

PARISH Whitwell

APPLICATION Change of use of stable block to dwelling
LOCATION Castle Hill Farm Walls Lane Whitwell Common Worksop
APPLICANT Mr Mark Rusby Castle Hill Farm
APPLICATION NO. 14/00446/FUL
CASE OFFICER Mr Steve Kimberley
DATE RECEIVED 15th September 2014

Delegated application referred to Committee by: Councillor Webster
Reason: to ensure consistency in application of policies

SITE

The proposal is sited on land designated as open countryside in the adopted Local Plan. The building is to the north west of the original farm complex known as Castle Hill Farm. The original farm buildings which formed a three sided courtyard arrangement are now used as separate residences with some extensions to both the west and east. The dwellings are accessed via a 600m long single width tarmac track which is also a public footpath. Beyond the former farm complex are agricultural fields or fields used for horses, boundaries are mainly formed by well maintained hedging though to the north the boundary is open. The stable building is built of blockwork with a stone face and concrete roof tiles. There are a number of preformed openings in the walls which have been infilled with timber.

PROPOSAL

The proposal is for the change of use of an existing stable block. The change of use would provide a dwelling which plans show as having two bedrooms and a kitchen and living area. Whilst the accompanying statement states that there would be no external changes the plans show that windows and doors would be inserted into existing and the "false" openings and new patio doors inserted in place of an existing opening on the western facing elevation. The plans also appear to show a fire and flue in the living area though no flue is shown on the elevations.

The applicant has stated that the two horses currently owned would be located in new stables internally provided in the adjacent building. Parking is shown for four vehicles.

AMENDMENTS

Additional plans received on the 29th October 2014 showing proposed curtilage, parking and turning space areas and land retained with the proposal.

Additional supporting information from the applicant received on the 11th November, 14th November and 28th November.

HISTORY (if relevant)

02/00279/FUL – Application for change of use of two storey barn to residential – Approved
06/08/2002 This is the northern building which was part of the original farm complex.
03/00251/FUL- Application for stable block for equestrian use Refused 22/10/2003
04/00543/FUL – Application for stable block and storage for domestic use. Approved
14/09/2004

CONSULTATIONS

Whitwell Parish Council – No objections providing it complies with planning guidelines and does not interfere with the public right of way. 08/10/2014

Derbyshire County Council Highway Authority – Note that the property is a considerable distance from the publically maintainable highway and the access route is of single width with extremely limited passing opportunities. It is also the route of a public right of way and it is considered that safe refuge is not always available in the event of a pedestrian and vehicle meeting. The Highway Authority has reservations regarding the proposal based on an increased likelihood of conflict between vehicles and users of the Public Right of Way. If minded to approve then request conditions regarding scheme for passing places along the route which should be inter-visible and a parking scheme for the property. 24/10/2014

Derbyshire Wildlife Trust – No information has been submitted in relation to ecology. Proposed building alterations could have an adverse impact on nesting birds and roosting bats if they are present. Therefore require further information including surveys. 31/10/2014 After having a look at photographs of the building provided by the case officer they accept that the building does not appear to support any bat roosting opportunities internally or externally and few opportunities for nesting birds. They feel that the building alterations are unlikely to result in an adverse impact on bats or birds and consequently no further information on ecology is required. 12/11/2014

Environmental Health Pollution Control Officer – No objections in relation to contaminated land issues. 23/12/2014

PUBLICITY

Site notice posted and two neighbouring properties notified.
No representations received.

