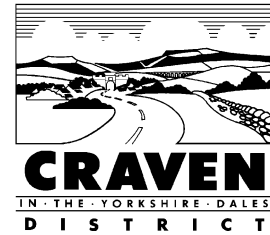


Planning Committee

18 December 2017



PLANNING REF. 2017/18286/FUL

CALTERBER BARN CLAPHAM

PROPOSED REASON FOR REFUSAL

Report of the Strategic Manager for Planning and Regeneration

Lead Member: Not applicable

Ward(s) affected Ingleton and Clapham

- 1 **Purpose of report** - To assess and report back on the Planning Committee's proposed reason for refusal on the application reference 2017/18286/FUL (Conversion of barn to dwelling house) at the meeting on 20 November 2017
2. **Recommendation** - Members are recommended to;

Note the advice in this report; and

Determine application 2017/18286/FUL on the Schedule of Plans, Agenda Item 5

3 **Report**

- 3.1 Members will recall that at the meeting on 20 November 2017 the Planning Committee deferred consideration to enable the Planning Manager (Development Management) to assess and report back on the Committee's proposed grounds for refusal, namely that:-

"The proposed development is contrary to saved Local Plan Policies H8, ENV1 and Paragraph 55 of the National Planning Policy Framework"

Unreasonable behaviour and costs awards in planning appeals

- 3.2 Before considering the soundness of the potential reason for refusal identified above it is extremely important that consideration be given to the circumstances when an award of costs against the Council can be made. Advice within the Government's Planning Practice Guidance is of particular relevance. The following

are relevant extracts from this guidance that should be considered by the Planning Committee: -

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- *failure to produce evidence to substantiate each reason for refusal on appeal vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*
- *refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead*
- *persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable*
- *not determining similar cases in a consistent manner*
- *imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations.'*

Comment on the soundness of the proposed reason for refusal

3.2 It is important that Members note the framework within which they are asked to determine the application. Members are required to consider any relevant saved local plan policies, the NPPF and any other material considerations. The National Planning Practice Guidance advises that focus should be on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission. The emphasis is that applications must be determined in accordance with the current policies. Members cited the following policies in seeking to refuse the application.

3.3 Policy H8 Rural Buildings for Residential Use states:-

The conversion of traditional rural buildings for residential use will be permitted provided that:

1 The applicant has made every reasonable attempt to secure suitable business re-use, and the application is supported by a statement of the efforts that have been made

2 The building is not in a location whereby conversion would cause harm to the character and appearance of the area.

- 3 The character, appearance or positive contribution of the building(s) to the landscape make it worthy of retention for further use.*
 - 4 The building is shown to be structurally sound and capable of the proposed re-use without major rebuilding.*
 - 5 The building is large enough to provide sufficient accommodation for the reasonable requirements of a normal household without the need for substantial extension or alteration.*
 - 6 The scheme of alterations to the appearance of the building is kept to a minimum so as to retain the essential character of the building and the surrounding area.*
 - 7 Any domestic curtilage should be minimal, unobtrusive and capable of being screened.*
 - 8 The development would not create conditions prejudicial to highway safety or give rise to unacceptable service provisions.*
 - 9 The development will not unacceptably affect sites of nature conservation value, or archaeological or historic importance.*
 - 10 Provision will be made to preserve existing barn owl and bat roosts under the 1981 Wildlife and Countryside Act.*
 - 11 Any service development required in connection with the proposal such as roads and overhead power and telephone lines will not be unacceptably intrusive.*
- Where proposed conversions will result in a mixed use of residential with an existing farm complex this should not result in an unacceptable conflict between residential and agricultural interests.*

The Council will normally require a full application, with detailed elevations showing the impact of the conversion on the building and its setting.

Permitted development rights for alterations will normally be withdrawn.

- 3.4 It is considered that there is no conflict with criteria 2 to 11 of Policy H8 and therefore refusal on those grounds could not be substantiated. The application does not include any reference to attempts to secure suitable business re-use to address criterion 1. However, the justification to the policy explains that (at the time, 1999) the national guidance in the Planning Policy Guidance 7 (revised) "The Countryside- Environmental Quality and Economic and Social Development" emphasised the benefits of conversion for employment purposes rather than residential. This document was replaced by the National Planning Policy Framework (NPPF). Although the NPPF supports the growth and expansion of all types of business and enterprise through the conversion of existing buildings there

is no requirement to consider employment first, in preference to residential use. It is therefore concluded that taking into account the most recent guidance in the NPPF that refusal on criterion 1 could not be sustained. Overall it is concluded that there would be a significant risk of an award of costs if the application was refused making reference to Policy H8.

3.5 Policy ENV1 Development in the Open Countryside states:-

The Council will protect the character and quality of the open countryside from being spoilt by sporadic development by defining development limits. Small scale development appropriate for the enjoyment of the scenic qualities of the countryside and other appropriate small scale development having a rural character will only be permitted in the open countryside where it :

1 Clearly benefits the rural economy;

2 Helps to maintain or enhance landscape character;

3 Is essential for the efficient operation of agriculture or forestry; or

4 Is essential to the needs of the rural community.

Large scale development in the open countryside will only be permitted where it is demonstrated that there is an overriding need for the proposal due to the requirements of the utility services, transport, minerals supply or national security.

3.6 It is considered that the development would benefit the rural economy, not only during construction work, but also from expenditure by future occupiers of the dwelling. The submitted scheme proposes minimal alterations and the proposed curtilage is limited. It is therefore considered that the development would maintain the landscape character of the area. The proposed development is not for agriculture or forestry purposes. It may be argued that a dwelling is not essential for the needs of the rural community but nevertheless would contribute to the housing stock. It is therefore concluded that there is no conflict with Policy ENV1 and refusal with reference to this policy would put the Council at a risk of an award of costs.

3.7 Paragraph 55 of the NPPF.

Paragraph 55 of the NPPF advises that “Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as; where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting”. The NPPF is silent on what constitutes a redundant building. The Oxford English Dictionary definition of redundant is “Not or no longer needed or useful; superfluous”. The matter of the redundancy of the building is an issue for the owner of building and it is the owner’s decision as to whether the building is superfluous and no longer needed or useful. The Council cannot force a landowner to continue to use a building for its original use or force a landowner to continue to make a building available to a tenant. The refusal of the

application based on an interpretation and semantics of “redundant” would also put the Council at a risk of an award of costs.

Conclusion and implications

- 4.1 **Financial and value for money implications** - There is a significant risk of an award of costs against the Council if the application is refused in accordance with the reason expressed by Members on 20 November 2017
- 4.2 **Legal Implications** - To avoid the risk of an award of costs against the Council it must be able to substantiate reason(s) for refusal.
- 4.3 **Contribution to Council Priorities** - Not applicable
- 4.4 **Risk Management** - Risks are set out in this update and the Financial and Legal implications sections.
- 4.5 **Equality Analysis** - Not applicable
- 5 **Consultations with others** - Legal Services
- 6 **Access to information** - Planning file, Craven District (outside the Yorkshire Dales National Park) Local Plan, National Planning Policy Framework.
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