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## Appeal Decision

Site visit made on 15 November 2016

**by Daniel Hartley BA Hons MTP MBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 November 2016**

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### **Appeal Ref: APP/C9499/W/16/3153615**

### **Long Streets Barn, Cowan Bridge, Carnforth, Lancashire LA6 2JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class Q(a) and Q(b) of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mrs Helen Caton against the decision of Lancaster City Council.
  - The application Ref 16/00573, dated 4 May 2016, was refused by notice dated 27 June 2016.
  - The development proposed is the conversion of a stone barn to residential.
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### **Decision**

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the conversion of a stone barn to residential at Long Streets Barn, Cowan Bridge, Carnforth, Lancashire LA6 2JJ, in accordance with the terms of the application Ref 16/00573, dated 4 May 2016, subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Existing and Proposed Site Plan and Drawing No CBBC 01/4/16 which includes the annotation "windows amended as requested 9/6/16".
  - 2) No development shall commence until details and samples (including colours and external finishes) of the following materials have been submitted to and approved in writing by the Local Planning Authority: windows; roof lights; external doors; sills; lintels; rainwater goods; slates; surface and boundary treatments; ridge tiles; flues and the method of fixing the guttering. The development shall be undertaken in accordance with the approved details and retained as such at all times thereafter.
  - 3) Notwithstanding the details shown on the approved plans, the size and location of roof lights shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and retained as such at all times thereafter.
  - 4) Notwithstanding the details shown on the approved plans the roof lights shall be installed to have a flush finish with the roof slate.

- 5) Notwithstanding the details shown on the approved plans the external doors and windows shall all be recessed at least 150mm from the outside face of the external walls.
- 6) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), no development under Classes B and C of Part 2 and Classes A, E, F, G and H of Part 14 of Schedule 2 to that Order shall be carried out without the express permission of the Local Planning Authority.
- 7) Prior to first occupation of the building details of the foul drainage system shall be submitted to and agreed in writing by the Local Planning Authority. The development shall not be occupied until the approved details have been fully implemented, and thereafter the foul drainage system shall be retained and maintained at all times.
- 8) The access arrangements, turning areas and parking facilities as shown on the proposed site plan drawing shall be provided in full prior to the occupation of the associated dwelling, and retained as such at all times thereafter for their required purpose only.

### **Procedural Matters**

2. The application was determined by Lancaster City Council. However, boundary changes to the Yorkshire Dales National Park and Lake District National Park have been approved and took effect on 1 August 2016. The expansion of these two parks means they have taken on planning responsibilities for some areas previously covered by South Lakeland DC, Eden DC and Lancaster City Council.
3. As a result of the boundary changes, which post date Lancaster City Council's refusal notice, the appeal site now falls within land to which the Yorkshire Dales National Park Authority (YDNPA) is responsible in planning terms. Consequently, I have taken into account representations made by the YDNPA in respect of this appeal. It was also a consultee on the original planning application and I note the comments that were made at that stage.
4. Statutory Instrument 2016 No 703 "*The National Park Authorities (England) (Amendment) Order 2016*" includes transitional arrangements in respect of the boundary changes. In summary, this means that, as the appeal was made before 1 August 2016, it should be determined on the basis of the permitted development rights that were in existence for the site before it became part of the Yorkshire Dales National Park. In other words, in considering whether or not the proposal is permitted development, it is not necessary for me to consider the site as being Article 3(b) land for the purposes of applying Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. Both the Council and the appellant were afforded the opportunity to comment on this matter and they have confirmed that they concur with this view.
5. An Amended plan was received by the local planning authority during the determination of the planning application. The amendments related to window sizes and design. However, the amended floor/elevation plan has the same reference number as the original floor/elevation plan. It does, nonetheless,

include an annotation which states "*windows amended as requested 9/6/16*". I have considered this plan for the purposes of determining this appeal.

## **Main Issues**

6. The main issue relates whether or not the proposed location or siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

## **Reasons**

### *Site and Proposal*

7. Long Street Barn forms part of the farm complex of Long Street Farm. It is a stone barn with a combination of fibre cement and tin sheets for the roof. It is positioned within a field to the west of the Long Street Farm. It is reached along a stone track leading from Long Street Farm (a group of agricultural buildings) which is about 300 metres away.
8. It is proposed to convert the barn into a dwelling. Most of the existing openings would be utilised and there would be some new openings including the installation of conservation roof lights. The existing side gable, which is constructed from profiled steel sheeting, would be replaced with a stone wall with window openings. It is understood that the barn has been used primarily for agricultural machinery storage in recent years.

### *Permitted Development*

9. The question of whether or not the proposal is permitted development is not a matter that is in dispute. Given the procedural section above, and the information provided by the appellant, I have no reason to disagree with the views expressed by the main parties about this matter. I conclude that the proposal is permitted development and hence it is acceptable for me to consider the appeal proposal against the relevant prior approval criteria.

