
Appeal Decisions

Site visit made on 6 July 2016

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

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

Decision date: 4th January 2017

Appeal A: Ref: APP/P1615/W/16/3146584 Friars Court, Kempley, Dymock, GL18 2AT

- 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 Mrs Kate Blandford against the decision of Forest of Dean District Council.
 - The application Ref P/1834/15/FUL, dated 4 December 2015, was approved on 8 February 2016 and planning permission was granted subject to conditions.
 - The development permitted is conversion of agricultural barns to three residential dwellings and demolition of single storey Dutch barn.
 - The condition in dispute is No 10 which states that: *Prior to the commencement of the works hereby approved a schedule and specification for the repair and long term maintenance (with timescale) of the external envelope of the Grade II Listed Barn (Thresher Barn) shall be submitted to and be approved in writing by the Local Planning Authority. For the avoidance of doubt the schedule shall cover the repair of the structural framing, the external boarding, the stone plinth, the corrugated metal sheet roof and provision of adequate rainwater goods and drainage. Thereafter, the repair works and long-term maintenance of the external envelope of the Grade II Listed Building shall be fully implemented into[sic] accordance with the approved details.*
 - The reason given for the condition is: *In order to ensure that the potential harm created to the setting of the Grade II Listed Building is 'off-set' and the Listed Building is satisfactorily preserved and the architectural and historic interest of the Building is enhanced/safeguarded in accordance with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) [sic]. The guidance with[sic] Sections 7,11 and 12 of the National Planning Policy Framework, The National Planning Practice Guidance, Policy CSP.1 of the Core Strategy and Policies AP.4 and AP.5 of the emerging Allocations Plan for future generations.*
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Appeal B Ref: APP/P1615/Y/16/3146611 Friars Court, Kempley, Dymock, GL18 2AT

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against the grant of listed building consent subject to conditions.
 - The appeal is made by Mrs Kate Blandford against the decision of Forest of Dean District Council.
 - Listed building consent Ref P1835/15/LBC was granted on 4 December 2015 subject to conditions.
 - The works proposed are conversion of agricultural barns to three residential dwellings and demolition of single storey Dutch barn.
 - The condition in dispute is No 09 which states that: *Prior to the commencement of the works hereby approved a schedule and specification for the repair and long term maintenance (with timescale) of the external envelope of the Grade II Listed Barn (Thresher Barn) shall be submitted to and be approved in writing by the Local Planning Authority. For the avoidance of doubt the schedule shall cover the repair of the structural framing, the external boarding, the stone plinth, the corrugated metal sheet*
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roof and provision of adequate rainwater goods and drainage. Thereafter, the repair works and long-term maintenance of the external envelope of the Grade II Listed Building shall be fully implemented into[sic] accordance with the approved details.

- *The reason for the condition is: In order to ensure that the potential harm created to the setting of the Grade II Listed Building is 'off-set' and the Listed Building is satisfactorily preserved and the architectural and historic interest of the Building is enhanced/safeguarded in accordance with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) [sic]. The guidance with[sic] Sections 7,11 and 12 of the National Planning Policy Framework, the National Planning Practice Guidance, Policy CSP.1 of the Core Strategy and Policies AP.4 and AP.5 of the emerging Allocations Plan for future generations.*
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Decisions

1. Appeal A is allowed and the planning permission Ref P/1834/15/FUL for conversion of agricultural barns to three residential dwellings and demolition of single storey Dutch barn at Friars Court, Kempley, Dymock, GL18 2AT granted on 8 February 2016 by Forest of Dean District Council, is varied by deleting condition 10.
2. Appeal B is allowed and the listed building consent Ref P1835/15/LBC for conversion of agricultural barns to three residential dwellings and demolition of single storey Dutch barn at Friars Court, Kempley, Dymock, GL18 2AT granted on 8 February 2016 by Forest of Dean District Council, is varied by deleting condition 9.

Background and Main Issues

3. Friar's Court farm includes a 19C brick built farmhouse and a range of 19C brick built farm buildings including a two storey granary. In addition, the farm has more modern agricultural buildings. Also within the farm is a timber framed, timber clad threshing barn which is listed, Grade II, and is described as dating from the 15C, 17C and 19C. These buildings are grouped together within the appellant's farmland which the Council advise extends to some 148 acres of mixed arable and grassland. There were cattle and sheep on the farm at the time of my site visit. In my decision I refer to the timber framed Grade II listed barn as the threshing barn or listed barn and the buildings proposed for conversion to dwellings as the brick farm buildings.
4. The evidence indicates that the appellant first made an application for prior approval to convert the buildings under permitted development provisions. However, this application was withdrawn as the Council considered the buildings to lie within the curtilage of the listing threshing barn. The appellant in the grounds of appeal questions whether the buildings to be converted are listed. However, an application for listed building consent was submitted and determined and the appeals before me relate to both the planning permission and the listed building consent and I deal with the appeals on this basis.
5. The appellant sought planning permission and listed building consent to convert the range of brick farm buildings to three dwellings. The proposed scheme includes the demolition of a metal clad Dutch barn immediately adjacent to the threshing barn. The application site is defined by a red line on the 1:2500 scale location plan and is drawn closely around this group of buildings and excludes the farmhouse, threshing barn and the more modern agricultural buildings.

6. In reaching a decision on whether to grant planning permission and listed building consent for the proposals, the Council had a statutory duty to pay special regard to whether the proposals would preserve the special architectural or historic interest and setting of listed buildings. In reaching the decision to allow the proposals, the Council must have reached the conclusion that the proposals would preserve the setting of the listed threshing barn and preserve the brick farm buildings.
7. Taking the above into account, the main issue in each of these appeals is whether the disputed condition is necessary and reasonable.

