



Appeal Decision

Hearing held and site visit made on 7 June 2005

by **Susan Heywood** BSc(Hons) MCD MRTPI

an Inspector appointed by the First Secretary of State

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Date

Appeal A Ref: APP/E2734/A/04/1148091

White Wall Farm, White Wall Lane, Felliscliffe, Harrogate HG3 2JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by M Grange against the decision of Harrogate Borough Council.
- The application Ref 6.99.26.J.FUL, dated 8 August 2003, was granted planning permission by the Council on 20 January 2004 subject to conditions.
- The development permitted is 'conversion of mistle to Class B1, (office, research or light industrial use) and demolition of cow cubicle building and pole barn'.
- The conditions in dispute are No 4 which states that: *notwithstanding the details of the submitted plans, the east boundary of the site shall be set a minimum of 10 metres from the western face of the adjacent agricultural buildings* and No 10 which states that: *prior to commencement of the use, the low cost cow cubicle building and the pole barn shall be demolished and cleared from the site.*
- The reason given for the conditions is: *The Local Planning Authority wishes to reserve its rights in these respects, in the interests of amenity and in order to ensure that the proposed development is in character with traditional buildings in the locality.*

Summary of Decision: The appeal is allowed, and the planning permission varied in the terms set out below in the Formal Decision.

Appeal B Ref: APP/E2734/A/04/1160832

White Wall Farm, White Wall Lane, Felliscliffe, Harrogate HG3 2JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by M Grange against Harrogate Borough Council.
- The application Ref 6.99.26.L is dated 17 February 2004.
- The development proposed is the conversion of a traditional farm building to a dwelling.

Summary of Decision: The appeal is dismissed and planning permission refused.

Main Issues

1. In relation to Appeal A, I consider the main issue to be whether conditions 4 and 10 satisfy the requirements set out in Circular 11/95 (C11/95) 'The Use of Conditions in Planning Permissions'.
2. In relation to Appeal B, I consider the main issues to be:
 - i. the effect of the proposal on the character and appearance of the Nidderdale Area of Outstanding Natural Beauty;
 - ii. the impact of the development on the living conditions of nearby occupiers and future occupiers of the proposed dwelling.

Planning Policy

3. The development plan includes the North Yorkshire County Structure Plan and the Harrogate District Local Plan. The appeal site lies within the Nidderdale Area of Outstanding Natural Beauty (AONB) where Local Plan policy C1 encourages the conservation of the landscape. Policy C16 relates to the re-use and adaptation of rural buildings. Policy A1 requires development to make a positive contribution to the area, wherever possible, by maintaining or improving the quality of the environment and amenity.

Reasons for Appeal A

4. Following the granting of planning permission for Appeal A (application 6.99.26.J.FUL) and the imposition of the disputed conditions, the appellant submitted a further application to the Council (application 6.99.26.K.FUL). This application sought the retention of the cow cubicle and pole barn and the application site included the whole of the yard area in front of the adjacent agricultural building to the east. The Council's Officers recommended approval of that application although it was subsequently refused. At the hearing, the Council conceded that whilst conditions 4 and 10 had been necessary at the time of approval of application 6.99.26.J.FUL, they were no longer necessary as circumstances had changed. Having considered the evidence, I concur with this view.
5. Condition No. 2 on application 6.99.26.J.FUL refers to a plan which showed the removal of the pole barn and cow cubicle and incorporated a gap between the site boundary and the agricultural building to the east. At the hearing, a further plan, Plan B, was discussed. This plan shows both the cow cubicle and pole barn to be retained and the site boundary extending up to the western face of the agricultural building to the east. The Council confirmed that they would have no objections to this plan. I therefore intend to accept Plan B as an amendment to Appeal A, in so far as it relates to development within the site boundary, which for the avoidance of doubt is annotated on that plan as being within the line marked 'o,a,b,c,d,e,f,g,h,i,j,k,o'.
6. In the light of the agreed changes to the plan, the parties accepted that other conditions and the description of development would need to be altered. Consequently, Condition No. 2 should be altered to refer to Plan B. Condition No. 12 refers to vehicular access, parking and turning. As Plan B does not show these details, it is appropriate to alter Condition 12 to require the submission of such details to the Council. The description of development as approved refers to the 'demolition of cow cubicle building and pole barn'. The Council expressed concern that the development as originally described on the planning application form may allow use of the cow cubicle and pole barn for B1 purposes. It seems to me, however, that this concern can be overcome provided that the description of development refers specifically to the B1 use of the mistle with ancillary facilities in the cow cubicle and pole barn. Whilst the appellant referred to the number of other conditions, no evidence was given that any other conditions had been improperly imposed. Given the location of the site within an AONB and its close proximity to residential properties, I am satisfied that the other conditions comply with the advice in C11/95.

Conclusion for Appeal A

7. For the reasons given above and having regard to all other matters raised, I conclude in relation to Appeal A that conditions 4 and 10 on planning permission 6.99.26.J.FUL do not

satisfy the requirements set out in Circular 11/95 'The Use of Conditions in Planning Permissions'. Appeal A should therefore be allowed and the planning permission varied in the terms set out below in the Formal Decision.