POLICY

Bolsover District Local Plan (BDLP)

GEN3 (Development Affected by Adverse Environmental Impacts from Existing or Permitted Uses),

GEN4 (Development on Contaminated Land),

GEN8 (Settlement frameworks)

ENV3 (Development in the Countryside)

ENV4 (reuse and adaptation of rural buildings)

HOU2 and HOU9 (Essential dwellings in the Countryside)

National Planning Policy Framework

Para 17 – Core Planning Principles

Para 49 – Presumption in favour of sustainable development

Para 55 – Isolated homes in the countryside

Para 214 - Weight to policies

Para 215 – Weight to policies

Other (specify)

Interim SPD Successful Places- Guide to Sustainable Housing Layout and Design

ASSESSMENT

The property known as Castle Hill Farm is a former farmhouse and associated buildings built principally in a three sided courtyard arrangement with barns in the north and eastern wing and the farmhouse in the western side. Maps show that there were few other outbuildings and those that were built were on the eastern side. In 1989 approval was given for the eastern wing to be converted to a farm workers dwelling; whilst in 2002 approval was given for conversion of the northern element into a separate dwelling. Conditions were imposed on this latter permission to remove permitted development rights and to ensure the retention of the agricultural character of the building.

In 2003 there was a refusal of permission for a proposal in a similar position to the current application site showing 8 stables and a storage area on the basis of its urbanising impact without a justification for the need for such a large building. However in 2004 permission was granted for the current building for use as stables and storage for the property known as Castle Hill Farm. The approved plans show that it was reduced in size from the previous application and located closer to the other buildings. The application form stated that the building was to be built of blockwork with red concrete roof tiles on the stables and box profile sheeting on other roofs.

The current submitted plans and the site visit show that the stable block and storage building were not built in accordance with the permission. The stable block has been built with a corridor to the front increasing the depth of the block from 3.6m to 5.5m, whilst the width of the stables element has increased from 12.5m to 16.4m. In addition the building has been built out of blockwork but with stone on the external facing elevations and with openings built into external facing walls (though currently these are generally blocked with timber). In addition the storage section of the building is built out of blockwork again with stone facing walls and is no longer the open fronted dutch barn style building shown in the approved plans. It does not appear to be used for storage but as a personal workshop with woodworking machinery for the applicant. It is not know when these changes took place but the applicant has stated that he believed he had verbal permission from a planning officer to build out of stone. No paper record exists of any approved changes. The changes involved are more than just the finish materials.

For these reasons it is clear that the existing stable block does not have planning permission and was not built in accordance with approved plans and is therefore unauthorised. However given the length of time since their erection it is likely that the buildings would now be immune from enforcement action. In terms of the consideration of the context of the application it is also pertinent to note that the manege and floodlighting to the west of the main farmhouse also appears to have been built without planning permission (though again due to the length of time which has passed they would appear to be immune from enforcement action).

The current applicant has stated that they no longer have the number of horses for the number of stables (they have lost some horses recently) and wish to relocate the current two horses into the larger building adjacent enabling them to convert the existing stables and store into a dwelling. This will enable them to downsize whilst still being close to their working

locations and allow the separation of the main dwelling which could then be sold.

Principle of Development and potential impacts on character and appearance of the area

An assessment of this current application is based on the current policy context.

The National Planning Policy Framework (March 2012) in Paragraph 214 states that: “For 12 months from the day of publication, decision takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.” Paragraph 215 states that “In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.”

These two paragraphs mean that, since the Bolsover Local Plan was prepared and adopted prior to 2004, that ‘due weight’ rather than ‘full weight’ should be attached to its policies.

Policy GEN 8 of the Bolsover District Local Plan states that outside settlement frameworks general open countryside policies will apply.

Paragraph 55 of the NPPF states that “...Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- The exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - Be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - Reflect the highest standards in architecture;
 - Significantly enhance its immediate setting; and
 - Be sensitive to the defining characteristics of the local area.

Outside settlement frameworks Policy HOU9 Essential New Dwellings in the Countryside, permits residential development in certain specific circumstances where such dwellings are essential to the operation of agriculture and/or forestry. In such a case this must be justified by a functional and financial test. The applicants have not put forward any such justification and the proposal is contrary to policy HOU9 (Essential dwellings in the Countryside) of the adopted Local Plan and bullet point 1 of Para 55 of the National Planning Policy Framework.

