
Appeal Decisions

Site visit made on 2 June 2021

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal A Ref: APP/Y3940/X/20/3261528

Cranbourne Farm Barn, Old Blandford Road, Coombe Bissett SP5 4LF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs David Royle against the decision of Wiltshire Council.
- The application Ref 20/06673/CLP, dated 6 August 2020 was refused by notice dated 30 September 2020.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is the following alterations to the main barn:
New metal sheet roofing
Insertion of a new concrete floor
Blockwork walls to be re-clad in existing metal sheet cladding
Barn door.

Appeal B Ref: APP/Y3940/W/20/3257309

Cranbourne Farm Barn, Old Blandford Road, Coombe Bissett SP5 4LF

- 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 and Mrs Royle against the decision of Wiltshire Council.
- The application Ref 19/11523/FUL, dated 7 January 2020, was refused by notice dated 3 March 2020.
- The development proposed is the conversion of two existing agricultural barns to form a single storey residential dwelling (Use Class 3) and car port, associated landscaping, and access.

Decisions

Appeal A – the LDC appeal

1. The appeal is allowed and attached to this decision is a certificate of lawful development describing proposed operations which are found to be lawful.

Appeal B – the s.78 appeal

2. The appeal is dismissed.

Appeal A – the LDC appeal

Main issue

3. The main issue is whether the Council's decision to refuse the application was well-founded.

Reasons

4. The appellants argue that the proposed alterations would be lawful, benefitting from the deemed permission granted under Article 3, Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Council's decision notice alleges that the development does not comprise development on agricultural land comprised in an agricultural unit of 5 hectares or more, and even if it complied with A(a) above, fails the condition in A.1(a) of that Class in that it would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area.
5. Before addressing the question of compliance with the Order, the first matter to be established is whether the works would constitute development. Section 57 of the Act provides that planning permission is required, subject to certain exceptions which do not apply here, for the carrying out of development. Development is defined in Section 55 of the Act as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.
6. S.55.1(A) goes on to say that for the purposes of the Act "building operations" includes -
 - (a) demolition of buildings;
 - (b) rebuilding;
 - (c) structural alterations of or additions to buildings; and
 - (d) other operations normally undertaken by a person carrying on business as a builder.
7. S.55(2) provides that certain operations shall not be taken for the purposes of this Act to involve development of the land which include (a) the carrying out for the maintenance, improvement or other alteration of any building or works which -
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building.
8. The proposal involves a mixture of alterations. The provision of a solid concrete floor would comprise an improvement of the building which would not materially affect its external appearance. However, the new blockwork walls would be seen through the open frontages of the barns and would materially affect their appearance, as would the provision of a new roof and doors. Thus, most of the proposed operations would constitute development for which planning permission is required.
9. Turning to Class A of Part 6 of the Order, it permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of -
 - (a) works for the erection, extension or alteration of a building; or
 - (b) any excavation or engineering operations,which are reasonably necessary for the purposes of agriculture within that unit.

10. Class A.1 provides that development is not permitted, amongst other circumstances which are not in contention here, if the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area.
11. The appellants submitted with the appeal, details of land title which show that the appeal site, a small enclosed field containing two agricultural buildings, forms part of a larger contiguous area of agricultural land in single ownership amounting to over 5 hectares. This evidence was not available to the Council when the application was determined. The Council no longer contests that the size criteria are not met, and I am satisfied that the site forms agricultural land comprised in an agricultural unit of 5 hectares or more, and that it does not form a separate parcel of land which is less than 1 hectare in area. Thus, the size criteria of Class A are met.
12. However, the Council argues that the site is not an "agricultural unit" and that the proposed works are not "reasonably necessary for the purposes of agriculture" thus falling outside of the scope of the development permitted under Class A.
13. The appellants have submitted photographs showing both the barn and the adjacent land used for keeping sheep, and I saw on my visit that the barn was used for the storage of a variety of agricultural implements. It is undisputed that the appellants possess an agricultural holding number, which would enable them to receive payments from the Rural Payments Agency. On the balance of probabilities, I am satisfied that the land forms an agricultural unit within the meaning of the Order.
14. As to whether the works would be reasonably necessary for the purposes of agriculture, I consider that the barn fulfils a useful agricultural purpose, and the works proposed would help to prolong the life of the barn and provide greater protection against the elements. The appellants say that the works are to make better use of the agricultural buildings allowing them to be used for other agricultural uses and improve the building for when livestock are kept there, and I see nothing in the works which would be inconsistent with such an aim.
15. The test is not whether such works are essential, but whether they are reasonably necessary for the purposes of agriculture. The grant of a certificate of lawful development relates only to the circumstances prevailing at the date of the application. In this regard I note that the appellants' representations in respect of Appeal B say, in reference to the works subject of this appeal, that once the certificate is approved "there will be a realistic prospect of the client undertaking the works required to facilitate the conversion to a dwelling."
16. Clearly, if the purpose of undertaking the works is to facilitate the conversion to a dwelling, the development would not be reasonably necessary for the purposes of agriculture and would not be lawful. Any development permitted under this Class would also have to comply with the conditions of the order, including A.2(5) which applies to developments including significant alterations to agricultural buildings such as those proposed here, requiring that, if agricultural use ceases within 10 years of the completion of the development, the building must be removed.

17. However, on the basis of the information before me, I conclude that on the date of the application, the works proposed would have been lawful, being permitted under Class A of Part 6 of the Order.

