

**Town and Country Planning Act 1990
Section 78 Appeal**

Appeal at Glenmore Cottage, Higher Penley, LL13 0NB.

COUNCIL'S STATEMENT OF CASE

PINS Ref: APP/H6955/A/20/3262100

LPA Ref: P/2020/0235

1 INTRODUCTION

- 1.1 The Council will primarily rely on the Case Officer Report appended to this document as Appendix 1 for the appeal. The Council request that the appeal be dismissed for the reasons set out on the planning decision notice.
- 1.2 Additional information to accompany the Case Officer Report is set out below.

2 ADDITIONAL INFORMATION

Reason for Refusal 1

Garage Conversion and Extension / Conversion of and Extension to Main Dwelling

- 2.1 The Officer Report mainly refers to UDP Policy H3 in relation to the assessment of the garage conversion and extension. Whilst the principles applied to in UDP Policy H3 are considered to be relevant i.e (floorplan of the existing building must be sufficient to create a habitable dwelling, resulting curtilage does not cause an undesirable intrusion into the landscape or create access problems), Policy H4 deals with sub-division of existing dwellings and is therefore also relevant in this part of the assessment.
- 2.2 The garage currently forms part of the existing dwelling and its associated curtilage and the proposal for its extension and conversion to a separate dwelling unit, would therefore result in a sub-division of the existing dwelling.
- 2.3 Policy H4 states that sub-division of existing dwellings will only be permitted where, amongst other criteria, *'sub-division is possible without major alterations and extensions which would significantly alter the character of the original dwelling; and the proposal accords with UDP Policy GDP1 and; adequate private open space is provided'*.
- 2.4 The proposal would require extending the garage to provide the required floor space necessary. No garden area is shown on the submitted Proposed Site Plan. Based on the site context, it is reasonable to assume that the garden would have to extend into the paddock area north and west of the site, encroaching further into open countryside.
- 2.5 To achieve the sub-division of the main dwelling would require a two storey rear extension. The proposal would result in an additional 3 bed dwelling. It should be noted, that no Floor Plans or Elevations Plans have been submitted of the existing dwelling, therefore the internal layout of the existing dwelling is unknown.
- 2.6 Based on the submitted proposed floor plans, the internal layout of the proposed additional dwelling would appear cramped, particularly at first floor level, with provision of three small bedrooms and a small bathroom. The proposal would result in cramped accommodation even with the extension to

the rear. The main dwelling and site itself does not lend itself well to sub-division.

- 2.7 No parking layout is shown for the existing dwelling, it is unknown therefore where parking serving the main dwelling would be accommodated
- 2.8 The entire sub-division of the main dwelling and its garage and associated curtilage into 3 no. separate units is considered would be overdevelopment and would alter the existing layout and character of the current situation, which comprises a fairly large dwelling with garage and rear garden.
- 2.9 The proposal would appear more urban in nature than the current situation, with the garage design appearing overly domestic and contrived, as well as a long driveway leading through the site and skirting around to the west, in order to provide parking for the additional dwelling. The proposal would appear over-engineered and generally unsympathetic, in relation to its existing rural context and character.
- 2.10 In terms of impacts to residential amenities, the proposed ground floor dining/living room windows serving the additional dwelling would appear to measure approximately 7m away from the proposed facing windows serving the lounge/diner of the converted garage.
- 2.11 Local Planning Guidance Note 21 states that there should be a minimum distance of 22m between facing habitable windows. The proposal would result in a breach of this guidance by 15m, resulting in direct overlooking between any occupants of these properties.
- 2.12 This is a further indication that the sub-division of the existing dwelling and its curtilage into three separate properties would represent overdevelopment of the site.
- 2.13 Having regard to the above, as well as the contents within the Officer Report, this part of the proposal would fail to comply with UDP Policies H3, H4 and H5, as well as the provisions set out within Local Planning Guidance Note 21.

Conversion of stable block

- 2.14 In addition to what has already been stated in the Officer Report in particular that no courtyard elevations of the proposal have been submitted and the sub-standard amenity of proposed occupants, this part of the scheme appears overly engineered, with a long driveway leading to the barn conversion scheme, as well as to the parking area for the proposed additional dwelling.
- 2.15 The doors shown on the Proposed North Elevation of the stable block are considered would appear overly domestic and at odds with the relatively traditional character and appearance of the stable block.
- 2.16 Proposed boundary treatments have not been shown.

- 2.17 This part of the proposal is considered would represent overdevelopment and whilst the existing stable block is not generally considered to be particularly reflective of traditional agricultural buildings typically seen in the countryside such as brick built barns, the resultant design and layout of the stable block is considered to be fairly domestic in appearance (notwithstanding the absence of the courtyard elevations of the building) and would not make a positive contribution to the locality on this basis. This part of the scheme is also considered would conflict with UDP Policies H5, H3 and GDP1, as well as the provisions set out in Local Planning Guidance Notes 03 and 13.