### *Impractical and Undesirable*

10. Class Q.2 1 of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) outlines the detailed considerations which should be applied when determining such a prior approval application. This includes Class Q.2 (e) which states that the developer must apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required as to "*whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order*". Prior approval was refused by Lancaster City Council as it was considered that it would be "*impractical*" for the building to change from an agricultural use to a dwelling as it was considered to be "*divorced from any services*".
11. The YDNPA have used both the Lancaster City Council delegated officer report, as well as its own appeal statement, to substantiate the reason for refusal. In essence, the view of YDNPA is that it would be impractical to convert the agricultural building as (i) the site is some distance away from public services; (ii) that there is no formal access provision; (iii) that there is no private

amenity space or existing utility services; (iv) that the extent of alterations to the building for human habitation would adversely affect its external appearance and (v) that the building falls within an area of exceptional scenic beauty and the character and appearance of the existing building is an important component of the landscape character.

12. In considering the reference to "impractical", I have taken into account advice in paragraph 109 of the Planning Practise Guidance (PPG) which states that *"when considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval"*. Therefore, whilst I acknowledge that the appeal building falls within countryside (and now a designated National Park), this is not in itself justification for dismissing the appeal.
13. I have carefully considered the information provided by the appellant. I acknowledge that the building does not currently have a water supply or electricity connection. However, I note that the appellant proposes to connect an underground armoured electricity cable and a water pipe to the nearby agricultural buildings. I have no reason to doubt the appellant's claim that it would cost about £1500 for the electricity cable installation. Furthermore, in respect of fibre broadband, I do not doubt that it would be possible to connect to a BT pole at Kirkriggs which is not very far from the site. I can see no reason why it would not be possible to have a septic tank (or treatment plant arrangement) in place to deal with foul drainage matters: this is not an uncommon arrangement in countryside locations.
14. Access to the barn is along an existing stone track (about 224 metres). Whilst it is uneven in parts, I do not doubt that it could, if necessary, be repaired from time to time. Indeed, it would likely be possible to do this now utilising permitted development rights under Class E of Part 9 of Schedule 2 of the GPDO. In any event, I note that the appellant has a 4x4 vehicle and that he does not intend to make changes to the existing track. As part of my site visit, I walked this track and it would be easy to drive this route in a 4x4 vehicle.
15. Taking into account the above considerations, I do not consider that it would be impractical to convert the agricultural building to a dwelling in terms of access or utility services. It would be entirely practical to put in place reasonable utility services and for the existing access to be used. I acknowledge that the appeal site does fall within the open countryside, but paragraph 108 of the PPG states that *"the permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and many not be able to rely on public transport for their daily needs"*. I therefore conclude that the location or siting of the appeal building would not make it otherwise impractical for the building to change from agricultural use to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order.
16. The appeal building is positioned some distance away from the existing agricultural buildings. Given the degree of separation from other farm buildings, there are no compelling reasons to suggest that surrounding

uses/buildings would make it undesirable for the building to change from an agricultural use to a use falling within Class C3 (dwelling houses).

### **Other Matters**

17. The YDNPA has made reference to the number of window openings proposed and the effect that this would have upon the character and appearance of the building. Design/external appearance was not a specific reason for refusal in respect of Lancaster City Council's refusal notice. Nonetheless, I have considered the proposal from a design/external appearance point of view (including the replacement of the western tin sheet gable with a stone wall) and note that most of the existing openings would be utilised and that the number of additional openings would be minimal. I do not consider that the proposal would be unacceptable in design/external appearance terms. I note that neither Lancaster City Council nor YDNPA considered that the proposal was not permitted development because the extent of window/door openings were not *"reasonably necessary for the building to function as a dwelling house"*.
18. The YDNPA has made reference, in terms of whether it would be practical to convert the building, to the fact that the agricultural building does not have any existing private amenity space. This is the case for many agricultural buildings. Class Q of Schedule 2 of Part 3 of the GPDO permits the change of use of an agricultural curtilage to residential use in respect of *"(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building whichever is the lesser"*. The proposal complies with this requirement and hence it is not necessary for me to consider this matter any further.
19. There is no dispute between the main parties about the acceptability of the proposal in terms of the other prior approval assessment criteria, namely in respect of transport and highway impacts, noise, contamination and flooding. I have no reason to consider that the proposal would be unacceptable in respect of these additional matters.

