

15/00190/FUL

**Conversion of barn to form two bedroom dwelling including part demolition of section of building
at The Barn, Main Street, Helperby
for Mr Stephen Jobling**

1.0 SITE DESCRIPTION AND PROPOSAL

- 1.1 This application was deferred at June Planning Committee as the agent confirmed that the ownership notices had been served incorrectly. This has now been corrected and the requisite 21-day notification period has now lapsed and the application may therefore be determined.
- 1.2 The Barn is located to the rear of the residential dwelling known as The Post House, (previously 'Raines'). It is accessed from Main Street and shares this access with The Post House. The building is of brick construction with a clay pantile roof and is in a state of disrepair.
- 1.3 This application seeks consent to alter the existing barn to form a two bedroom dwelling. It would be converted to accommodate an open plan kitchen living/dining room, lobby, utility, W.C. and storage area at ground floor level, and two bedrooms, and bathroom at first floor level. A high timber fence with brick piers would be erected on the side (south east) elevation.
- 1.4 The applicant states there would be no vehicular access only pedestrian access to the site.
- 1.5 The application has been amended to show the plot of land to the rear of the barn to be included as future garden area within the site, although this is outside the red line and therefore may require a separate planning permission.
- 1.6 The applicant has provided additional information in respect of a survey of car parking on Main Street. The survey was undertaken at 9:45 PM on 10 June and 9AM on 11 June. The applicant states that ample space is available on the cobbles outside the site.
- 1.7 The applicant has also provided additional information in respect of the right of way to The Barn. They state:
 - The right of way offers passage of vehicles over land, but does not permit them to stop or park;
 - The application severs the right of way and there is no purposes or reason to pass over the land as there would be no access;
 - The application removes the parking and turning space, it would be possible to drive up the drive and then "park without stopping" and reverse, but this behaviour is unlikely to occur;
 - The access would be reduced to just under 2m wide and run between two fences. Using the access would be difficult and coupled with the above means the right of way would be defunct; and

- The proposal would ensure the removal of commercial vehicles from the rear of the properties in relation to The Barn.

1.8 The building is sited within the Development Limits and in the Helperby Conservation Area.

2.0 PLANNING AND ENFORCEMENT HISTORY

2.1 05/02049/FUL - Alterations to existing barn/garage to form a dwelling; Refused, 25 January 2006.

2.2 06/02741/FUL - Alterations to existing agricultural building to form offices (B1) and formation of a car park; Refused 6 February 2007.

2.3 10/02561/FUL - Alterations to existing barn/store/garage to form a dwelling and construction of a car port; Withdrawn 15 February 2011.

2.4 11/00533/FUL - Revised application for alterations to existing barn/store/garage to form a 2 bedroom dwelling and construction of a car port; Refused 12 May 2011, appeal dismissed 14 November 2011. The Inspector's reasons included overlooking and loss of privacy; window design; harmful noise and disturbance from pedestrians and vehicles; and the limited potential of an identified fall-back position.

2.5 12/02418/FUL - Alterations to existing barn/store/garage to form a 3 bedroom dwelling and construction of a car port. Non-determination appeal dismissed 7 November 2013. The Inspector's reasons included harm to living conditions through noise and disturbance and limited weight of the identified fall-back position (overlooking issues had been resolved).

2.8 15/01099/PPN - Application for Prior Notification for a change of use from storage or distribution buildings to 3 bedroom dwellinghouse with parking; Refused 12 June 2015 for the following reasons:

1. The introduction of a new dwelling in a location to the rear of existing dwellings would result in additional noise and disturbance which would harm the amenity of neighbouring occupiers, this would be contrary to the provisions of the Local Development Framework Policies CP1 and DP1 and the requirements of the NPPF which expects a good standard of residential amenity for existing and future occupiers and that planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
2. It is not considered that the applicant has demonstrated that the barn has been used solely for the purposes of storage and distribution for the requisite period and therefore the proposal is not permitted under Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 .
3. The external changes to the building are not permitted by Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2.9 15/01210/ FUL - Removal of rear structure and construction of domestic extension and formation of staircase to serve cellar at The Post House; not yet determined.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 - Access
Development Policies DP1 - Protecting amenity
Core Strategy Policy CP4 - Settlement hierarchy
Development Policies DP8 - 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
National Planning Policy Framework – published 27 March 2012
National Planning Practice Guidance

