



Appeal Decision

Site visit made on 30 January 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2020

Appeal Ref: APP/F1040/W/19/3240900

St Brides Barn, Shepherds Lane, Stanton by Bridge, Nr Swadlincote, Derbyshire D73 7NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Andrew Moseley against the decision of South Derbyshire District Council.
- The application Ref 9/2019/0651, dated 14 June 2019, was refused by notice dated 9 September 2019.
- The application sought planning permission for conversion of the existing timber frame barn to a dwelling without complying with conditions attached to planning permission Ref 9/2018/0887, dated 7 November 2018.
- The conditions in dispute are Nos 2, 4, 5 and 6 which state that:

(2) The development hereby permitted shall be carried out in accordance with drawing ref's MOSELEY/1/SLP Rev A received on the 17th August 2018 and MOSELEY/1/PL01 Rev B, MOSELEY/1/BP Rev B, MOSELEY/1/PL07 Rev A, MOSELEY/1/PL08 Rev A, MOSELEY/1/PL06 Rev C, MOSELEY/1/PL05 Rev C, MOSELEY/1/PL09, MOSELEY/1/PL10 and MOSELEY/1/PL11 received on the 24th October 2018, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

The reason given for the condition is:

For the avoidance of doubt and in the interests of sustainable development.

(4) Prior to the occupation of a dwelling created by this permission a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the dwelling created by this permission, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling created by this permission or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the 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 and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

The reason given for the condition is:

In the interest of the visual setting of the development and the surrounding area.

(5) Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

The reason given for the condition is:

In the interests of the character and appearance of the area.

(6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling hereby permitted shall not be altered, enlarged or extended, and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

The reason given for the condition is:

To maintain control in the interest of the character and amenity of the area, having regard to the setting.

Decision

1. The appeal is allowed and planning permission is granted for conversion of the existing timber frame barn to a dwelling at St Brides Barn, Shepherds Lane, Stanton by Bridge, Nr Swadlincote, Derbyshire D73 7NF in accordance with the application Ref 9/2019/0651, dated 14 June 2019, and subject to the conditions on the attached schedule.

Application for costs

2. An application for costs was made by Andrew Moseley against South Derbyshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council granted planning permission on 7 November 20118 for the conversion of a barn to a two bedroomed dwelling, subject to 7 conditions. The current appeal seeks to make amendments to the approved scheme through the variation of condition 2, which specifies plans. Conditions 4, 5 and 6 are proposed to be removed.

Main Issue

4. The main issue is the effect of varying the conditions on the character and appearance of the area.

Reasons

5. The appeal property is a timber framed barn which is located in a wooded area in the countryside. The barn is adjacent to a small area of pasture land and is accessed via a track through the woods from Shepherds Lane. The barn has

three bays with the timber frame exposed in two sections and timber boarding around the third, with the frame of a lean-to along part of one side of the barn.

6. The approved scheme involves a sensitive conversion and limited extension of the barn, retaining the original frame and maintaining the character of the building in its woodland setting.

Condition 2

7. The proposal seeks to vary condition 2, which specifies approved plans, to allow alterations to the insulation, the lean-to extension and the fenestration detail.
8. The original permission involved the insertion of 123 mm of wall insulation within the frame and 170 mm outside of the structural columns. The proposed amendments would alter the insulation wall build up on the north, east and a small part of the western elevation. On these elevations, the insulation inside the frame would be removed and replaced with an additional 100 mm of insulation outside the frame.
9. The Council is concerned that the proposed revisions to the insulation would result in the existing structure being obsolete and the roof replaced. However, the appellant has confirmed that this would not be the case, that the existing structure would still provide support for the building and that there would be no change to the pitch of the roof.
10. Given the proposal to increase the insulation within the roof, I agree with the Council that it seems likely that the roof would need to be removed and replaced, and the result would be a slightly raised ridge height. However, re-roofing is a common part of many building projects, and provided that the same materials are used, this would not in itself render the proposal a new build rather than a conversion. There would be minimal impact to the appearance of the building.
11. The approved scheme involves the entire frame being wrapped around with timber cladding, so the original frame would not be visible externally. The current proposal to increase the insulation on the outside would result in a small increased projection of the northern and eastern elevation. However, the roof overhangs the structural columns and appellant has confirmed that the proposed wall would still sit within the extent of the existing piers.
12. The timber frame is an important feature of the building and the revisions would increase the extent of the visible frame, including the roof section, and avoid the need to cover the frame with insulation. Whilst this would be on the inside, the frame would be visible through the glazed sections, and would help to retain the original character of the building.
13. The approved scheme involves an extension to the existing lean-to structure, so that rather than occupying the width of one of the bays of the building as currently, the lean-to extension would occupy one and a half bays. The proposed revisions seek to further increase the width of the extension so that it would occupy two bays with an additional canopy overhang.
14. Whilst the proposed extension would be somewhat larger than that approved, the design would incorporate additional glazing which would reflect the open character of the original building, allowing the internal frame of the middle bay

