortly after the adoption of the IPG and regrettably the assessment of the application did not refer to whether the location was sustainable or not. That decision was therefore based on only partial assessment in terms of the IPG. However, and in addition, compelling evidence was put forward to show that the property was under-occupied as a holiday let. To that end, marketing information was available showing the efforts that had been made to promote the property but also details of the occupancy level

were provided that showed the use as a holiday let was not viable. Similar quality information has not been provided in the present case.

- 5.11 The agent also refers to appeals allowed at Mossa Grange, Little Langton (11/02034/FUL) and Old Tom's Barn, Scholla Lane, Northallerton (13/00265/FUL). In the Mossa Grange decision the Inspector wrote "Given that Northallerton provides a range of services only some three miles away, the number and length of journeys generated would not be excessive." However, that case differed significantly from this proposal because it included improvements to the environment by the removal of an unsightly business use from the landscape, which drew support from Core Policy CP4, criterion ii. Also, it was held that the overall number of vehicle movements to and from the site would be significantly reduced, another consideration that does not apply in this case.
- 5.12 In the Old Tom's Barn appeal the Inspector found the location to be sustainable as "the creation of a new dwelling in this location would also help to support, albeit in a very modest way, a sustainable rural economy since the spending of the future residents would contribute to the services and facilities within both the nearby Principal Service Centre and local rural locations". As such, the Inspector considered the proposal to draw support from Core Policy CP4, criterion iv, in that it would "help to support a sustainable rural economy". However, the Inspector's understanding of CP4 was flawed and the decision was therefore highly questionable. If the logic of his decision were applied in other cases a new dwelling would be acceptable in principle almost anywhere because the future occupiers would make some contribution to the local economy. The Inspector failed to appreciate that the policy included the reference to supporting a sustainable rural economy in order to be able to draw distinctions between different forms of development; his flawed interpretation allows no such discretion and thus undermines the intention of the policy.
- 5.13 An Inspector reporting on an appeal at Cotcliffe Bank Farm (14/02581/FUL), noted that holiday accommodation had been found acceptable as it would promote tourism and boost the rural economy. His justification for allowing residential use of the holiday accommodation was that occupiers of the dwellings would still need to purchase goods and services locally and that the purchases would not be subject to the seasonal variations that result from use as holiday cottages. It is considered that the Inspector failed to fully address the issues, as he made the assumption that visitors and residents would purchase equivalent levels of goods and services, without evidence for this finding, whereas tourists are considered likely to have higher spend, as they expected to visit attractions more than permanent residents. Furthermore, the Inspector failed to appreciate that holiday lets are a business and therefore contribute directly to the local economy. If a residential use is considered to "support a sustainable rural economy" it is hard to imagine a form of development that would not, in which event the test set by the policy becomes meaningless.
- 5.14 The above appeal decisions also differ from this case because of the accessibility by cycle, and potentially on foot, to Northallerton, a main market town, with the accompanying broad range of services and facilities. That is not the case with Carlton Husthwaite, which is much further away from Thirsk and Easingwold.
- 5.15 It is important to note three more recent appeal decisions on comparable cases, from November 2016. At Dromonby Grange Farm, Stokesley (15/02575/FUL) the Inspector found in dismissing an appeal to subdivide a dwelling to form two dwellings that; "whilst the Council may have considered the location is sustainable in respect of the needs of holiday makers, I do not consider it to be sustainable for a new permanent dwelling, given my findings above." His earlier findings were that the site

was not well connected to services and facilities in Stokesley, such that occupiers are likely to depend on the private car to meet essential needs.

- 5.16 At Ship Service Station, Low Worsall (16/00556/FUL) the Inspector, when allowing an appeal for a dwelling, considered the distances of 2.7km to a food store, 2.8km to a railway station, 2.9km to a primary school, 4.3km to a supermarket, all in Yarm, and 4.5km to other services available in Yarm town centre to be sufficiently short to make the site sustainable, bearing in mind the existence of a surfaced footway between Low Worsall and Yarm. These considerations of proximity to Yarm were held to justify an exceptional decision, similar to the appeals at Mossa Grange and Old Tom's Barn. As noted above, the distances from this site to services and facilities in Thirsk and Easingwold are significantly greater.
- 5.17 At Catton Road, Skipton on Swale (15/02750/OUT) the Inspector found that the A61 did not offer convenient access to services and facilities in Busby Stoop, Sandhutton, Baldersby, Allanbrooke Barracks or Thirsk other than by the private car and that the distances between the appeal site and those settlements gave limited opportunities for sustainable travel. He concluded that the site at Skipton on Swale was not in a sustainable location for new housing development. Again, this illustrates that the distance to other settlements, including market towns, must be considerably less than in this case to justify an exceptional approval of a new dwelling.
- 5.18 Having compared this application with the cases cited by the agent, and the most recent appeals in the District, it is important to note that while each application must be considered on its own merits, there are some common themes and also distinct differences between each of the cases mentioned. The overwhelming conclusion is that the lack of services and facilities available in the settlement and the relatively low level available in Husthwaite, the distance to the nearest market towns and the reliance on the private car as a means of travel make the proposal unsustainable and contrary to policy.
- 5.19 The foregoing assessment has concentrated on the principle of development. For completeness, it is prudent to consider criteria ii – v of the IPG. The development is small scale, being for a single unit (criterion ii) and there would be limited environmental, character or infrastructure impact because no new building is proposed (criteria ii – v). The scheme is considered to fail to meet all the criteria of the IPG and is contrary to Development Plan policy and is therefore recommended for refusal.

6.0 RECOMMENDATION

- 6.1 That subject to any outstanding consultations the application is **REFUSED** for the following reason:
1. The site is in a location that is remote from services and facilities such that access to essential services and facilities would be reliant upon the use of the private car and in the absence of alternative means of access to service and facilities the location of the proposed dwelling is an unsustainable development contrary to the Policies CP1, CP2 and CP4 of the Hambleton Local Development Framework and paragraph 55 of the National Planning Policy Framework.