### **Conditions**

20. The conditions set out in the decision are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the PPG. In respect of Class Q the GPDO states that "the local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval".
21. Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date. It is not therefore necessary for me to impose a condition relating to this matter as it is referred to in the GPDO. Amended plans were submitted at planning application stage and it is therefore necessary to impose a planning condition relating to these drawings.
22. In the interests of the design/external appearance of the building, it is necessary to impose planning conditions relating to construction materials, the

- roof lights and external doors/windows. Whilst the appellant has indicated the use of conservation roof lights, it is still necessary for the local planning authority to control specific details.
23. The Council has suggested the blanket removal of permitted development rights in respect of Parts 1, 2 and 14 of Schedule 2 of the GPDO. Paragraph 17 of the PPG states that *"conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances"*.
24. It is not necessary to remove Part 1 permitted development rights as the GPDO states that *"permitted development rights do not apply if permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of (Class M, N, P, PA or Q of Part 3) of this Schedule (Change of Use)"*.
25. In respect of Part 2 of the GPDO (there is no reference to permitted development rights not applying to Class Q development), I do not consider that it would be necessary for the Council to control a possible electrical outlet and/or upstand for recharging vehicles. I cannot envisage that such development would cause material harm to the design/external appearance of the building. I do not consider that it is necessary to remove permitted development rights relating to the erection of fences/other means of enclosure as the curtilage to the building is both tight and defined.
26. As regards the removal of Class B, Part 2 permitted development rights (ie means of access to a highway), I consider that it would be necessary to remove these rights so that the local planning authority could continue to control any additional transport and highway impacts arising out of use of the appeal building for residential purposes. Whilst I do not consider that the installation of closed circuit television cameras would cause significant harm to the design/external appearance of the building, the painting of external walls could have a detrimental impact. In this regard, I do consider that there is exceptional justification for removing this permitted development right.
27. As regards Part 14 of the GPDO (there is no reference to permitted development rights not applying to Class Q development), I do not consider that there is exceptional justification for removing all of the classes of development. There is only exceptional justification for removing specified permitted development rights relating to the possible alteration(s) to the design/external appearance of the building. I do not consider that it would be reasonable to remove permitted development rights in respect of the renewable energy classes of development that relate to the curtilage of the dwellinghouse as this would not directly relate to the design/external appearance of the building itself. In any event, the curtilage would be very tight and I cannot envisage any material harm being caused by such development within the defined curtilage. Even if I could remove such permitted development rights, I do not consider that there would be sufficient exceptional circumstances in place to justify doing so.
28. In the interests of ensuring that there are no contamination risks on the site, a planning condition is necessary relating to foul drainage. In order to ensure that transport and highway impacts are acceptable, a planning condition is necessary to ensure that car parking and turning areas are retained.

29. The YDNPA has suggested the removal of Class E of Part 9 of Schedule 2 of the GPDO permitted development rights. In essence, this would mean that permitted development rights to "*maintain*" or "*improve*" the existing access track were removed. I do not consider that the removal of such rights would reasonably relate to "*transport and highway impacts of the development*". The removal of such rights would relate more to the appearance of the access track, when in fact I consider that prior approval criteria "*transport and highway impacts of the development*" relates instead to the volume of traffic / safe use of a highway(s).
30. The YDNPA suggests that the imposition of the above condition would be necessary in order to "*protect the character of the building and its setting within the Yorkshire Dales National Park*". I do not consider that the maintenance or improvement of the access track would cause harm to the "*design or external appearance of the building*". On the basis of the evidence before me, Class E of Part 9 permitted development rights exist now and hence it would be possible for the appellant to "*maintain*" or "*improve*" the access track in advance of the implementation of this prior approval application. For these reasons, and also taking into account advice in the PPG which states that permitted development rights should only be removed in exceptional circumstances, I do not consider that it would be reasonable or necessary to remove Class E of Part 9 permitted development rights.
31. The YDNPA suggested a condition which requires that all vehicular gates be 5 or 6 bar agricultural gates of timber construction. Notwithstanding the appellant's agreement to such a condition being imposed, it would not reasonably relate to any of the subject matters of the prior approval. I have not therefore imposed this suggested condition.

### **Conclusion**

32. I have taken into account the transitional arrangements as outlined in Statutory Instrument 2016 No 703 "*The National Park Authorities (England) (Amendment) Order 2016*". In respect of Class Q of the GPDO, I have determined the appeal as if the appeal site were not in a National Park.
33. In conclusion, I am satisfied that the proposal is permitted development. For the reasons outlined above, the proposed location or siting of the building would not make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within class C3 (dwellinghouses). I have also considered the proposal against the other prior approval assessment criteria including transport and highways impacts, noise impacts, contamination risks, flooding risks and design/external appearance. I conclude that, in respect of all detailed prior approval criteria, the proposal would be acceptable and that it would accord with the associated and relevant parts of the National Planning Policy Framework. For these reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

*Daniel Hartley*

INSPECTOR