to be revealed and mirroring the glazing on the other side of the building. The extension would still be well set back from the north elevation and the significant amount of glazing on the middle bay section would limit the visual impact of the extension. The canopy is modest in size and would not appear as a dominant feature.

15. The Council is concerned that the proposed extension would sit higher than the existing eaves line. I agree that the drawing for the proposed south elevation does appear to show the extension being raised above the eaves level, but this is not the case on the north elevation drawing so may be an error on the hand drawn plans. The appellant has confirmed that the intersection of the lean-to extension with the main building would be the same in the approved and revised plans.
16. The Council has suggested that, by sitting flush with the existing building, the extension would not appear as a separate or new entity. However, the existing lean-to sits flush with the main barn and the appellant has confirmed that the intention would be to make use of the existing structural frame. Given the existing situation, there appears to be little justification to set the extension back from the south elevation.
17. Changes to the fenestration on all four elevations are proposed as part of the revised scheme. Changes to the east elevation, which faces the site entrance and is therefore particularly sensitive, are minor and do not change the character of the building. On the north elevation, the size of the main window is proposed to be reduced, which would better reflect the proportions of this main elevation. Additional glazing is proposed on the west elevation of the lean-to, as discussed above. On the south side, the relocation of the chimney stack has allowed for a repositioning and an increase in the fenestration at first floor level. The proposed first floor window better reflects the position of the existing opening, although is wider. At ground floor level, the windows in the main elevation are similar to those already approved, with an additional window in the lean-to extension.
18. I note the Council's concerns that the proposed glazing would be overly domestic in its design, siting, symmetry and scale. However, on the most prominent east and north elevations the glazing is similar to that already approved, and respects the character of the building. The alterations to the west elevation are acceptable as discussed above. On the south side, reduced glazing to the first floor would be preferable but this is at the rear of the building, and compared with the approved plans, the proposed alteration better reflects the position of the existing openings.
19. Overall, the revisions to the insulation, lean-to extension and fenestration would not adversely affect the character of the building, nor would they result in a level of alteration which would change the scheme from a conversion to a new dwelling. Furthermore, the proposals would improve the thermal efficiency of the building and help to reveal the timber structure of the building.
20. The caravan on the site could be removed at any time, and unless its siting had been established through a certificate of lawful use, could not be accepted as a benefit of the scheme. The removal of the caravan does not form part of the proposals and I have given this matter no weight in this appeal.

Conditions 4 and 5

21. Condition 4 requires the submission of a scheme of hard and soft landscaping, and subsequent implementation of the approved works. Condition 5 requires details of boundary treatments. The appellant submits that drawing MA/6A provides the necessary information to fulfil these requirements, so the conditions can be removed.
22. The proposed landscaping shown on plan MA/6A is different from that previously approved. The large pond area is proposed to be split into two smaller ponds on either side of the repositioned lawn, with areas of native planting between the two ponds. A low retaining wall is proposed around the lawn, with steps from a York stone and gravel patio, which would be located adjacent to the barn.
23. Whilst reconfigured, the main features of the original landscaping scheme have been retained, with the ponds, native planting and a lawned area. The previous straight edge to the lawn has been replaced with a more contoured area, with planting beyond which will help assimilate the garden area into the woodland beyond. Areas of gravel around the building have been retained, with a patio replacing the area previously described as deck. The low retaining wall around the lawn would be constructed of stone from the site, and, once the pond and planting were established, would not be a prominent feature. The appellant has confirmed that such walls are a common feature in the local area and would not be out of place in this setting. Overall the proposals should continue to retain and respect the natural setting of the barn.
24. A metal estate railing is shown within on the plan which would provide a new boundary to the area of pasture adjacent to the house, beyond the previously approved area of curtilage. However, the appellant has accepted that this style of fencing, in the position proposed, would not be appropriate and that traditional post and wire fencing would be used instead in the position shown on the original plan.
25. With the exception of the metal estate railings, the details of hard and soft landscaping shown on drawing MA/6A would be acceptable and would meet the requirements for the submission of further details in condition 4. However, the condition also requires implementation of the approved landscaping scheme prior to occupation, and the replacement of any planting which dies, is damaged, diseased or removed. To ensure that the proposal respects the character of the area, this part of the condition is still necessary. Rather than removing condition 4, I have therefore varied it to require the implementation of the landscaping scheme shown in drawing MA/6A, specifying that the proposed estate railings do not form part of the approved drawing.
26. Condition 5 requires the submission of details of any boundary treatments. Given that the details of the railings shown on drawing MA/6A are not approved, but the alternative boundary treatment is not specified on any other plan, this condition is still necessary to ensure that the proposal respects the character of this sensitive woodland site. I have therefore retained condition 5.

