



Appeal Decisions

Site visit made on 25 August 2020

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Appeals A: APP/L3815/C/19/3239505

Burgau Barn, Plaistow Road, Loxwood, Billingham, RH14 0TZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Judith Goodge against an enforcement notice issued by Chichester District Council.
 - The enforcement notice was issued on 10 September 2019.
 - The breach of planning control as alleged in the notice is the erection of a dwellinghouse.
 - The requirements of the notice are (i) demolish the said dwellinghouse and (ii) remove the resultant debris from the land.
 - The period for compliance with the requirements is twelve months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (f) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/L3815/D/19/3239507

Burgau Barn, Plaistow Road, Loxwood, Billingham, RH14 0TZ

- 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 Ms Judith Goodge against the decision of Chichester District Council.
 - The application Ref PS/18/01685/FUL, dated 22/11/2018, was refused by notice dated 30 July 2019.
 - The development proposed is a single storey side extension (retrospective).
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Decisions

Appeal A

1. The appeal partially succeeds on ground (f) and I direct that the requirements are amended as follows:-
2. Delete requirement (i) and replace it with (i) Cease the residential use of the dwellinghouse and remove all the structure, components and fittings apart from any remaining parts of the original structure of the agricultural building.
3. Subject to this variation the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

4. The appeal is dismissed.

Reasons

Ground (c)

5. A former agricultural building has been converted into a dwellinghouse, which the appellant considers was in accordance with the Town and Country Planning (General Permitted Development) Order 2015. Prior approval for a change of use from an agricultural building to residential was granted in relation to the original building (application number PS/14/03512/COUPMB). It was granted subject to conditions. There are also limitations that apply to such changes of use.
6. Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 permits the development but it is not permitted if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
7. The agricultural building that was converted was given permission to raise its roof and walls some time before the application for change of use via permitted development. The appellant also notes that the walls were clad and that this was only a nominal addition to the width and length of the building when it was converted.
8. Inspection of the buildings on site and plans show that the building height has been raised by a considerable change in the roof pitch. The plans indicate a pitch of around 15 degrees whereas on site it is about 24 degrees. Even taking into consideration a marginal increase in the building width and the permitted increase to the height of the agricultural building the ridge height has increased considerably and not a notional or de minimis amount.
9. The Council also say that as part of the conversion of the agricultural building it was extended with a single storey extension on the north west elevation at the same time. Photographs are provided that confirm, on the balance of probability, that this is the case.
10. I have taken into consideration the method statement, and whether or not it was approved with other conditions, I consider that the pitch of the roof has been changed resulting in the size of the building increasing and that the extension was an integral part of the conversion of the building, extending the building beyond its original external dimensions.
11. I conclude that the size of the building has been materially increased during the process of the change of use and therefore does not accord with permitted development and that there is no provision for retrospective approval.
12. The appeal on ground (c) fails.

Ground (a)

13. The development plan includes the Chichester Local Plan. The proposal is outside of the village settlement boundary, which is close by.
14. LP Policy 1 notes the presumption in favour of sustainable development and that the Council will work with applicants to find proposals to be approved where possible, but it indicates that development needs to accord with the policies in the plan.

15. LP Policy 2 identifies Ifold as a service village where new housing is allowed. Outside these areas, development is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification. LP Policy 45 only relates to development that requires a countryside location. The development does not need a countryside location. Therefore the proposal does not accord with LP Policy 2 or LP Policy 45 as it is outside the village settlement boundary.
16. LP Policy 25 notes the Council encourages and supports development proposals that conserve and enhance the rural character of the area, the quality of its landscape and the natural and historic environment. It should safeguard existing local facilities and expand the range of local facilities and improve accessibility to facilities in nearby centres.
17. LP Policy 33 relates to new residential development and permission will be granted for new residential development and replacement dwellings where it can be demonstrated that the proposal respects and, where possible, enhances the character of the surrounding area and site.

LP Policy 46 relates to proposals for the conversion or use of a building in the countryside, outside settlement boundaries, which will be granted where it can be demonstrated that all criteria have been met. These include that the building is structurally sound and is capable of conversion for employment uses without the need for significant extension, alterations or rebuilding. The proposal should not damage the fabric or character of any traditional building or the historic character and significance of the farmstead.
18. LP Policy 48 refers to the natural environment and permits development if there is no adverse impact on the tranquil rural character of the area and it respects and enhances the landscape character and sensitivity and contributes to its setting and quality.
19. The village of Ifold spreads over a considerable area and has an open character, with many trees, and houses are generally set in large plots and not densely spaced, creating the spacious feel of the area. The appeal site was previously part of a group of agricultural buildings that have been converted to dwellinghouses. The conversion creates a dense development of residential dwellings in this location with closely spaced dwellings uncharacteristic and incongruous with the area generally, both inside and outside the village settlement boundary.
20. The resulting building is not the conversion of an agricultural building, but with the alterations undertaken is tantamount to a new building, and therefore does not come within the terms of conversion of an agricultural building or within LP Policy 46.
21. The development is outside the village settlement boundary and in the countryside, so although it would have some effect in supporting village services, it does not accord with policy and this benefit is small in comparison with the harm the development causes in terms of density and appearance.
22. Having residential development in this location does not conserve and enhance the rural character of the area or the quality of the landscape and does not accord with LP Policies 25 and 33 and 48.

Ground (f)

23. The ground (f) appeal is essentially the ground (a) appeal which has not been upheld and therefore removal of the new building works is necessary involving cessation of the residential use. I agree that it is excessive to require removal of any remaining original agricultural structure and I shall amend the requirement to reflect this. This does not affect natural justice as it reduces the extent of the requirements of the notice.

Planning Permission extension – Section 78 appeal

24. The original building does not have planning permission and therefore the extension for residential use is not feasible.

Graham Dudley

Planning Inspector