4.0 CONSULTATIONS

- 4.1 Parish Council – Wish to see the application refused. The Barn is surrounded by residential properties and if planning permission is granted this will impact adversely on the owners of the Post House and surrounding bungalows as they will lose their privacy and be overlooked. There will be unacceptable noise and disruption to neighbours arising from the scheme. There is no mention of where cars will be parked. The dwelling could realistically have two cars and the cobbled area in Main Street is already crowded with no further room. Previous applications have been refused and dismissed at appeal. Construction would be impossible and there would be issues with materials storage and vehicles access.
- 4.2 Highway Authority – Previous applications for this site included access and parking within the curtilage which the Local Highway Authority considered satisfactory. It is now proposed to have no vehicular access and to utilise the cobbled areas adjacent to the carriageway to provide parking for the development. These cobbled areas are not considered part of the highway maintained at the public expense and are also not shown in the applicant's ownership. Therefore parking on these areas cannot be relied upon although it is acknowledged that this practice is common throughout the village. Concern must be expressed that there is no parking proposed within the curtilage as part of this application, however a recommendation of refusal would not be sustainable. Consequently a condition is recommended for on-site parking during the construction period.
- 4.3 Environmental Health officer – No objections or recommendations.
- 4.4 Yorkshire Water – No comments received.
- 4.5 Neighbours consulted and site notice posted comments are summarised as follows:
- Object to the conversion of the barn, this is an unsuitable site;
 - Overlooking of neighbouring properties, loss of privacy;
 - Noise and disturbance;
 - Parking on the cobbles could be for 2 or 3 vehicles and cannot be guaranteed;
 - There will be no space left for customer parking for nearby businesses and additional parking cannot be accommodated;
 - Access for contractors would be disruptive and construction noisy;
 - The plot of land to the rear of the barn could be used as parking in the future, doubling noise and disturbance;
 - The no parking policy could not be policed;
 - A new application should not be submitted when all previous applications have been refused or dismissed at appeals and Inspector's concerns have not been addressed;
 - Servicing (post/refuse) will cause disturbance and noise;
 - The use of the village post box (just outside the site) will be compromised;
 - Adverse impact upon the Conservation Area;

- Adverse impact upon bats;
- The Barn should be developed with the Post House to form part of that property;
- The Old Post Office is now empty, but the amenity of this occupier will be affected; and
- The application will affect the sale price of The Old Post Office.

4.7 One letter of objection has been withdrawn relating to the timing of the application.

5.0 OBSERVATIONS

5.1 The main issues to be considered when determining this application are identified in the policies within the Hambleton Local Development Framework as set out above and relate, in this case, to (i) the principle of development; (ii) the impact on the character and appearance of the Conservation Area, considering the form, design and materials proposed; (iii) highway safety and parking; (iv) the impact on residential amenity; and (v) a consideration of the fall-back position.

Principle of the development

5.2 The NPPF at para 51 indicates that applications for a change to residential use from commercial development should normally be approved, subject to other considerations included in the Framework. The building is located within Development Limits of Helperby which has been designated as a Service Village within the Hambleton Settlement Hierarchy as detailed within Policy CP4. The site is therefore considered to be in an appropriate location for further residential development and, in principle, is considered to be acceptable, subject to consideration of the detailed matters below.

Conservation Area, form, design and materials

5.3 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The National Planning Policy Framework at paragraphs 133 and 134 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset, i.e. the Helperby Conservation Area in this case.

5.4 The building would be sympathetically altered, utilising the existing footprint and appropriately matching materials. The ridge line of the southern section (front) of the building would be reduced and there would be some alterations to the existing openings and new glazing inserted in the north east (rear) elevation. However, it is considered that the proposal would maintain the agricultural character of the building and it would thus preserve the appearance of the Conservation Area. The proposed residential use would be consistent with the principal land use within the Conservation Area and therefore its character would be maintained.

5.5 The nearest listed building is Oak House, some 20m to the north west and separated from the application site by another property. It is not considered that the proposed conversion would have any appreciable impact on this heritage asset.