The applicant in their supporting information believe that the proposal meets the requirements of Para 55 by allowing for the reuse of a building and which in their opinion is sustainable development and leads to an enhancement to the immediate setting.

Whilst it is accepted that the proposal would reuse an existing building this is not an

authorised building as it is built contrary to approved plans. The original plans would have: had no openings on externally facing walls: been open fronted to the storage building and with materials would much better reflect an agricultural or equestrian building you might expect in the countryside; and critically would have had a smaller floor space. By those unauthorised changes already done and by introducing further domestic features in particular the fenestration the proposal is considered to further introduce domestic features in what is essentially a rural landscape and does not lead to an enhancement of the setting.

The proposal is therefore considered to be contrary to policy HOU9 (Essential dwellings in the Countryside) and does not meet Para 55 of the National Planning Policy Framework .

Policy ENV3 (Development in the Countryside), whilst not specific to new houses, also restricts development in the countryside. The policy states that planning permission will only be granted for development which is necessary in such a location, or would result in a significant improvement to the rural environment, or would benefit the local community through the reclamation or reuse of land. Permission will only be granted in such cases provided it is demonstrated that the location of the development outside the settlement framework is environmentally sustainable; would not materially harm the rural landscape; avoid unnecessary urban sprawl; and the proposed development would avoid the coalescence of distinct settlements. The proposal is not considered to meet policy ENV3 (Development in the Countryside). A house on this site is not necessary in this location and does not provide a significant improvement to the rural environment nor benefit the local community.

It is accepted that the Council does not currently have a five year housing supply and therefore consideration should be given to housing applications in the context of the presumption in favour of sustainable development (Paragraph 49 of the National Planning Policy Framework).

However the site is not considered to be in a sustainable location as it is in an isolated position accessed by a relatively long vehicular track. The proposal is considered to be contrary to the guidance in the National Planning Policy Framework representing unsustainable development with no special circumstances to warrant a new isolated rural home. The contribution one dwelling would make to the five year supply is not of sufficient benefit to outweigh or overcome other policies impacts.

The applicant has argued in supporting information that the Council has previously approved applications of a similar nature. An analysis of the quoted permissions and their relevance is given in the appendix attached. However each application is to be treated on its own merit and importantly none of the applications quoted are considered to be of a similar nature. None are for the conversion of a modern built building, associated with an historic farm building, to a new and separate dwelling.

It is noted that if the stable building had been built as approved it would have to be altered externally considerably so that the proposal would have to be not only a change of use but alterations including extensions, new external skin and insertion of openings and which would change the character and assessment of the application.

Policy ENV4 allows for the reuse and adaptation of rural buildings outside of settlement frameworks for other purposes subject to various criteria being met. However the policy also makes it clear that proposals for the change of use and conversion to residential purposes will only be acceptable if every reasonable attempt has been made to secure reuse which would further employment and provided that it either meets a identified Local Need for affordable housing, or enables the preservation of a building or group of buildings which are of architectural or historic interest or is essential to the operation of a rural business. There is no evidence of either any attempt to use the building for another use and the proposal is not considered to be of any architectural or historic interest being built approx 10 years ago nor is it argued that the building is needed for a rural business. Notwithstanding the views of the applicant in the supporting statement the proposal is not considered to meet the requirements of policy ENV4 of the adopted Local Plan.

The current proposal is for the conversion of an unauthorised modern built building in an unsustainable location which will represent a further domestication of buildings and land in the countryside. This would further erode the rural character of the area and the historic form of the original farm buildings. It is also noted that if approved the planning authority has no control over the number of horses owned by the applicant or any new owner of the dwellings and there could be further demand for additional stabling which, if of an appropriate design, may be more difficult to resist. This is especially the case as the applicant would like to retain the manege, floodlighting and other land which is used for equestrian purposes.

