

# Item

Report to: **Development Control and Regulatory Panel**

Date: **5 February 2008**

Report of: **Head of Planning and Building Control Services**

Subject: **Planning Investigations Report - Conversion of Farm Buildings into Three Dwellings at Thornley Moor Farm, Cassop, Nr Thornley**

Ward: **Thornley and Wheatley Hill**

## **Purpose of Report**

This report is to advise the Panel of the current situation with the development, and of potential future actions which may prove necessary. It is an up-date of a previous report considered by the Panel on 14 August 2007.

## **The Planning Permission**

A planning application was received in January 2006 for the conversion of existing agricultural buildings to provide three dwellings. The existing structures were to be substantially retained, an arrangement supported by a structural survey submitted with the application. Some sections of new build were proposed for certain parts of the development. A letter of objection was received from a neighbouring property, expressing concerns about access, increased traffic, privacy and drainage.

After taking these comments and other representations into account, planning permission was granted by the Development Control and Regulatory Panel on 6 June 2006.

## **The Development**

Work started on site around May 2007. During the course of the works, the applicants requested agreement to demolish and rebuild some walls for structural reasons, a course of action supported by the Council's Building Inspector. Normally, approval of a barn conversion would require retention of the existing structure, and unauthorised demolition could render the development unauthorised. In this instance, planning officers agreed to allow the demolition and rebuilding as a minor amendment on the basis that the development would then be completed in accordance with the approved plans.

The Council subsequently received a complaint that the works were not in accordance with the approved plans. Measurements taken on site by planning officers confirmed that the newly-built walls were not in the approved positions. The applicants were advised that they could remove the new walls and reposition them in accordance with the approved plans, or make a new application for the works as implemented. They repositioned the walls as approved, allowing the development to continue in accordance with the planning permission granted.

In confirming agreement to that amendment, it was made clear in a letter to the applicants that any further demolition without the Council's prior written agreement would not be in accordance with the planning permission.

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As previously reported, the applicants subsequently requested permission to demolish another of the original walls of the barns, the northern elevation wall facing the neighbouring property. This request was refused, and they were asked to submit a detailed strategy for retaining the wall in order to integrate it with the development. A strategy was produced, and until recently, works had progressed in accordance with its requirements.

Towards the end of last year, the applicants requested permission to remove the upper sections of brickwork on this wall, claiming they were not part of the original structure but were part of a larger building which had been attached to it and demolished as part of the planning permission. They also contended that these sections of brickwork were unsupported and were structurally unstable. Acting on advice from the Council's structural engineer, officers agreed to the removal of the smaller of the two sections, but advised that the larger section could and should be retained.

This matter was the subject of further correspondence between the applicants and planning officers, with the Council maintaining its position. Despite this advice, the applicants indicated, at the beginning of January, that the second section of the upper brickwork had been demolished. They were advised that this was a breach of planning control, and the Council would need to determine what action would be appropriate.

In addition to this particular matter, further works have taken place at the site that are not in accordance with the planning permission. These include the creation of an additional internal access road, as well as another access road which has been partially constructed just outside the southern and eastern boundaries of the application site. This latter road includes a vehicle turning/parking area that is located within the application site on its eastern side. The applicants have indicated verbally that the road is not related to the approved development, and have agreed to remove the unauthorised works that extend from it and lie within the application site. Other works at variance with the approved scheme include the construction of stone planters on the southern elevation; and the construction of an agreed north boundary wall with an external face of blockwork, when the plans specify a "1.2m high stone wall". These works are considered to adversely affect the appearance of the development and are thus not considered acceptable.

The development has also been the subject of a series of complaints from a nearby resident, as well as an on-going Ombudsman investigation into the way the case has been dealt with. One of the specific complaints is that the applicants were required to provide an amended access to the new development, and although they have done so, they continue to use the original access which runs past the neighbour's house. Against this general background, careful consideration needs to be given as to the Council's response to the breaches of planning control.

## **Options for enforcement action**

The Council needs to consider whether legal action is appropriate in respect of the various issues raised. Each is considered in turn, as follows:

- further demolition of brickwork – at the time of preparing this report, the applicants have indicated that work has commenced on rebuilding the section of wall using bricks reclaimed from the demolition. If the rebuilt wall is of a different appearance to the demolished section, consideration would need to

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be given as to whether any differences were sufficient to justify legal proceedings, and what such action would be likely to achieve.

- creation of additional internal access road – this has been the subject of lengthy correspondence between the applicants and the Council. An access arrangement has been agreed, but the applicants have sought to vary this by introducing a second access point from the new, approved road. Officers consider this to be unjustified and inappropriate, and have continued to decline requests for a second access point.
- unauthorised works within the site – the applicants have indicated that they would remove these, but have not yet done so nor provided a timescale for carrying out these works.
- partially constructed road outside the site – this needs to be assessed in terms of its intended purpose, to determine whether a separate planning application or enforcement action is appropriate.
- continuing use of original access – at the time of preparing this report, the Council is in the process of seeking legal advice on the enforcement of the planning conditions relating to the requirement for an amended access.

## **Conclusions and Recommendations**

The Panel is recommended to agree to the following actions:

1. Further demolition – that clarification is sought as to the likely finished appearance of the rebuilt section of wall, and consideration is given to pursuing enforcement action if the matter is not resolved to the Council's satisfaction.
2. Additional internal road – that the Council requires this to remain in the agreed position, and that any significant variation can only be dealt with by submission of a new planning application.
3. Unauthorised works within the site – that the applicants are requested to remove the unauthorised works and provide a stone facing to the outer elevation of the north boundary wall within a period of four weeks, otherwise enforcement action will be initiated.
4. Partially constructed road outside the site – clarification is being sought as to whether this road is associated in any way with the development, with a view to considering possible enforcement action or a request for a planning application. The Panel will be updated with any further information on this matter.
5. Continuing use of original access – depending on the outcome of legal advice, enforcement action may be pursued. It is hoped that preliminary advice will be available for the Panel meeting.

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6. That authority is delegated to the Head of Planning and Building Control to take any necessary enforcement action in respect of the above matters, and any other breaches of planning control which may occur in connection with the development.



**Graeme Reed**  
**Head of Planning and Building Control**

## **Background Papers**

The following background papers have been used in compilation of this report:

- i) The individual case file.
- ii) The District of Easington Local Plan.
- iii) Human Rights Articles in Planning Magazine.
- iv) Human Rights Articles in the Journal of Planning and Environmental Law.
- v) Planning Policy Guidance Note 18 – The Enforcement of Planning Control
- vi) Circular 10/97 – Enforcing Planning Control – Legislative and Procedural Requirements.
- vii) Enforcing Planning Control – Good Practice Guide for Local Planning Authorities.
- viii) Advice note No. 6 of the Royal Town Planning Institute – Enforcement of Planning Control.