
Appeal Decision

Site visit made on 9 January 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 10 February 2017

Appeal Ref: APP/W4705/W/16/3160017

High Binns, Height Lane, Oxenhope, Keighley BD22 9PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Philip Maudsley against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 16/01852/FUL, dated 4 March 2016, was refused by notice dated 10 May 2016.
 - The development proposed is barn conversion as ancillary to dwelling at High Binns, minor extension of domestic curtilage, engineering works to create an underground car park within established curtilage and deposit of excavated material on adjacent field.
-

Decision

1. The appeal is allowed and planning permission is granted for barn conversion as ancillary to dwelling at High Binns, minor extension of domestic curtilage, engineering works to create an underground car park within established curtilage and deposit of excavated material on adjacent field at High Binns, Height Lane, Oxenhope, Keighley BD22 9PU in accordance with the terms of the application, Ref 16/01852/FUL, dated 4 March 2016, subject to the conditions set out in the Schedule to this decision.

Main Issues

2. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan, including the effect on the openness of the Green Belt and the purposes of including land within it;
 - the effect on the character and appearance of the site and the surrounding area, with regard to the Worth and North Beck Valley landscape, and;
 - if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development in the Green Belt

3. High Binns consists of former cottages which have now been converted into one large dwelling and an adjacent stone barn which has a slate pitched roof.
-

High Binns is accessed from Height Lane which leads to High Binns Lane. The appeal site also includes an area of land on the opposite side of High Binns Lane, which is currently used as an agricultural field by a neighbouring farmer. The site is located within open countryside, is designated as Green Belt and lies within the Worth and North Beck Valley Landscape Character Area, as defined by the City of Bradford Landscape Character Supplementary Planning Document.

4. Paragraph 90 of the Framework advises that certain forms of development are not inappropriate in the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. The types of development listed include, amongst other things, engineering operations and the re-use of a building provided that is of a permanent and substantial construction. Although Policies GB1 and GB4 of the Replacement Unitary Development Plan for Bradford District (RUDP), adopted October 2005, predate the publication of the Framework, the policies are broadly consistent with paragraph 90 and therefore, are attributed considerable weight.
5. The proposed conversion of the existing barn, which is not in current use, to ancillary residential accommodation relates to a building of permanent and substantial construction, as identified by a structural report. Furthermore, it would not involve an increase in built form within the site. Consequently, the barn conversion would preserve the openness of the Green Belt and the purposes of including land within it. This element of the proposal, therefore, is considered to be not inappropriate development when having regard to paragraph 90 of the Framework and Policies GB1 and GB4 of the RUDP.
6. The proposal also involves engineering operations in terms of the excavation of land to create a large underground car park, hardstanding of car parking areas and new dry stone walls to the extended curtilage boundary as indicated with a red line on the location plan. The new driveway leading to the underground car park and hardstanding for parking predominantly lies within the established residential curtilage of High Binns. The excess material excavated as part of the construction of the underground garage is proposed to be deposited upon an adjacent field.
7. The buildings and existing curtilage of High Binns lie between Height Lane and High Binns Lane. The land at High Binns although largely unenclosed at present, aside from dry stone walls along part of the highway frontages, lies in a plateau within the landscape with only a gentle downward slope of land levels from Height Lane and High Binns Lane. The undulating landscape, beyond the appeal site, consists of a steep downward slope towards Yate Lane in the distance to the west, a more gradual downward slope along High Binns Lane to the north and a very steep upward slope to the north east, east and south east towards Black Moor Road. Consequently, as the site forms part of a plateau, open views of the existing building and proposed curtilage are limited to nearby sections of Height Lane, High Binns Lane and a public footpath opposite. Only the upper sections of the buildings are visible within the wider landscape set against the background of the hillside when viewed along Yate Lane.
8. The residential curtilage of High Binns would be extended to include the barn and land surrounding it. During my visit, I observed that the existing residential curtilage of High Binns and the land surrounding the barn have

substantial areas of informal vehicle parking and large piles of spoil material. These parts of the site are closely related and generally associated to the residential use, activity and character of High Binns. Consequently, the land makes little contribution to the openness of the Green Belt or countryside given that the land is screened from the wider landscape by the position of the existing buildings and the different land levels of the surrounding area.