It is also acknowledged that the Government has relatively recently introduced legislation which allows the conversion of agricultural buildings into dwellings. However there is still the requirement to have the consent considered by the Local Planning Authority who may reject the proposal on the basis of undesirable impacts on highways, risks from contamination, noise impacts, flood risk, design or external appearance or whether the location or siting is impractical or undesirable. Whilst the building is not an agricultural building and these rights do not exist it is noted that other Local Planning Authorities have refused conversion based on the fact that the development would constitute new isolated homes in the countryside. A number of these decisions have been upheld at appeal with inspectors stating reasons such as “the appeal site is a very isolated location in terms of both its siting in relation to other development and its distance from local services and facilities”.

Impact on highway safety

The new dwelling would use the existing access from Walls Lane. This is a 600m long single width tarmac track which is also used as a public footpath. The Highway Authority has concerns over the intensification of the use of this track based on an increased likelihood of conflict between vehicles and users of the Public Right of way. They accept however that these concerns could be addressed by a scheme for passing places along the route which should be inter-visible. The current track has one passing place just before a bend and another place at the entrance to the former farm complex and the applicant feels that this is sufficient.

Notwithstanding the highway concerns as these could be addressed by imposition of a condition it is considered that this in itself is not sufficient reason for refusal of permission. If additional passing places were needed as a result of the development this would add to the urbanising features and weigh against it.

Impact on biodiversity

Following site photos, taken by the case officer, Derbyshire Wildlife Trust accepted that the building alterations are unlikely to result in an adverse impact on bats or birds and consequently no further information on ecology is required.

Other Matters

Listed Building:	not applicable
Conservation Area:	not applicable
Crime and Disorder:	no known issues
Equalities:	no known issues
Access for Disabled:	no known issues
Trees (Preservation and Planting):	no known issues
SSSI Impacts:	not applicable
Biodiversity:	see above report
Human Rights:	no known issues

RECOMMENDATION

Refuse for the following reasons:

- 1) The site is outside the settlement framework as defined by policy GEN8 (Settlement Frameworks) of the Bolsover District Local Plan, where open countryside policies apply. Outside settlement frameworks, new development should be necessary in such a location and in particular new dwellings should be essential to the operation of agriculture or forestry. There has been no justification given of the need for the dwellings in this unsustainable countryside location and the proposal is therefore contrary to the requirements of policy HOU9 (Essential New Dwellings In The Countryside) of the Bolsover District Local Plan and paragraph 55 of the National Planning Policy Framework.
- 2) The site represents an unsustainable location poorly related to the existing built infrastructure of any settlements and accessed by a single track access over 600m long which is also a public right of way. It would represent a further domestication of buildings in the open countryside beyond established boundaries which is contrary to policy ENV3 (Development in the Countryside) of the adopted Local Plan and paragraph 17 bullet points 5 and 11 of the National Planning Policy Framework .

Notes

It is noted that the conflict between the public right of way and the vehicular access could be addressed through the submission of a scheme for additional passing places on the lane.

Appendix

Analysis of previous applications and relevance to the current application.

08/00119/FUL – Castle Hill Farm (eastern wing)

This application was for the extension of a barn previously converted as a farm workers dwelling though permitted development rights were not removed. The Conservation Manager concluded that whilst there are reservations about the extension of converted barns which will result in an over domestication and dilution of the character of the former buildings, in this case the proposed extension will have a minimal impact on the overall character, form and layout of the range of buildings and is therefore probably acceptable in policy terms. It is noted that the application was not for a separate dwelling but extending an existing dwelling albeit from a barn conversion.

BOL 1189/661 - Castle Hill Farm (eastern wing)

This application was for conversion of existing historical barn buildings to an agricultural workers dwelling and predates the adoption of the Local Plan. It does not appear to have been conditioned to an agricultural worker. Existing elements such as the king post roof structure were to be reused. (Aerial photos show that a tennis court has recently been built on land to the east. This matter has been referred to the enforcement officer for investigation).

