
Appeal Decisions

Site visit made on 20 March 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 04th April 2017

Appeal A: Ref: APP/A2470/W/16/3163905

Frith Farm, Ryhall Road, Little Casterton, Rutland, PE9 4BJ

- 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 John Williams against the decision of Rutland Council.
 - The application Ref: 2016/0515/FUL dated 23 May 2016, was refused by notice dated 14 July 2016.
 - The development proposed is the conversion of two barns into two dwellings (Units 2 and 3).
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Appeal B: Ref: APP/A2470/Y/16/3163945

Frith Farm, Ryhall Road, Little Casterton, Rutland, PE9 4BJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr John Williams against the decision of Rutland Council.
 - The application Ref: 2016/0516/LBA dated 23 May 2016, was refused by notice dated 14 July 2016.
 - The works proposed are the conversion of two barns into two dwellings (Units 2 and 3).
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Decisions

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is allowed and listed building consent is granted for the conversion of two barns into two dwellings (Units 2 and 3) at Frith Farm, Ryhall Road, Little Casterton, Rutland, PE9 4BJ in accordance with the terms of the application Ref: 2016/0516/LBA dated 23 May 2016, subject to the following conditions:
 - 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
 - 2) The works hereby permitted shall be carried out in accordance with the following approved plans: 596/012; 596/105A; 596/106A; 596/108A; 596/110; 596/501; 596/502; 596/503; 596/504A and 596/505.

Procedural Matters

3. I have taken the description of the proposed development and works from the Council's decision notice. Although it differs from that given on the application form, I consider it more concisely describes the proposal.
 4. The planning and listed building appeals are assessed against different considerations, and for this reason I have issued a split decision in this case.
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Main Issues

5. I consider the main issues are:

- i) (Appeals A and B) Whether the proposal would preserve the special architectural and historic significance of the Grade II listed building (Unit 2), the curtilage listed building (Unit 3) and the setting of the adjacent Grade II listed Frith Farmhouse.
- ii) (Appeal A) Whether or not the location would be acceptable for new housing, having regard to local and national policies concerning the location of new housing development.
- iii) (Appeal A) The effect of the proposal on the site's ecology.

Reasons

The listed buildings issue (Appeals A and B)

- 6. The proposal concerns two detached barns located to the north of the existing farmhouse. The larger barn (Unit 2) is Grade II listed in its own right, and due to its proximity and former functional relationship to the listed farmhouse, I agree with the Council that the smaller barn (Unit 3) may be considered as a curtilage building within the meaning of Section 5(2) of the Planning (*Listed Buildings and Conservation Areas*) Act 1990.
- 7. Sections 16(2) and 66 (1) of the Act require the decision maker, in considering whether to grant listed building consent for any works affecting a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features or special architectural or historic interest it possesses.
- 8. Policy CS22 of the *Rutland Core Strategy Development Plan Document 2011* (CS) says the quality and built environment of Rutland will be conserved and enhanced, and that the adaptive re-use of redundant or functionally obsolete listed buildings will be supported where it does not harm their essential character. Part 3 of Policy SP20 of the *Rutland Site Allocations and Policies Development Plan Document 2014* (SAPDPD) relates to the re-use of historic buildings, and says these will only be acceptable where, amongst other things:
 - a) a structural survey shows that the conversion can be achieved without extensive building works or alterations harmful to the building's character and appearance; b) the conversion can be achieved in a way that preserves its historic and architectural features and character; and c) the nature and intensity of the use are compatible with surrounding uses and the locality. The policy adds that wherever possible the building should remain in the use for which it was originally designed. Where this is not possible, conversion to residential use will only be acceptable where employment, recreation or tourism uses are shown to be unviable.
- 9. Paragraph 132 of the *National Planning Policy Framework* (the Framework) says when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to its conservation. It notes that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting.