Condition 6

27. The appellant is seeking the removal of condition 6, which removes permitted development rights for extensions and alterations. The proposed development

allows for the sensitive conversion of the timber framed building within its woodland setting, retaining the key features of the building and minimising the impact on the character of the area. The appellant has commented that the curtilage has been drawn tightly round the building which would limit the opportunity for alterations. However, the Council has confirmed that the approved domestic curtilage would include the wider setting of the barn. Unless removed, permitted development rights would enable the construction of buildings associated with the residential use within this wider area, which would have the potential to cause significant harm to the rural woodland setting of the barn.

28. The particular circumstances of the building and its setting, and its sensitivity to even relatively modest changes which could be associated with a new domestic use, mean that it is reasonable and necessary for the Council to retain control over future extensions and alterations. This need to protect the character of the building and its setting still applies even though it is not visible from the public domain.
29. I acknowledge that agricultural and forestry permitted development rights in the area surrounding the site could, if used, significantly impact on its landscape setting. However, if used these rights would permit development which would be typical of the countryside, and would not have the same impact on the area and its character as those associated with a domestic property might do. The existence of the agricultural and forestry rights do not therefore justify the removal of the residential permitted development rights. Similarly, decisions of the Council to allow other development in the surrounding area do not justify potentially harmful development in this sensitive location. Condition 6 therefore remains necessary and reasonable, and should be retained.
30. I conclude that the proposed amendments to the scheme which would be achieved through the variation of conditions 2 and 4 as described above, would not cause harm to the character and appearance of the area. I have found no conflict with Policies H1 of the South Derbyshire Local Plan Part 1 2016 or Policies SDT1, BNE5 and H28 of the South Derbyshire Local Plan Part 2 2017, which are concerned with development outside of settlement boundaries including residential conversions. Similarly, there is no conflict with paragraph 79 of the National Planning Policy Framework which seeks to avoid the development of isolated homes in the countryside. The proposal complies with Local Plan Part 1 Policy BNE4 regarding the protection of landscape and soilscape.

Conclusion

31. For the reasons given above I conclude that the appeal should be allowed and conditions 2 and 4 varied as set out in the attached schedule. Conditions 5 and 6 are still necessary and I have retained them. Minor alterations are needed to condition 1 to refer to the commencement of development date, and to condition 3 in the interests of precision and to reflect the appellant's intention to use, rather than replace, the structure of the existing lean-to.

R Morgan

INSPECTOR

Schedule of Conditions

1. The development permitted shall be begun before the expiration of three years from 7 November 2018.
2. The development hereby permitted shall be carried out in accordance with the following drawings unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended):

Site location plan MOSELEY/1/SLP Rev A;

Existing block plan MOSELEY/1/BP rev B;

Ground and first floor plan MA/1A;

North and west elevations MA/2A;

South and east elevations MA/3A;

Roof and wall build up detail MA/5A;

Hard and soft landscaping MA/6A – excluding details of metal estate railings

3. The development hereby approved shall relate solely to the conversion of the existing building. The existing timber building shall be retained, and altered and extended in so far as shown on the approved plans.
4. All hard landscaping shall be carried out in accordance with the approved details shown on drawing MA/6A prior to occupation of the dwelling created by this permission. All planting, seeding and turfing comprised in the approved scheme MA/6A shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling created by this permission or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the 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 and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.
5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the dwelling is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling hereby permitted shall not be altered, enlarged or extended, and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
7. The dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.