Highway safety and parking

5.6 It is noted that the access is narrow and is sited between two existing dwellings. However, it is an existing access which is currently in use and there are numerous examples of this type of access facility within the village.

- 5.7 The proposal differs from previous applications in that the red line has been drawn more tightly around the building such that only pedestrian access is possible within the application site. The applicant states that it would accept a condition preventing on-site parking. Any parking associated with the proposal would take place on the cobbled area outside the site, adjacent to Main Street, or further away. Neighbours and the Parish Council express concerns that the cobbled area cannot accommodate additional parking, that it would compromise parking for existing businesses, push cars onto the carriageway and that the 'no parking' arrangement offered by the applicant could not be policed.
- 5.8 It is noted that the Highway Authority did not object to previous applications in respect of access or on-site parking arrangements. Although the Authority expresses concern at the lack of parking within the site within this application, it advises that a reason for refusal on this basis cannot be justified. That is consistent with the fact that there are no parking standards requiring a minimum provision for new dwellings in North Yorkshire. The survey undertaken by the applicant in respect of the existing parking capacity on the cobbles, although limited in duration, identifies no grounds for concern in terms of public safety and given the absence of objection by the Highway Authority it is not felt that a reason for refusal based on the impact on parking on Main Street could be justified.
- 5.9 The Highway Authority recommends that a condition is imposed to secure a suitable construction compound and access. This would address some of the concerns raised by neighbours and is considered to be reasonable.

Residential amenity

- 5.10 Policy DP1 of the LDF requires that all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), vibration and daylight. The NPPF seeks to secure a good standard of residential amenity for existing and future occupiers.
- 5.11 Concern has been expressed by the occupiers of surrounding neighbours that the proposal would lead to a loss of privacy and overlooking. Concerns have also been raised that as the Old Post Office is empty the effect on its amenity would not be addressed, however, this is considered below. The majority of the windows from habitable rooms would be sited within the north east (rear) elevation of the building. This elevation is at a sufficient distance (25m) from the neighbouring dwellings at The Leas to prevent excessive overlooking. The windows within the south east (side elevation) facing The Post House would be to non-habitable rooms at first floor and ground floor level and the entrance door would be screened by a proposed high level timber fence. There are no windows proposed to the front (south west) elevation facing Main Street and the Old Post Office residence. Conservation roof lights are proposed in the side (north west) elevation. Taking the above into account it is not considered that the proposal would result in loss of privacy or adverse overlooking.
- 5.12 In both the previous appeal decisions the noise and disturbance arising from comings and goings of new residents of the 2 or 3 bedroom property proposed, combined with associated vehicular movements, was considered to be harmful to the amenity of neighbouring occupiers. In the most recent appeal decision, the Inspector noted:

"The barn is behind the houses fronting Main Street. It is accessed via an existing driveway between two residential properties, the Old Post Office and [The Post House]. The Old Post Office has a ground floor and a first floor window on its side elevation which are very close to the narrow driveway. On the other side, the flank wall of [The Post House] directly abuts the driveway. Although there are no windows on this elevation, there is a cellar

window to the rear. Additionally the driveway is open to the rear garden of [The Post House] and is not segregated from it by any boundary treatments. Because of these close relationships, it appears to me inevitable that some noise and disturbance would be experienced by the occupiers of the Old Post Office and [The Post House] as a result of the vehicle and pedestrian movements associated with the building.”