10. The former farmstead is a significant survival of a once typical grouping of mid eighteenth century farmhouse and associated barns constructed of local stone and with either stone or slate roofs. The large barn (Unit 2) is a particularly handsome building dated 1763 with wide opposing cart doors and otherwise minimal openings.
11. A structural survey has been submitted which states that both buildings are generally capable of conversion without rebuilding; and this does not appear to be disputed by the Council. The conversions would be achieved entirely within the existing shells of the buildings without extensions or any significant external alterations. To my mind this is a very sympathetic scheme which would respect the architectural and historic integrity of the buildings and would largely retain their essentially agricultural character. Indeed, the Council is satisfied that the proposed scheme is 'in line with best practice'.
12. However, the Council has raised concerns that additional openings might be required by future occupiers to give more light to the rooms, and further openings might be needed in Unit 2 to satisfy building regulations requirements. Nonetheless, all rooms would have direct natural light (other than one open-plan balcony bedroom), and in any event, any future openings would require listed building consent to be sought and obtained.
13. The Council has other concerns regarding the formation of separate domestic curtilages and the associated domestic paraphernalia that goes with them. However, the barns would each have their own courtyard area defined by either stone walling or timber fences and planting, and as such the curtilage of each unit would be clearly defined and contained. Consequently, the farmyard characteristics would be retained, and this would ensure a visual inter-relationship between the former farmhouse and barns to be maintained. As such, I find that the setting of the listed farmhouse would be preserved.
14. Overall, I conclude on this issue that the proposal would preserve the special architectural and historic interest of the Grade II listed building (Unit 2), the curtilage listed building (Unit 3), and the setting of Frith Farmhouse, causing no harm to the significance of these heritage assets. As such, I find no conflict with CS Policy CS22, SAPDPD Policy SP20 a), b), and c) or the Framework.

Suitability of the location for housing (Appeal A)

15. The appeal site lies in open countryside between the villages of Ryhall and Little Casterton), and the CS sets out a settlement hierarchy to ensure that development is directed towards the most sustainable locations. CS Policy CS4 permits the conversion of appropriately located and suitably constructed rural buildings for residential and employment generating uses where closely related to towns and service centres. The more up-to-date SAPDPD Policy SP6, which post-dates the Framework, permits re-use of rural buildings for residential use provided: a) the building is a permanent structure capable of being converted without major reconstruction; b) the proposal is accompanied by evidence that a reasonable effort has been made to secure a suitable business or commercial use, or there is evidence that any alternative use is not viable, before residential use is considered; and c) the building relates well to a town, local or smaller service centre, or is close to a regular public transport service to such settlements. The requirements to investigate alternative business uses before a residential use can be considered is consistent with the corresponding

requirement in SAPDPD Policy SP20, which specifically concerns the re-use of historic buildings.

16. Whilst this matter is not addressed in the reasons for refusal, the officer report does say that the lack of details of real efforts to secure alternative uses means that the proposal is not supportable. It is true that no marketing exercise has been undertaken with a view to securing a possible employment generating use. Nonetheless, given the close proximity of the barns to the former farmhouse, I consider that a commercial use is likely to adversely impact on the living conditions of the occupiers of the farmhouse, particularly from the coming and goings of commercial and employees' vehicles. Furthermore, given the lack of public transport options to reach the site, similar locational concerns would apply to a commercial as opposed to a residential use in this location.
17. Consequently, whilst the proposal conflicts with the requirements of SAPDPD Policies SP6 and SP20 for evidence that an alternative commercial use is not viable before residential use is considered, paragraph 55 of the Framework is an important material determination here. It states that isolated new homes in the countryside should be avoided unless there are special circumstances, including where the development would represent the optimum viable use of a heritage asset, or would secure the re-use of a redundant or disused building. In my view these special circumstances apply in this case. Indeed, given that the barns are currently little used and not well suited or readily adaptable for modern agricultural methods without causing harm to the historic fabric, the Council appears to accept that a suitable alternative use needs to be found. In this regard paragraph 131 of the Framework states that account to be given to the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
18. Furthermore, although the appeal site is located outside a settlement, in my view it is not 'isolated', being equidistant between Ryhall and Little Casterton which have a modest range of services. In this case I favour a pragmatic approach, and conclude on this issue that the location would be acceptable for new housing, having regard to local and national policies concerning the location of new development.