9. The construction of the underground car park would involve an increase in land levels within that part of the site, together with some additional hardstanding and a glass balustrade to allow daylight to the ground floor of High Binns. However, the visual effect upon the site, its surroundings and Green Belt openness would be limited due to the screening afforded by the existing buildings and proposed dry stone boundary walls.
10. The proposed dry stone walls replicate existing features in the area and are a type of enclosure that would be expected on the boundary between open land and dwellings in a rural setting. The walls would match the materials, appearance and height of those existing along Height Lane and High Binns Lane. For much of the site, except the highway frontage, this form of enclosure would normally be permitted development and, therefore, would not require planning permission. The extension of the residential curtilage would be largely imperceptible given that it is land currently associated with the barn. Consequently, the addition of dry stone boundary walls would not lead to a material loss of Green Belt openness or an adverse effect on the purposes of including land within the Green Belt, including safeguarding the countryside from encroachment.
11. The nearby agricultural land, where the excess spoil is proposed to be deposited, consists of a field on the opposite side of High Binns Lane that is enclosed by existing dry stone walls. This field also forms part of the same plateau as the buildings and curtilage at High Binns. Views of the field are limited to a public footpath to the east on higher ground and glimpses from the highway frontages to the south and west, due to the varied land levels of its surroundings and the presence of tree lines and boundary walls along High Binns Lane. Land levels within the field are undulating with a gradual upward slope from High Binns Lane towards the steeper hillside beyond, and a more gentle downward slope to the north. However, within the slopes are visible furrows.
12. The proposal includes the in-filling of the furrows within the field with deposited material to create a shallower slope and plateau as indicated on the sections within the submitted plans. Based upon my observations of the site and its surroundings, the replacement of the existing furrows in the field with a slope and plateau would not result in an unnatural land form or discordant feature within the existing undulating landscape, once vegetation re-establishes. Furthermore, the land would retain its openness, together with its rural character as open countryside and mixed upland pasture, provided that the infill area is appropriately landscaped. I, therefore, consider that this element of the proposal would not lead to a material loss of Green Belt openness or an adverse effect on the purposes of including land within the Green Belt, including safeguarding the countryside from encroachment.
13. Having regard to all of the above, I conclude that the proposal is not inappropriate development in the Green Belt. The development would,

therefore, comply with the Framework and Policies GB1 and GB4 of the RUDP which seek to prevent inappropriate development in the Green Belt, preserve its openness and ensure proposals do not conflict with the purposes of including land in the Green Belt. It is, therefore, unnecessary to consider whether there are considerations in favour of the appeal which would amount to very special circumstances necessary to justify the development.

Character and appearance

14. Policy NE3 of the RUDP states that within the landscape character areas identified, which includes Worth and North Beck Valley, development will be permitted if it does not adversely affect the particular character of the landscape. Policy NE3A of the RUDP relates to the assessment in Policy NE3 by seeking to avoid unacceptable visual intrusion and the introduction of incongruous landscape elements. Furthermore, it also seeks to prevent unacceptable disturbance or loss of landscape elements of local distinctiveness and historic elements which contribute significantly to landscape character and quality, including field patterns, land form and semi-natural vegetation.
15. Policies NE3 and NE3A of the RUDP predate the publication of the Framework. However, the policies are broadly consistent with the Framework in so far as it seeks to protect and enhance valued landscapes and are, therefore, attributed considerable weight.
16. As per my previous conclusion with respect to Green Belt considerations, I found no harm relating to openness and a limited visual effect on the site and its surroundings. The barn conversion and engineering operations, including increases in land levels, required to construct the underground car park and layout hardstanding would assimilate appropriately with the residential character of High Binns and its existing curtilage. The proposed boundary walls would replicate existing features that are characteristic of the rural landscape. In addition, the replacement of the existing furrow in the neighbouring field with the proposed slope and plateau, through the deposit of excavated material, would not result in an unnatural land form or discordant feature within the existing undulating landscape, once vegetation re-establishes.
17. In reaching the above findings, I have taken into account that the land affected by the development at High Binns would not be viewed prominently in the wider landscape. This would be due to the screening afforded by the position of existing buildings and differences in surrounding land levels, together with the addition of boundary walls and landscaping which can be secured by condition. Although the land form within the neighbouring field would be altered by the deposit of excavated material, the land level changes and profile would be visually subsumed into the undulating land levels of the surrounding field. Consequently, it would not be viewed as prominent, incongruous or harmful from the limited public vantage points available, including the adjacent public footpath that is in an elevated position. The field is largely screened from the wider landscape by trees and differences in land levels.
18. The proposal would not, therefore, have an unacceptable or intrusive effect upon the contribution that High Binns and the neighbouring field offer to the open countryside and the rural character of the Worth and North Beck Valley landscape.

19. I conclude that the development would not have a detrimental effect on the character and appearance of the site and the surrounding area, including the Worth and North Beck Valley landscape. The proposal would not, therefore, conflict with Policies NE3 and NE3A of the RUDP and the Framework.