- 5.13 As noted in paragraph 5.7, the application site includes insufficient land for a vehicle to be driven or parked alongside the building. However, it was understood from evidence presented in application 12/02418/FUL and the subsequent appeal that The Barn has a right of access allowing vehicular traffic to pass between The Post House and The Old Post Office and alongside the southern boundary of the application site. The applicant states that it would be possible for a car to enter the site, stop without parking and reverse, but that this behaviour would be highly unlikely to occur. Unless that right has been extinguished or surrendered it might still be possible for occupiers of the proposed dwelling to drive a vehicle between The Post House and The Old Post Office, as the access appears to be of adequate width to allow this. The submitted plans include the annotation “vehicle access to dwelling and garden restricted by continuous boundary fence” and the applicant has stated that a condition would be accepted to ensure that there is no parking on the site. However, it is not certain that this would prevent the continuation of any private right of access using land beyond the application site, not least as “restricted” does not mean “prevented”.
- 5.14 Since the application was deferred in June, the applicant has provided further evidence of the right of passage. It appears to exist in favour of the owners of the building and with the consent of the owners of The Post House. It does not appear that the owner or occupier of the other close-by dwelling, The Old Post Office, is a party to the matter and therefore does not appear to have any means of enforcing the no stopping restriction in order to discourage vehicles from passing through the narrow space between their property and The Post House. Furthermore, the “parking without stopping” restriction appears at odds with the use of the building for various storage uses over recent years, as documented extensively in the last planning application and appeal, claimed as a fall-back position (see paragraph 5.19).
- 5.15 Neighbours and the Parish have raised concerns that the suggested condition would be difficult to enforce and that servicing and pedestrian movements and associated servicing would cause unacceptable disturbance to neighbours. The building has a close relationship with neighbours especially The Post House, sharing an “intimate access” as noted by the Planning Inspector and which is overlooked by the living room window of The Old Post Office. It is considered that, even without vehicular access and parking, a two bedroomed property could accommodate a family and still generate significant comings and goings throughout the day, evening and at weekends causing disturbance to adjacent neighbouring occupiers. It is not considered that the high fence proposed between the property and The Post House would lessen this feeling or even the perception of disturbance.
- 5.16 Concern has been raised about the impact of the construction phase and it is acknowledged that this would be disruptive to neighbours, however it would be temporary. The Highway Authority requires that details of access and the site compound are conditioned and this condition could be applied if permission were to be granted.
- 5.17 There would be sufficient amenity space on site for future occupiers.
- 5.18 Taking the above into account it is considered that the proposal would be contrary to the provisions of the NPPF and Policy DP1 which expect good standards of amenity for existing and future occupants.

Fall-back position

- 5.19 The applicant cites a fall-back position of continued use for unrestricted storage purposes and suggests that, as such, it could be used as storage with parking and accessed on a daily basis. It is noted from site visits that the building is falling into disrepair and both Planning Inspectors have stated that it is a modest building with limited potential to sustain a wide range or significant number of commercial uses. Moreover the Planning Inspector in 2013 stated that a Certificate of Lawfulness has not been sought for the premises and as such the lawful use of the barn cannot be presumed. The Inspector went on to state that the proposed residential conversion would not necessarily be an improvement on the claimed fall-back position of storage use. In summary the fall-back position was not considered to be so significant as to justify either appeal and consequently it is considered to be of little weight now.

Other issues

- 5.20 Policy DP31 of the LDF states that "Permission will not be granted for development which would cause significant harm to sites and habitats of nature conservation...Support will be givento the enhancement and increase in number of sites and habitats of nature conservation value".
- 5.21 Concern has been raised by neighbours that bats occupy the building. A Bat, Barn Owl and Breeding Bird Survey was submitted with the application and this found a number of bat roosts in the western gable of the barn. No evidence of Barn Owls was found, but two large bird's nests were identified. In the light of the survey, it would be reasonable to impose a condition to ensure appropriate mitigation if permission were granted.
- 5.22 The site lies in Flood Zone 1 and as such should not suffer from river flooding. In respect of foul drainage this matter could be conditioned if permission were granted and it is noted that conditions could be applied to address foul and surface water drainage. Any comments received from Yorkshire Water will be reported to Committee.
- 5.23 Concerns have been raised in respect of the timing of the application and that it should not be submitted following dismissal at appeal on two occasions. However the application is materially different to those previously submitted and the Local Planning Authority cannot control the timing of, or prevent submission of the application. It has been suggested that The Barn should be developed with The Post House, however the application must be considered on its own merits. Reduction in property prices is not a material planning consideration. Cars can presently park around the post box and it is not considered that this matter affects the planning merits of the case.

6.0 RECOMMENDATION

- 6.1 The application is **REFUSED** for the following reason:
1. The introduction of a new dwelling in a location to the rear of existing dwellings would result in additional noise and disturbance which would harm the amenity of neighbouring occupiers, this would be contrary to the provisions of the Local Development Framework Policies CP1 and DP1 and the requirements of the NPPF which expects a good standard of residential amenity for existing and future occupiers.