02/00279/FUL - Castle Hill Farm (northern wing)

This application was for the conversion of existing barn buildings into a separate dwelling. The barn was part of the original farm complex and unlike the current application it was considered to be of historical and architectural interest and met the requirements of policy ENV4 of the adopted Local Plan. Conditions were imposed in order to retain control over the appearance of the development.

(It would appear that condition 3 of this application which removed permitted development rights has been breached as a new open fronted garage (built 2007/2008) is on site.

This matter has been referred to the enforcement officer for investigation).

09/00640/FUL – Firbeck Farm Whitwell

Application to extend existing dwelling into redundant barn. Again this was not an application for a separate dwelling. The barn formed parts of a 19th Century complex of farm buildings and its presence was essential to the character of the farm courtyard. The proposal was considered to meet the requirements of policies HOU8 (Replacement or Extension of Existing Dwellings in the Countryside) and ENV4 (Re-use and adaptation of rural buildings) of the adopted Local Plan.

13/00220/FUL – Commonsides Farm Whitwell Common

This application was for the conversion of outbuildings to form one dwelling. The outbuildings were in reasonable condition but in need of restoration and making structurally safe. The buildings were only of local interest and did not meet the criteria in ENV4 in this respect. One barn which had been relatively recently rebuilt was removed from the application as the unit was not considered to meet any of the criteria in policy ENV4 or the policies in the National Planning Policy Framework. However it was considered that the amended scheme was generally in line with policy ENV4 and that demolition of the derelict barn and amendments to the detailing of the remaining barn meant that the amended proposal was considered as an

enhancement to the immediate setting. In this particular case it is clear that the report considered that the restoration and conversion of the remaining barns would lead to an enhancement of the immediate setting and therefore met the requirements of the National Planning Policy Framework. It is considered that the current proposal at Castle Hill Farm differs in not leading to an enhancement and being more akin to the modern rebuilt element removed from the Commonsides Farm application.

The applicant cited the following four applications which are contrary to policy HOU9 (Essential dwellings in the Countryside) as examples of where the Council has been willing to be flexible in the way it chooses to apply local policy reflecting individual circumstances:

13/00186/FUL- Mansfield Road Scarcliffe

Application for development on a caravan storage site. The proposal was considered to meet ENV3 (Development in the Countryside) as it represented an improvement to the rural environment bring benefits to the settlement of Scarcliffe (the caravans were very visible over a wide area). Its position on the edge of the settlement framework was considered to be relatively sustainable. Policy HOU9 (Essential dwellings in the Countryside) was not met in this case.

14/00334/FUL-Rear Field View House Mansfield Road Clowne

Application for one dwelling, again contrary to policies ENV3 (Development in the Countryside) and HOU9 (Essential dwellings in the Countryside) of the adopted Local Plan. However given the sustainability of the location and the site was effectively being surrounded by approved housing it was considered unreasonable to refuse on these grounds.