Other Matters

20. The proposal would involve the transportation of excavated material from High Binns via the access onto Height Lane and along a very short distance of the adjoining High Binns Lane to the neighbouring field. During my visit, I observed that Height Lane and High Binns Lane are very lightly trafficked and vehicle speeds are restricted due to the care required by drivers to navigate the narrow width of the highway and limited forward visibility arising from bends in the road in both directions. Consequently, infrequent movement of excavated material across High Binns Lane for relatively short distances would be unlikely to result in an increased risk of accidents or adverse impact on highway safety. Conditions can be imposed to ensure that only material excavated from within the appeal site is deposited and to secure details of a scheme to prevent deposit of mud or excavated material on the highway.
21. The use of large vehicles accessing the field could involve very limited periods of obstruction of access to the public footpath. However, I do not consider that the effect upon access for its users would be considerably different than when the existing field is accessed for agricultural purposes.
22. With regard to ecology, a bat survey was submitted with the application. No evidence either internal or external was found to indicate that bats had inhabited any part of the buildings. Furthermore, no part of the building either internally or externally was considered suitable for bat use. The limited number of mature trees in the locality would be unaffected by the proposal and no evidence of bat activity or nesting birds were found in any case. Based on my observations of the site and its surroundings, I have no reason to take a different view to the evidence.

Conclusion

23. For the reasons given above and taking all other matters into consideration, I conclude the appeal should be allowed and planning permission granted subject to conditions set out in the attached schedule.

Conditions

24. The Council provided a suggested list of conditions. Where appropriate, the wording has been slightly amended to accord with paragraph 206 of the Framework. In addition to a condition specifying the residential curtilage to be established before occupation, further conditions specifying the time limit for commencement of development and compliance with the approved plans, including the annotated materials, are also necessary to provide certainty.
25. In the interest of the character and appearance of the site and the surrounding area, it is necessary that approved land levels of the deposited material and restricting its source to solely from within the site are secured by condition. In addition, full details of soil depth, seeding and aftercare management of the agricultural field should be secured via pre-commencement condition. The landscaping within High Binns indicated on the submitted plans and the approved details of landscape and restoration works within the adjacent field

should be implemented before the end of the first planting season following the substantial completion of development.

26. As previously mentioned, a condition is necessary in the interest of highway safety to prevent the deposit of mud or excavated material on Height Lane or High Binns Lane. Furthermore, details of measures to be taken during the construction of the development to mitigate the generation of dust are also necessary as recommended by the Council's minerals & waste section. The agreement of those details is required prior to commencement of development.
27. A condition is also required to secure full details of drainage and works for the disposal of sewage prior to commencement, given concerns expressed by the Council's drainage section that the existing septic tank within the site may not have sufficient capacity to drain the proposal. Any additional works required should be implemented prior to first use of the converted building.
28. Based on the evidence before me, my observations of the site and its surroundings and taking account of Planning Practice Guidance¹, removal of any permitted developments under Schedule 2, Part 1, Classes A to E of The Town and Country Planning (General Permitted Development) (England) Order 2015 to which the ancillary building may be eligible is not necessary or justified by exceptional circumstances. Furthermore, it would be unreasonable to remove permitted development rights which may otherwise apply to the dwelling known as High Binns on the basis of permission being granted for conversion of a building to an ancillary use. However, a condition is necessary to ensure that the barn conversion hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as High Binns.

Gareth Wildgoose

INSPECTOR

¹ Use of planning conditions Paragraph: 017 Reference ID: 21a-017-20140306 Revision date: 06 03 2014

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:

Site Location Plan, 01 (Existing & Proposed Plans, Elevations, dated July 2015), 01 (Landfill Site Layout Plan, dated February 2016), 03 (Existing & Proposed Ground, First Floor Plans, dated July 2015), Bat Survey (dated 3 December 2015), Structural Report (dated 21 September 2015).
- 3) No development shall take place until full details of the soil depth, seed mix and aftercare management scheme relating to the land upon which excavated material is to be deposited, have been submitted to and approved in writing by the local planning authority. All landscaping and restoration works within High Binns and the field upon which excavated material is to be deposited, shall be carried out in accordance with the approved plans and details before the end of the first planting season following the substantial completion of development. Any trees or plants which within a period of 5 years from substantial completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 4) No development shall take place until full details of the measures to be taken during the construction of the development hereby permitted to mitigate the generation of dust and to prevent the deposit of mud and excavated material onto Height Lane or High Binns Lane, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until full details of surface water drainage and works for the disposal of sewage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the building being brought into use.
- 6) The deposit of excavated material on land hereby approved, shall be solely in the areas identified on the approved plan, shall not exceed the proposed land levels shown on drawing no. 01 (Landfill Site Layout Plan, dated February 2016) and shall only consist of inert material excavated within the red line boundary.
- 7) The barn conversion hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as High Binns.
- 8) The residential curtilage of High Binns hereby approved shall be restricted to the area shown on the approved site layout drawing. The residential curtilage shall be defined by the means of enclosure shown on the approved plans before the ancillary building is brought into use and should be retained as such thereafter.

END OF SCHEDULE