Reason for Refusal 2

Impact on the Hedgerow

- 2.18 Further information was required in relation to the removal/setting back of the entire hedgerow along the roadside frontage (as shown on the 1:500 Proposed block Plan), in the form of a Phase 2 Ecological Assessment, mitigation measures and a detailed method statement on how the works would be achieved.
- 2.19 The relocation of hedgerows are generally considered to have mixed success and dependent on age and species, new planting or a mix of transplant and new planting might be considered more appropriate.
- 2.20 Furthermore, if the re-location of the hedgerow resulted in the loss of all or part of the hedge, this is considered could potentially adversely impact on visual amenities of the locality, given the hedge currently appears to be well defined and established along this section of roadside, contributing to the rural context of the site and surrounding area.
- 2.21 The required information outlined in paragraph 2.18 therefore applies and is required to be submitted to establish the impact the relocated hedgerow would have on ecology as well as visual amenities.
- 2.22 In the absence of this information, the proposal fails to comply with UDP Policies EC6 and GDP1.

Reason for Refusal 3

Impact on Bats

- 2.23 As outlined in the Officer Report attached at Appendix 1, the Council's Ecology Officer advises that whilst the submitted Bat Survey is considered to be acceptable, no mitigation has been shown on the submitted plans. A protected species license will be required, and to ensure that the three tests as set out in the Habitat Regulations will be met, the mitigation should clearly be shown on the submitted plans. As such, locations of bat bricks and number, as well as location and type of boxes should be shown on the plans.

- 2.24 These were not submitted as part of the application and have not been submitted as part of the appeal. The information outlined above is required up front to ensure the three tests set out in the Habitats Regulations can be met.
- 2.25 Please note the third reason for refusal on the decision notice refers to Regulation 44 of the Habitat Regulations, in relation to the impact of the proposal on bats. This is also referred to in the Case Officer Report, attached at Appendix 1. The reference to Regulation 44 is an error. However, the Council are of the view that the overall reason for refusal remains valid given the appellant has not demonstrated that the relevant mitigation and subsequent bat license can be achieved.

Impact on Great Crested Newts

- 2.26 There are known populations of Great Crested Newts in the area. The Council's Ecology Officer advises that a historical record search should be completed and an assessment of water bodies within 250m of the appeal site undertaken. A Method Statement for the proposed works was required to be submitted up front, to demonstrate that the proposal would have no impact on Great Crested Newts.
- 2.27 No information was submitted during the application process or during the appeal process.
- 2.28 The third reason for refusal in relation to the impact of the proposal on Great Crested Newts remains valid.

Reason for Refusal 4

- 2.29 As outlined in the Officer Report and in the Highway Authorities response dated 7th September 2020 and attached at Appendix 2, there is restricted visibility at the site access with the A539, which would result in unsafe means of vehicular access onto the highway. The visibility splay to the west appears to cut across third party land, of which, no information has been submitted to demonstrate that the splay is achievable in this respect. The proposal would conflict with UDP Policy GD1 (d), which requires all new development to have safe and convenient pedestrian and vehicular access to and from development sites, both on site and the nearby locality.
- 2.30 The fourth reason for refusal remains valid.

Reason for Refusal 5

- 2.31 UDP Policy CLF6 requires that the existing pattern of public rights of way are protected, maintained and improved and any potential new routes are identified and safeguarded.
- 2.32 As outlined in the Officer Report, the parking area for unit A would appear to obstruct the footpath and the footpath passes through the garden area of unit

A, which appears to have a boundary feature separating it from the parking area, therefore also obstructing the footpath. The submitted Site Plan showing the alignment of the footpath is attached at Appendix 3.

- 2.33 The Council's Public Rights of Way Team advise that the development cannot be supported in its current form, but that the appellant can apply for a diversion, subject to a suitable alternative route being agreed.
- 2.34 No such diversion was put forward by the appellant during the application process and to my knowledge, no such diversion has been proposed during the appeal process.
- 2.35 The proposed development would result in an obstruction to Penley Public Footpath 24. No information has been submitted to demonstrate how the footpath would be protected or maintained, therefore conflicting with UDP Policy CLF6.

Conclusion

- 2.36 For the reasons set out above, as well as the justification outlined in the Officer Report, the Council respectfully requests that the appeal be dismissed.

3 OTHER MATTERS

- 3.1 Please note, the plan titled 'Site Block Plan' (Dwg No. FV7/HP0219/2a) has been included in the set of plans submitted with the Council's Questionnaire. This is an error and should be omitted from the plans on which this appeal is based.
- 3.2 The Proposed Elevations and Floor Plans of the Garage Conversion, titled 'Working Drawing' and referenced Dwg No. FV7/HPO219/4, was not included in the set of plans submitted as part of the Council's Questionnaire. This will need to be taken into account as part of the appeal.
- 3.3 For ease of reference, the plan is attached at Appendix 4.

4 SUGGESTED CONDITIONS

- 4.1 Should the appeal be allowed, a list of suggested conditions is attached at Appendix 5.