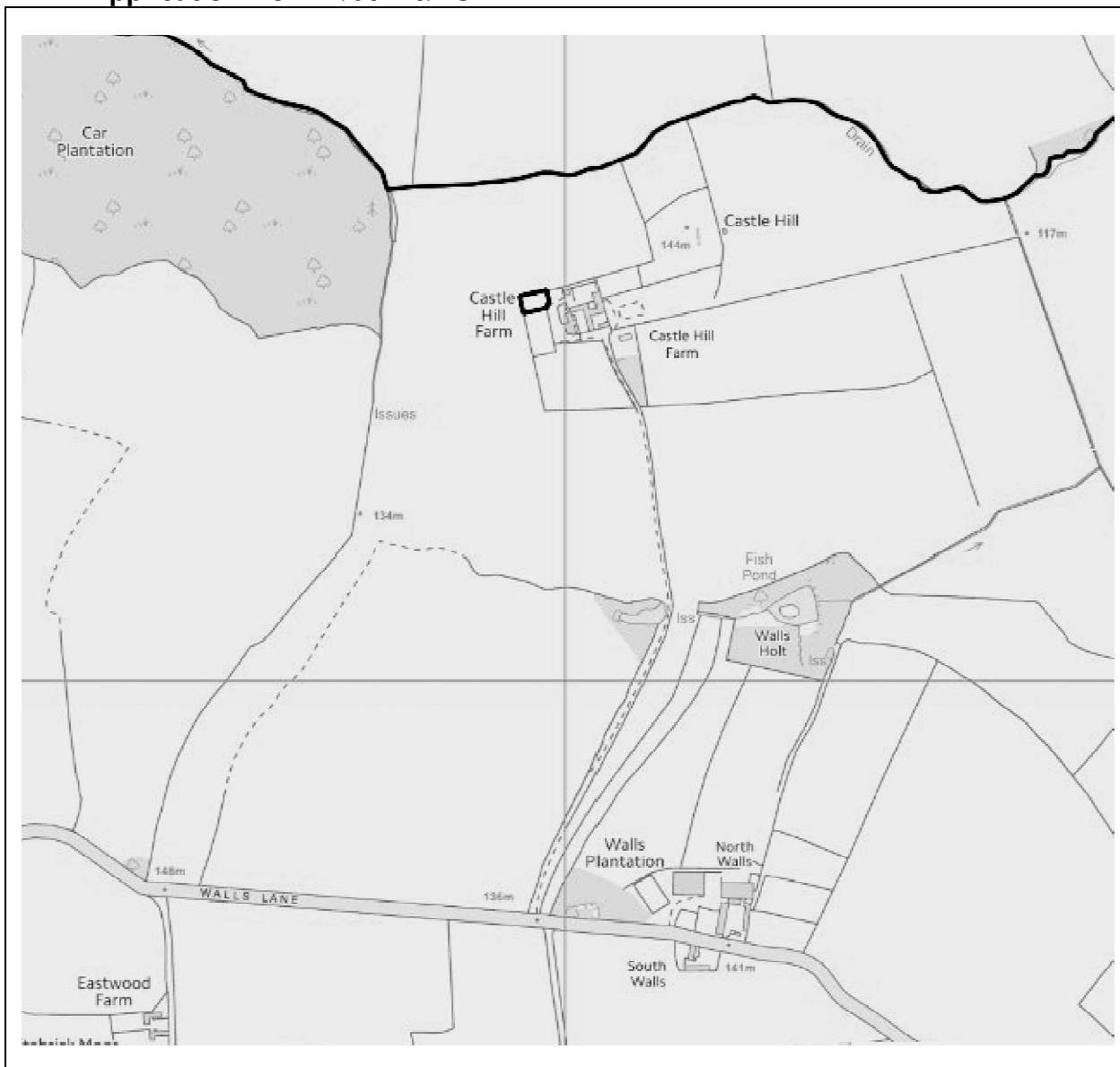
12/00112/VARMAJ- High Ash Farm Mansfield Road Clowne

This was an extension of time application for 09/00217/OUTMAJ. Whilst outline it was suggested that 41 houses could be built on the land. This application was contrary to both policies HOU9 (Essential dwellings in the Countryside) and ENV3 (Development in the Countryside) but was considered to be in a relatively sustainable location adjacent to the settlement framework and whilst there would be some harm, these harms were outweighed by the wider public benefits of delivering a significant contribution to the 5 year supply of housing as is now required in the National Planning Policy Framework . There would also be benefits in removing a problematical site which was a source of complaints in the past

12/00529/FULMAJ – Residential Development for 149 Dwellings to the rear of Mansfield Road Clowne.

This application was contrary to both policies HOU9 (Essential dwellings in the Countryside) and ENV3 (Development in the Countryside) but was considered to be in a relatively sustainable location adjacent to the settlement framework and whilst there would be some harm, these harms were outweighed by the wider public benefits of delivering a significant contribution to the 5 year supply of housing as is required in the National Planning Policy Framework .

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Date Produced: 23rd December 2014