Reasons

8. Paragraph 203 of the National Planning Policy Framework (Framework) sets out that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 206 of the Framework states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
9. The application submissions addressed the effect of the proposals on the brick farm buildings to be converted. The submissions also addressed the effect of the proposals on the setting of the threshing barn, stating it would not be directly affected by the works and its setting would not be adversely affected. The applications as submitted did not include the threshing barn within the application site or suggest that the conversion scheme was intended to fund repairs to the threshing barn. The proposal included the demolition of the metal clad Dutch barn, the site of which would be used for car parking spaces to serve the proposed dwellings. The removal of the Dutch barn was stated by the appellant as enhancing the setting of the threshing barn and the brick farm buildings.
10. The evidence indicates that the brick farm buildings to be converted are structurally sound, that minimal changes would be made to the external appearance of the buildings, and that the buildings to be converted are buildings of interest in their own right. From my visit to the appeal site, I agree that the buildings, which form a coherent group of 19C farm buildings around a farmyard, are buildings of some merit which warrant retention. The appellant advises they are largely redundant for agricultural purposes.
11. Friars Court is in an isolated location in open countryside. New dwellings in such a location would normally be considered as failing to meet the principles of sustainable development. However paragraph 55 of the Framework, which addresses rural housing, sets out examples of special circumstances where isolated homes in the countryside may be allowed, one of which is where development would re-use redundant or disused buildings and lead to an enhancement of the immediate setting. The Council's report refers to the principle of converting the barns being in accordance with Paragraph 55, subject to the scheme not having an adverse impact on the setting of the threshing barn.
12. The Framework includes a core planning principle that planning should conserve heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future

generations. Section 12 of the Framework addresses historic assets. The Council's Core Strategy¹ Policy CSP1 relates to design, environmental protection and enhancement. It states that new development must take into account important characteristics of the environment and conserve, preserve or otherwise respect them in a manner that maintains or enhances their contribution to the environment. The Council relies on this policy in respect of the setting of the threshing barn and the buildings which are the subject of the development proposals. Their report states that the Council's conservation advisor advises that the proposal would affect the setting and the significance of the listed building, but provided there are measures to secure the long term future of the listed barn and the landscaping round the converted barns is carefully conditioned, the risk to the significance and long term survival of the listed barn would be minimised. The explanatory text to the policy refers to new development making a positive contribution and this may include improvements.

13. The Council's report refers to concerns relating to the residential curtilages and residential paraphernalia being visible in the wider landscaping, detracting from the setting of the listed building. Planting of hedgerows is suggested as mitigating such impact to an acceptable level which can be controlled by condition. Of the conditions attached to the planning permission and excluding the disputed condition, eight conditions are added with reasons which include enhancing or safeguarding the special interest of the listed building. These conditions include the removal of the Dutch barn, hard and soft landscaping, requiring further details of several other matters and the removal of permitted development rights for extensions, alterations, outbuildings and hard surfacing. As the Council considers the brick farm buildings to be listed buildings, it is not clear whether each of these reasons refer to the brick farm buildings proposed for conversion or the threshing barn.
14. The disputed condition seeks to keep the threshing barn in a state of good repair and maintenance and describes this as 'off setting' potential harm arising from the conversions. Given the Council carried out the statutory tests in respect of considering whether the proposals would preserve the setting of the threshing barn, I would not expect the question of off-setting to arise. The threshing barn is not part of the development proposal. Whilst the Council refer in general terms to a lack of regular maintenance of the threshing barn, there is no evidence before me in the form of a structural assessment or inclusion on a register of buildings at risk to suggest that the threshing barn is at risk. There are provisions within the Planning (Listed Building and Conservation Areas) Act 1990 which may be used in the event that the threshing barn falls into disrepair. The Council refer to a repairs notice being a slow process carrying a risk of compensation. However, there are long standing provisions within the Act designed specifically to address buildings at risk. Moreover, no evidence is produced to support the Council's assertion that the threshing barn would fall into disuse rather than be used for the current low key storage use associated with the working farm.
15. Having considered the details of the submitted scheme and the site, taking into account the matters which the Council address by other conditions, I find that the proposals would, without the disputed condition, preserve the setting of the threshing barn and preserve the special interest of the brick farm buildings. As

¹ Forest of Dean Council Core Strategy Adopted Version 23 February 2012

such the proposals would satisfy the requirements of Section 66(1) and 16(2) of the Act, matters to which I have had special regard. The proposals would also comply with the Council's Core Strategy policies including Policy CSP4 which directs development to settlements but includes amongst possible exceptions to this building conversions.

16. I am satisfied from what I saw during my site visit that the removal of the Dutch barn would benefit the setting of both the threshing barn and the brick farm buildings. Furthermore, the brick farm buildings make a contribution to the setting of the threshing barn and would continue to do so as a consequence of the permitted conversion scheme subject to appropriate conditions.
17. Accordingly I find that the disputed condition in respect of the planning permission and the disputed condition in respect of the listed building consent would not be necessary to make the development acceptable. The proposals would comply with Policy CSP1 without the imposition of the disputed conditions. There are provisions to secure the repair of listed buildings should they fall into disrepair. The proposals would safeguard the setting of the listed barn by maintaining the brick farm buildings in a new use and the permission and consent are subject to conditions controlling their matters which affect their setting and that of the listed barn. Under these circumstances the conditions are also unreasonable.

Conclusions

18. For the reasons given above, and having taken all matters raised into account, I conclude that the appeals should be allowed.

J E Tempest

INSPECTOR