



Appeal Decision

Site Visit made on 26 April 2021

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/R1038/W/21/3267214

Upper Croft Barn, Chesterfield Road, Shirland, Alferton DE55 6BA

- 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 S Goodwin against the decision of North East Derbyshire District Council.
 - The application Ref 20/00528/FL, dated 17 June 2020, was refused by notice dated 20 November 2020.
 - The development proposed is described as the change of use on an agricultural building to a dwelling with associated building operations.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use on an agricultural building to a dwelling with associated building operations at Upper Croft Barn, Chesterfield Road, Shirland, Alferton DE55 6BA in accordance with the terms of the application, Ref 20/00528/FL dated 17 June 2020, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The site address used in the banner heading above is taken from the Council's decision notice which is more concise than that given on the application form. I note that the appellant has raised no specific objection to the use of this address, which they have subsequently used in their appeal statement.
3. The agricultural building the subject of this appeal was subject to a successful prior approval application (the 'Class Q approval')¹. A subsequent application to change the use of a second agricultural building adjacent to the building the subject of this appeal, to ancillary domestic use, including garaging and storage, was also approved.
4. Following the refusal of the application the appellant submitted a Preliminary Bat Roost Assessment which found no evidence of roosting bats. The Council and Derbyshire Wildlife Trust confirm that this assessment is satisfactory and that no further survey work is required. The Council has therefore withdrawn the second reason for refusal relating to ecological impacts and states that any residual biodiversity issues can be dealt with by planning conditions. I have assessed the appeal on that basis.
5. I also note that amended plans were submitted during the course of the application which omitted a balcony from the scheme and reduced the extent of the domestic curtilage. Given that the Council reached a decision based on

¹ Council Ref. 19/01047/CUPDMDB under the provisions of Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

those plans, and there has been opportunity for comment at appeal. In addition to the above as part of the appeal process the Appellant has provided additional plans which show a cross section of the intended works to the building. The Council have confirmed that they have no objection to these plans being considered. Given the above, I consider that no prejudice would occur to anyone by me accepting these plans at the appeal stage. I have therefore assessed the scheme on that basis.

6. The Council is currently developing the North East Derbyshire Local Plan 2014-2034 (the 'emerging Plan'). This emerging plan is coming towards the end of the examination stage with consultation on the Main Modifications having been undertaken. In accordance with paragraph 48 of the National Planning Policy Framework (the Framework), given that the emerging plan is at an advanced stage, I consider that the emerging Plan policies relevant to this appeal carry due weight.

Main Issue

7. Bearing in mind the Council's withdrawal of the second reason for refusal relating to the effects on ecology, the main issue is whether the proposed development is acceptable, having regard to local and national planning policy and its effect on the character and appearance of the countryside.

Reasons

8. The appeal site contains two agricultural buildings located in a field to the south west of Chesterfield Road. The buildings stand apart from other development with access taken from an access track to the north west off Chesterfield Road. The site is not within a defined settlement development limit (SDL) as defined by the adopted Local Plan or the emerging Local Plan and so falls within the countryside. The site is also within an area designated as a Local Settlement Gap in the emerging Local Plan.
9. The Council has referred to two policies in its decision. Policy GS7 of the North East Derbyshire Local Plan 2005 (the Local Plan) requires that, where located outside an SDL, a building should be capable of conversion without the need for major rebuilding or extension. Policy SDC1 of the emerging Plan is, in broad terms, similar to Policy GS7.
10. The building that is the subject of this appeal is of permanent and substantial construction, being enclosed by concrete block walls with vertical timber cladding, steel cladding, and a corrugated cement fibre sheet roof with roof lights. The building stands on a concrete slab. The application proposes that a new external timber clad leaf would be constructed in front of the retained steel frame to provide a continuous thermal layer. The existing cement corrugated roof would be replaced with corrugated insulated panels.
11. In contrast to the Class Q approval, which would not extend the footprint of the existing building and largely retain the existing exterior (albeit the existing profiled steel cladding would be replaced by timber cladding), the current proposal, would introduce a new insulation and blockwork layer between the existing blockwork and the external timber cladding. The Appellant has stated that this would amount to the wall width being increased by 362.5mm at its widest point and would therefore extend the footprint of the building.

12. Although I acknowledge that the existing steel frame would be retained, to my mind the extent of the proposed external alterations to the building, including the new exterior cladding in front of the retained steel frame, and provision of a new roof, would go beyond what can reasonably be regarded as a conversion within the terms of Policy GS7, criterion (b) (and similarly emerging Policy SDC1, criterion (b)). Effectively the exterior of the building would be entirely altered, noting that works affecting only the interior of a building are not development in planning terms and therefore the retention of any element of the original building cannot be assured. Accordingly, the proposal would conflict with the approach in the policies cited above.
13. Although not set out in the reason for refusal of the planning application, the Council have now set out in the appeal statement that they consider that the development should be treated as a new build scheme and that it would conflict with Policies GS6 and NE1 of the Local Plan and Policies SS9, SS11 and SDC3 of the emerging Plan.
14. As I have found that the proposal would effectively amount to the erection of a new build dwelling, it would not accord with Policy GS6 of the Local Plan or Policy SS9 of the emerging Plan, which seek to ensure that new development is appropriate in the countryside. Furthermore, it would conflict Policy NE1 of the Local Plan and Policy SDC3 of the emerging Plan, which seek to protect landscape character. The proposal would also fail to accord with emerging Policy SS11 which seeks to protect the Local Settlement Gaps.
15. In summary, for the above reasons, the proposal would not accord with the provisions of the Local Plan or the emerging Plan.