Reasons for Appeal B

Issue one – character and appearance

8. Appeal B relates to the conversion of the mistle to a dwelling. The appeal site is visible from White Wall Lane as well as across open countryside to the north. I note that the Inspector dealing with a previous proposal for the conversion of the mistle to a dwelling (APP/E2743/A/02/1092930) considered that due to the proximity of other dwellings nearby the "new residential plot would sit with reasonable ease into its setting". However, the curtilage for the dwelling in Appeal B would be more extensive than that previously proposed. In particular, the current proposal would incorporate a grassed area to the north of the existing access track from White Wall Lane. When viewed from White Wall Lane, the grassed area has the appearance of an informal paddock and the remainder of the appeal site has an agricultural character. I share the concerns of the Council that residential curtilages have a tendency to take on a neat, manicured appearance and domestic garden paraphernalia inevitably appears within the boundaries. Due to the extent of the curtilage in the current appeal, the alteration of the character of the site from agricultural to obviously domestic would have a significant visual impact which would be harmful to the appearance and rural character of the AONB. Planning Policy Statement 7: 'Sustainable Development in Rural Areas' confirms that AONB's have the highest status of protection in relation to landscape and scenic beauty and Local Plan policies C1, C16 and A1 all seek to ensure that development does not harm the character or appearance of the surrounding area. Whilst I accept it may be Mr Grange's intention to retain the rural appearance of the site, there can be no control over the way in which domestic curtilage is managed once planning permission has been granted.
9. I conclude on this matter that the proposal would be harmful to the character and appearance of the Nidderdale Area of Outstanding Natural Beauty. It would therefore conflict with policies C1, C16 and A1 of the Harrogate District Local Plan.

Issue two – living conditions

10. The mistle is in close proximity to a large agricultural building to the east and the residential curtilage would abut the western face of that building. Whilst the agricultural building is not currently in use, the parties agree that it could be brought back into use for livestock or another agricultural purpose in the future. The noise and smell which would be generated by any future use of the building for livestock in particular would cause significant harm to the occupiers of the mistle due to the close proximity between the two buildings. I accept that there are existing dwellings on White Wall Lane, however, these are further away from the agricultural building and their garden areas do not abut the building. Whilst I accept that Mr Grange currently proposes to live in the dwelling himself, the creation of a situation with the potential for such poor quality living conditions would nevertheless be in conflict with Local Plan policy A1.
11. I note that a draft S106 agreement was drawn up by Mr Grange which offered, amongst other things, to restrict the use of the agricultural building. The Council do not agree with

the draft and as there is no completed agreement or unilateral undertaking before me, I attach little weight to this matter.

12. I turn now to consider the relationship between the converted mistle and the existing dwelling referred to as White Wall Farm Cottage. The proposed conversion would involve the opening up of a first floor bedroom window in the south elevation. This window would directly overlook the garden area to the cottage and I consider that this would cause a loss of privacy to that garden area. There are existing openings in the western elevation of the building onto an area of tarmac which I am told is shared between the cottage and the mistle. The windows to the living area of the cottage are offset to the south-west of the mistle. The proposed bathroom and external door would be obscure glazed and the kitchen window would look over the tarmac area onto the access to the cottage and to White Wall Lane. As such, I do not consider that there would be a significant amount of overlooking or loss of privacy as a result of these openings. Furthermore, the comings and goings over the shared area of vehicles and pedestrians associated with only two dwellings would be unlikely to cause any significant harm to the living conditions of the occupiers of either of the dwellings.
13. I conclude on this matter that the proposal would be harmful to the living conditions of future occupiers of the site due to the potential use of the adjoining agricultural building. It would also result in harm to the living conditions of nearby occupiers due to overlooking from the proposed bedroom window in the south elevation of the building. The proposal would therefore conflict with Local Plan policies C16 and A1.

Other matters

14. The current appeal would involve the severance of the existing access to the agricultural building from White Wall Lane. The Council considers that the formation of a new access to that building across fields would be harmful to the AONB. Mr Grange has stated that he currently uses an existing access to the building from White Wall Lane at a point further south and it is clear that the fields that I saw to the east and south have been driven along and in parts a compacted track can be seen. However, the current appeal does not include the construction of a new roadway to that building. Furthermore, I am satisfied that an alternative access, however informal, does exist and I do not therefore consider this matter to be a material consideration in this appeal.

Conclusion for Appeal B

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

Formal Decisions

Appeal A Ref: APP/E2734/A/04/1148091

16. I allow the appeal, and vary the planning permission Ref 6.99.26.J.FUL for *the change of use and conversion of former agricultural accommodation identified as the mistle on Plan B to Class B1 (office, research and development and/or light industrial use) with undercover car parking, kitchen, canteen, toilets, washrooms, restroom, ancillary storage within the cow cubicle and pole barn* at White Wall Farm, White Wall Lane, Felliscliffe,

Harrogate HG3 2JZ granted on 20 January 2004 by Harrogate Borough Council, deleting conditions 2, 4, 10 and 12 and substituting therefor the following conditions:

Condition 2:

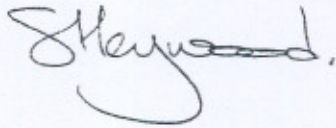
The development hereby permitted shall relate to the submitted details as amended by Plan B and subject to the conditions of this planning permission.

Condition 12:

Prior to the first use of the development, the vehicular access, parking and turning facilities shall be formed in accordance with details to be submitted to and approved in writing by Harrogate Borough Council. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Appeal B Ref: APP/E2734/A/04/1160832

17. I dismiss the appeal and refuse planning permission for the conversion of a traditional farm building to a dwelling.



INSPECTOR

Planning HOJ 123 granted on 10 January 2004 by Planning through Council, subject to conditions 1, 4, 10 and 12 and subjecting to the following conditions:

Condition 1

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Condition 12

From the first use of the development, the applicant must perform and maintain facilities shall be formed in accordance with details to be submitted to and approved in writing by Planning through Council. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Annex B (see Appendix 1)

1. I declare the appeal and a few planning provisions for the convenience of a reference, from building to a building.



INSPECTOR