

TITLE: 2005/420 - EXTENSION OF EXISTING GARAGE AND RETROSPECTIVE CONSENT FOR THE CONVERSION OF EXISTING POOL TO GRANNY FLAT WITHOUT COMPLIANCE WITH CONDITION 3 ON PLANNING PERMISSION 2000/018 AT THE POOL HOUSE, LAUND SLACK FARM, CRIBDEN END LANE, HASLINGDEN, LANCASHIRE

TO/ON: DEVELOPMENT CONTROL COMMITTEE - 11 OCTOBER 2005

BY: TEAM MANAGER - DEVELOPMENT CONTROL

APPLICANT : MR N A HANDLEY

DETERMINATION EXPIRY DATE : 5 SEPTEMBER 2005

This application was called in by Cllr D Ruddick

Human Rights

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights: -

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

This application has been requested to be heard at this Committee by a ward Councillor.

Site and Proposal

This proposal seeks consent for the variation of a planning permission granted on the 23 February 2000 that granted planning permission for the extension of the existing garage and also retrospective consent for the conversion of the existing pool to a granny flat. A condition was imposed which sought to control the occupancy of the "granny flat" "*to a use in connection with and incidental to the existing dwelling and at no time be severed and occupied as a single independent dwelling unit*". The applicant seeks consent to remove this condition.

Relevant Planning History

2004/674 – Removal of condition 3 on planning permission 2000/018 – refused 27 October 2004

Consultation Responses

Environment Directorate (Highways) – No objection

Forward Planning – Raises a policy based objection in relation to a current over-supply of housing permissions in the Borough.

Notification Responses

Public consultation of neighbouring property was undertaken by the posting of site notices. One letter of representation has been received that comments on the proposal being similar to the earlier submission and that there have been no material change in the circumstances.

Development Plan Policies

Rossendale District Local Plan (adopted 1995)

Policy DS1 - The Council will seek to locate most new development within a defined urban boundary - the urban boundary - and will resist development beyond it unless it complies with policies DS.3 and DS.5. The urban boundary is indicated on the proposals map.

Policy DC4 – Materials - Local natural stone (or an alternative acceptable natural substitute which matches as closely as possible the colour, texture, general appearance and weathering characteristics of local natural stone) will normally be required for all new development in selected areas. Within those areas roofs shall normally be clad in natural stone slab or welsh blue slate, or, in appropriate cases, with good quality substitute slates

Joint Lancashire Structure Plan (Adopted 2005)

Policy 1 states that development should be located primarily within the principal urban areas, main towns, key service centres (market towns) and strategic locations for development. Development outside of these areas will be deemed acceptable in principle if it meets an identified local need or supports rural regeneration. In all cases the proposals must satisfy certain specified criteria.

Policy 12 states that provision will be made for the construction of 1920 dwellings within the Borough within the plan period (2001-2016) 220 per year between 2001 and 2006 and 80 per year between 2006 and 2016.

Policy 20 of the Adopted Joint Lancashire Structure Plan is considered relevant requiring that “Development must be appropriate to the landscape character type within which it is situated and contribute to its conservation, enhancement or restoration or the creation of appropriate new features. In areas of outstanding natural beauty, priority will be given to conservation and enhancement of landscape character. Development must contribute to the conservation of the natural beauty of the area of outstanding natural beauty. Proposals will be assessed in relation to:

- (a) local distinctiveness;
- (b) the condition of the landscape;

- (c) visual intrusion;
- (d) the layout and scale of buildings and designed spaces;
- (e) the quality and character of the built fabric;
- (f) public access and community value of the landscape;
- (g) historic patterns and attributes of the landscape;
- (h) landscape biodiversity and ecological networks;
- (i) semi-natural habitats characteristic of the landscape type;
- (j) remoteness and tranquillity;
- (k) noise and light pollution”

Other Material Planning Considerations

Planning Circular 11/95 “The use of conditions in planning permissions” states that, in terms of the application of an occupancy condition “The same is true for separate buildings (often conversions of outbuildings) intended for use as 'granny annexes'. In these cases it is even more likely that a separate unit of accommodation will be created.”

PPG1 (General Policy and Principles)

Government guidance in the form of PPG1 emphasises that development should be sustainable and states that there is a need to achieve a balance between promoting economic prosperity and protecting the natural and built environment. It also identifies ways in which mixed use development can be promoted, and provides advice on design matters.