Planning balance

16. Notwithstanding the above, the Appellant has set out that the Class Q approval and the planning permission for the change of use of the other barn to domestic garaging, provide a clear fall-back position. I accept that there is a realistic prospect of the Appellant developing both the extant Class Q approval and the permission for the conversion of the other agricultural building to an ancillary garage/store. Consequently, the appeal proposal would not result in a net addition of dwellings in this location when this is taken into account. To my mind, this represents a very significant material consideration in favour of the appeal proposal.
17. The Appellant has also set out that they seek to develop a dwelling that meets 'Passivhaus Classic' standard. Whilst there is little detail within the submission as to how this is to be achieved, in my view the proposal would deliver a more energy efficient dwelling than what would be achieved via the Class Q approval. For that reason, this also weighs in favour of the development.
18. The development would offer potential benefits in terms of providing a new dwelling to the District's housing supply, although I note the Council states that it has 8.3 years of housing land supply. The proposal would also have economic benefits through employment opportunities during the construction phase of the development, Council tax revenue and spending in the local area by future occupants. I have attached some weight to these factors. However, given the modest scale of the development, the weight attributable to these matters is very limited.

19. In addition to the above, when compared to the Class Q approval, the increase in the footprint of the building would be marginal and the extent of external alterations would also be relatively minor. The submitted plans indicate that the overall form, arrangement of windows and external materials are broadly consistent with the Class Q approval. Therefore, I find that the finished building would not be any more harmful to the character of the area than would occur as a result of the Class Q approval.
20. I am also conscious that the proposed domestic curtilage is larger than that approved as part of the Class Q approval. However, with the inclusion of the adjacent agricultural building to be converted to ancillary residential use, together with the adjacent track (as approved), the difference between the curtilages of the appeal proposal and the extant consents, would be relatively minor and would not be harmful to the character of the countryside.
21. Taking all of these factors into account, in my view the conflict with the Development Plan is outweighed by the combination of the fallback position and the benefits associated with increased energy efficiency measures. This is particularly the case as the increase in building footprint and curtilage when compared to the existing permission is so small as to render it insignificant in the overall planning balance.

Conditions

22. The Council has suggested a number of conditions that it considers would be appropriate and I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
23. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
24. In the interests of the character and appearance of the area conditions are required in respect of external materials and boundary treatment. In this case a condition is necessary to restrict permitted development rights for future extensions and outbuildings in order to safeguard the character of the countryside and the Local Settlement Gap.
25. For environmental reasons, conditions are also required in respect of drainage, biodiversity enhancements and external lighting.
26. With the exception of the drainage condition, it is not necessary for any of these to be pre-commencement conditions. It is however necessary for the drainage details to be agreed at this stage as any works on site may affect the ability of the site to accommodate the foul drainage system.
27. The Council have suggested a condition requiring the existing access to Chesterfield Road to the south east of the new access to be physically and permanently closed. However, since that was not a requirement of the planning permission for the new access track I consider that insufficient evidence has been provided to demonstrate why such a condition is necessary at this stage. I have therefore not imposed that condition.
28. The Council have also requested a condition relating to the nesting bird season. However, given that nesting birds are protected under the Wildlife and

Countryside Act I consider it is not necessary to impose a planning condition to the effect suggested by the Council.

Conclusion

29. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

Mark Ollerenshaw

INSPECTOR

SCHEDULE OF 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: Site Location Plan 001C, Proposed Site Block Plan 003C, Proposed Plans and Elevations 005 Rev B and Building Envelope 006.
- 3) No development shall take place above damp proof course level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the dwelling details of boundary treatments shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the first occupation of the dwelling and maintained as such for the life of the development.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, E, G and H of Part 1 of Schedule 2, shall be carried out.
- 6) Prior to the first occupation of the dwelling, a scheme of biodiversity enhancements (which could include bird and bat boxes and ecology rich landscaping) shall be submitted to and approved in writing by the local planning authority in order to achieve a net gain in biodiversity in accordance with the National Planning Policy Framework. The approved measures shall be implemented in full prior to the first occupation of the dwelling and maintained as such for the lifetime of the development.
- 7) No development shall commence until details of the design and implementation of a foul drainage system have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to the first occupation of the dwelling and shall be retained as such for the life of the development.
- 8) Prior to the installation of any external lighting, details of such lighting shall be submitted to and approved in writing by the local planning authority. The installation of any lighting shall only be carried out in accordance with the approved details.