Effect on the site's ecology (Appeal A)

19. Bats are a protected species, protected principally under the *Conservation of Habitats and Species Regulations (2010)* ('*The Regulations*'). Furthermore, the Framework sets out that when considering planning applications, local planning authorities should aim to conserve and enhance biodiversity. Where significant harm resulting from a proposal cannot be avoided, cannot be adequately mitigated, or as a last resort cannot be compensated for, then permission should normally be refused. SAPDPD Policy SP20 Part 3 c) says the re-use of historic buildings will only be acceptable where it would not affect a protected species or habitat. Additionally, paragraph 118 of the Framework states that planning permission should be refused if significant harm to biodiversity cannot be avoided or mitigated against.
20. Circular 06/2005¹ makes it clear that a survey should be carried out before planning permission is granted where there is a reasonable likelihood of a

¹ Circular 06/05: Biodiversity and Geological Conservation –Statutory Obligations and Their Impact Within the Planning System

protected species being present on site or affected on site or affected by the proposed development. It further advises that surveys should only be required by planning condition in exceptional circumstances.

21. As part of the appeal an initial bat survey has been carried out on behalf of the appellant,² which concludes that both barns have a high potential to support roosting bats, with evidence of a Natterers Bat in Unit 2 and a Common Pipistrelle in Unit 3. The survey also states that the barns are likely to be a summer day roost for four species of bat. However, and as confirmed by the author of the survey, this would need to be informed by further surveys (for emergence and return to roost) during the 2017 season. Consequently, it has not been possible to prepare a mitigation plan at this stage to demonstrate how the proposed development would allow the continuity of the bat population in the area. As stated by the Council, this could for example require amendments to be made to the scheme to ensure that roosting facilities could be satisfactorily be provided within the barns, in specific areas set apart from the living accommodation.
22. Barn Owls are also a protected species, and the survey suggests that Unit 2 is being used as a Barn Owl day roost site. However, although a drawing of a typical Barn Owl nest box is given, there is no information relating to where it would be sited, or indeed whether it would be sufficient mitigation for the loss of a possible roost site.
23. Although an initial survey has been carried out, further surveys need to be undertaken to enable the full impact of the proposal on the protected species to be assessed, as recommended in *Bat Surveys for Professional Ecologists: Good Practice Guidelines*. Nor has a mitigation strategy been provided. It is not acceptable, as suggested by the appellant, that mitigation measures could be sought as a 'non-material amendment' once permission has been obtained. Such an approach runs counter to the advice in the Regulations and the Circular. No exceptional circumstances apply here, and based on the information available I cannot reasonably conclude that the proposed development would not be harmful to the site's ecology. Without such assurance the proposal conflicts with SAPDEV Policy SP20 and the Framework.

Conclusion: Appeal A

24. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. It is therefore necessary to determine whether the proposal is sustainable in the wider realm in the context of the wider Framework. Paragraph 7 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The provision of new housing would represent a social benefit, albeit a very modest one, and in addition there would be some support for local services and amenities in nearby villages and towns, thus amounting to a modest economic benefit.
25. I have concluded that the proposal would cause no material harm to the significance of the heritage assets, and that the location would be suitable for new housing. However, my conclusions with regard to the potentially harmful environmental impacts of the proposal on protected species, and the lack of a mitigation strategy, represents a significant and overriding objection which must be decisive. This adverse harm would demonstrably outweigh any

² Hiller Ecology Limited Survey October 2016

potential social and economic benefits of the scheme. For this reason I conclude that the proposal would not be consistent with the principles of sustainable development as it conflicts with the policies of the development plan and the Framework when taken as a whole. Consequently, the presumption in favour of such development does not apply. I therefore conclude that Appeal A should be dismissed.

Conclusion: Appeal B

26. As stated above I am satisfied that the proposed works would preserve the special architectural and historic interest of the Grade II listed building (Unit2), the curtilage listed building (Unit 3), and the setting of the adjacent Grade II listed Frith Farmhouse, causing no harm to the significance of these heritage assets. I therefore conclude that Appeal B should be granted subject to the conditions discussed below.
27. The Council has put forward suggested conditions, and I have considered those relating to Appeal B in the light of the advice in the Government's *Planning Practice Guidance*. In addition to the standard condition for the commencement of development a condition is needed to secure compliance with the submitted plans, for the avoidance of doubt and in the interests of proper planning

Nigel Harrison

INSPECTOR