Paragraph 7 states that *“Urban regeneration and re-use of previously- developed land are important supporting objectives for creating a more sustainable pattern of development. The Government is committed to:*

- a) concentrating development for uses which generate a large number of trips in places well served by public transport, especially in town centres, rather than in out of centre locations; and*
- b) preferring the development of land within urban areas, particularly on previously-developed sites, provided that this creates or maintains a good living environment, before considering the development of Greenfield sites.”*

PPG3 (Housing)

Government guidance in the form of PPG 3 (Housing) states that sites for housing should be assessed against a number of criteria namely the availability of previously-developed sites, location and accessibility, capacity of existing and potential infrastructure, ability to build communities and the physical and environmental constraints on development of land.

Paragraph 22 states that *“The Government is committed to maximizing the re-use of previously-developed land...in order both to promote regeneration and minimize the amount of greenfield land being taken for development”.*

Paragraph 31 highlights the importance of the location and accessibility of housing sites to jobs, shops and services by modes of transport other than the car.

Planning Issues

The first issue for consideration is the land use designation. The site is located outside the urban boundary however the site is a brownfield site having been used as residential property and associated curtilage, and as such, PPG3 is relevant.

The applicant has previously submitted a letter of support for his application which outlines the reasons for the application. The applicant seeks to remove the condition in a bid to sell the property and, in turn, deal with an associated family related unauthorised occupancy problem.

Planning Circular 11/95 (The Use of Conditions in Planning Permissions) refers specifically to the distinct possibility that the removal of the condition would lead to the creation of a separate unit which at a point in the future, could be sold off. This course of action would also effectively create a new dwelling in the Countryside which would be contrary to Policy DC1 of the Rossendale District Local Plan in terms of the proposal being “detrimental to existing conditions in the surrounding area” by the creation of a new dwelling.

Parking and access issues are not part of the consideration of this application but it is acknowledged that issues may arise subsequently if the application was to be approved.

Taking into account Government Circular advice and adopted Council policy as outlined above, it is considered that this application should be refused.

Additionally, Members may recall the appeal against the refusal of consent for the conversion of Wheat Head Farm, Walls Clough, Waterfoot, Rossendale BB4 9NE reference 2004/603 that reported “This planning application was received on 06 August 2004 and related to Re-modelling of partly converted barn following fire damage to form separate dwelling house and erection of single storey extensions to existing farmhouse. The application was refused on 12 October 2004 for the following reasons:-

1. The proposal is not justified in meeting an identified local need for employment, community services or housing, providing for farm diversification or assisting rural regeneration which is contrary to Policies 1 and 5 of the Proposed Changes Deposit Joint Lancashire Structure Plan.
2. The application does not perform well from a sustainability point of view and would encourage car dependency. For these reasons the proposed development does not accord with Government guidance in the form of PPG13 and Policy 1b of the Proposed Changes Draft Joint Lancashire Structure Plan.
3. The application proposal is not required to meet housing provision requirements as set out in policy 12 of the Proposed Changes Deposit Joint Lancashire Structure Plan.
4. The proposed development is contrary to Policy DS5 of the Rossendale District Local Plan and Policy 1 of the Adopted Lancashire Structure Plan and the building is situated outside of the Urban Boundary and the new dwelling would not be required for the purposes of agriculture, forestry or another use appropriate to the rural area.

This resulted in an appeal being lodged and dealt with under the written representations method. The Inspectorate wrote informing the Council of its decision on the 25 July 2005. The appeal was dismissed.”

It is considered that similar circumstances would apply in this instance given its remote location. Additionally, the applicant's circumstances for the removal of the condition are not material planning considerations and cannot be taken into account. Accordingly, it is considered that the whilst the proposal would not prejudice Policy 20 of the Adopted Joint Lancashire Structure Plan, it is considered that the proposal would not comply with Policy DS1 of the Rossendale District Local Plan which seeks to locate new development within a defined urban boundary and also fails to accord with Policy 12 of the Adopted Joint Lancashire Structure Plan. It is therefore recommended for refusal.

Summary of Reasons for Refusal

The proposed development will contribute to the over-provision of housing in the Borough, contrary to Policy 12 of the recently adopted Joint Lancashire Structure Plan, and there are no other material considerations of sufficient weight to tip the balance in favour of a permission.

Recommendation

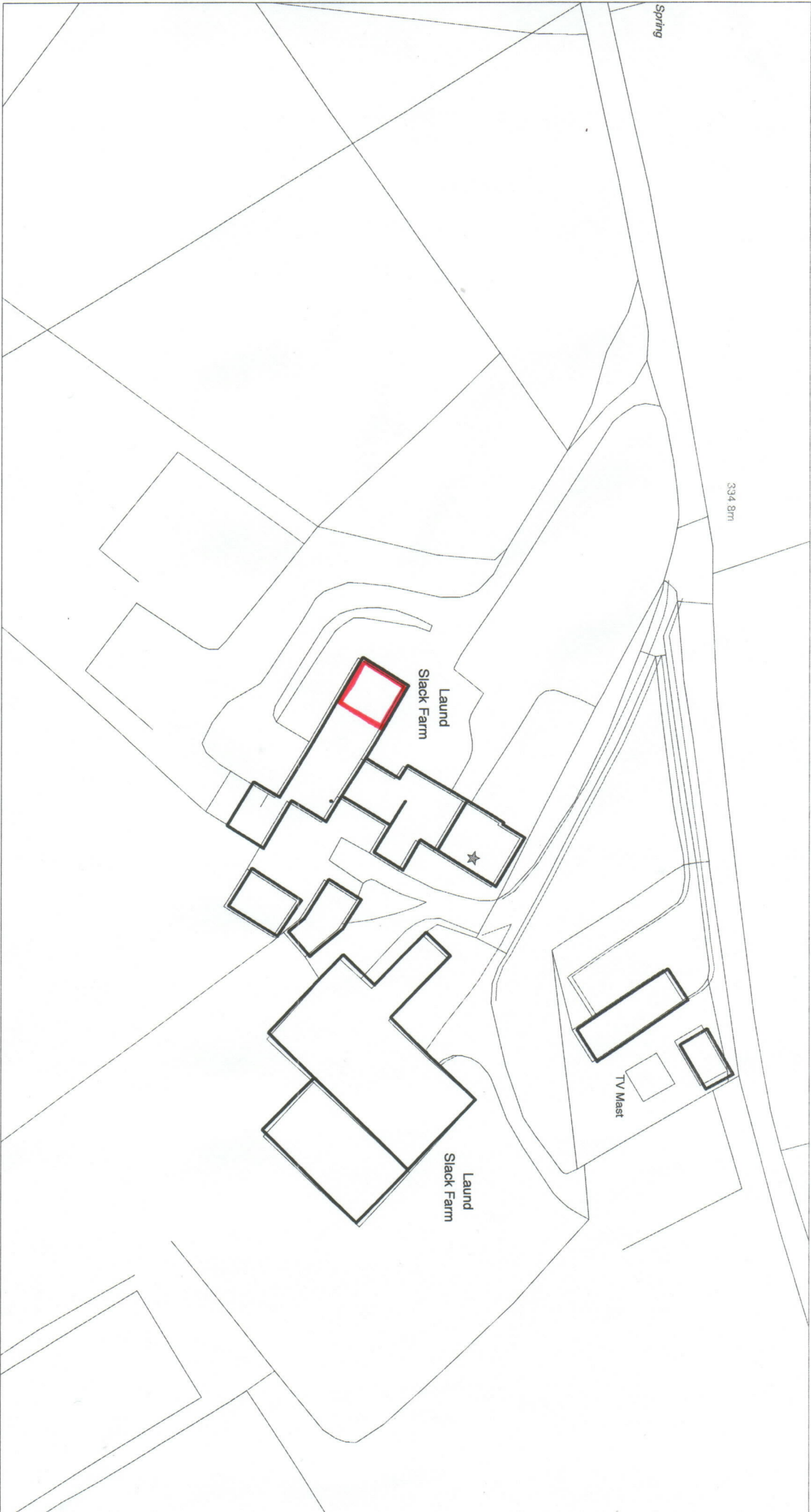
That the application be refused for the reason given below.

Reason for Refusal

1. The removal of condition 3 on planning application 2000/018 would, if approved, lead to the creation of an additional dwellinghouse in the Countryside which would be contrary to Policy DS1 of the Rossendale District Local Plan which seeks to locate new development within a defined urban boundary.
2. The proposed development would contribute towards an inappropriate excess in housing-supply provision which would be contrary to Policy 12 of the adopted Joint Lancashire Structure Plan. No or insufficient justification has been advanced to otherwise warrant the grant of permission for the proposed development.

Background documents

Adopted Joint Lancashire Structure Plan 2001-2016
Planning Policy Guidance Note 3
Rossendale District Local Plan 1995



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