Conclusion

18. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of alterations to the main barn was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Appeal B – the s.78 appeal

Main issues

19. The main issues are:

- i) Whether the proposal would conflict with local and national policies aimed at locating new residential development in sustainable places;
- ii) The effect of the development on the character and appearance of the countryside, which lies within the Cranborne Chase Area of Outstanding Natural Beauty (AONB), and
- iii) Whether occupiers of the proposed dwelling would have satisfactory access to service and facilities.

20. The site lies on a private road which follows a ridge rising from the village of Coombe Bisset, to the west of the detached dwelling at Cranbourne Farm. It lies outside of the settlement boundary limits as defined in the Wiltshire Core Strategy (CS), Core Policy (CP) 2 of which says that other than in specified circumstances, development outside of settlement boundaries will not be permitted. One of the specified circumstances relates to supporting rural life, to which CS CP 48 applies. That says that proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported where they satisfy a number of criteria.
21. The policy goes on to say that where there is clear evidence that employment, tourism, cultural and community uses are not practical propositions, residential development may be appropriate where it meets the above criteria. After considering the appellant's arguments, the Council accepts that the residential conversion of the building would be acceptable in principle, and I see no reason to differ.
22. One of the criteria of Policy CP 48 is that the building is structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building. In this case, the proposal would involve the provision of a new roof, the construction of new blockwork walls around all of the building to be retained, and the replacement of the existing profiled metal cladding with timber cladding. Two elements of the existing barn would be removed, and on the south-west corner, a new smaller extension would be provided under the same roof area. Windows would be added on all 4 elevations. The existing concrete frames which currently support the walls and roof are not shown as being retained, and thus the new roof would obtain support from the new walls.

23. As a matter of fact and degree, I consider that the proposal involves major rebuilding, contrary to the policy. The appellants argue that much of the work can be carried out as permitted development under Class A of Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst extensive rights exist for alterations to agricultural buildings, they can only be lawfully exercised where reasonably required for the purposes of agriculture. If such works are carried out in order to facilitate a conversion to a dwelling, they would not be lawful. Moreover, in my opinion, the works proposed to be carried out as permitted development would amount to the "significant alteration" of the building, and thus if the building were to permanently cease to be used for agricultural purposes, absent the grant of planning permission for any alternative use or unless the local planning authority agrees otherwise, by virtue of paragraph A.2(5) of Part 6, Class A of the Order, the building would be required to be removed. I therefore afford only limited weight to the existence of permitted development rights.
24. Moreover, the preamble to the policy says that proposals must not lead to subsequent applications for replacement buildings elsewhere. If the alterations to the barn envisaged to be carried out as permitted development are required for agricultural purposes, it follows that the loss of the barn will be likely to result in an agricultural requirement for its replacement.
25. I therefore consider that the proposal conflicts with CS Policy CP 48, and that the proposal would represent the construction of a new building outside of defined settlement limits.

Character and appearance

26. The National Planning Policy Framework (the Framework) says that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs which have the highest status of protection in relation to these issues.
27. The Cranborne Chase AONB Management Plan (AONB MP) identifies the combination and contrast of the open exposed downland incised by intimate settled valleys and vales as being a special characteristic of the AONB. The barns sit in the open countryside on the ridge of a steep hillside. Although the site is hidden from the nearest houses in the valley floor because of the steepness of the hillside, it is clearly visible from the public right of way running past the site and at a distance across the valley on the rising ground to the south and west of Coombe Bisset.
28. The barns are finished in black cladding; they have an obviously agricultural appearance and appear as part of the agricultural landscape. The conversion would involve the formation of numerous openings in all the elevations of the large barn, and it would have an obvious residential character. Together with the domestication of the curtilage and the presence of residential paraphernalia and parked cars, the proposal would appear out of keeping with the largely undeveloped agricultural landscape which plays an important role in contributing to the natural beauty of the AONB. The removal of a part of the barn would not adequately mitigate this harm.
29. I saw the site from the recreational ground adjacent the Village Hall, and from Coombe Bisset Local Nature Reserve, and I consider that the proposed dwelling would dilute and harm the distinction between the agricultural downland and

the settled valley bottom. Whilst I note that landscape screening is proposed, it would take time to mature and could not be relied upon to form an effective screen indefinitely, as trees may die, be removed, become diseased or fail to thrive. The likely desire of future occupants to maximise the views from the dwelling would also be inimical to the provision or retention of an effective landscape screen.

30. During the evening and night, light pollution from the windows would also mar the mainly undeveloped character of the area because of the position of the site on a ridgeline and because of the large number of windows proposed. The AONB has been designated as an International Dark Sky Reserve, and dark night skies are identified in the AONB MP as being a special characteristic of the area, and the proposal would damage this special attribute.
31. I therefore conclude that the proposal would fail to conserve or enhance the landscape and scenic beauty of the AONB and would conflict with the criterion of CS Policy CP 48 which requires that the use would not detract from the character or appearance of the landscape or settlement, as well as with CS Policy CP 51 which deals with landscape, which includes the need to protect against intrusion from light pollution

Accessibility

32. The site is accessed by a fairly steep single-track lane, which is unlit and lacks a separate footpath. However, the site is not far outside of the centre of the village, and the Post Office/shop, pub and bus stop can all be reached on foot within about 5 minutes or so.
33. However, I recognise that the topography and the physical limitations of the access road would make walking or cycling unattractive to many people, especially in the dark or in bad weather. I therefore consider that there would be a significant degree of reliance on the use of the car to obtain access to services and facilities, and therefore conflict with CS Policies CP 60 and CP 61, which deal with sustainable travel, as well as criterion (iv) of Policy CP 48, albeit that given the closeness of the site to the village, many journey times would be short, so that the harm would be limited.

Other matters

34. Since the refusal of the application, the Council has been advised by Natural England that all applications which could adversely affect nutrient deposition on the River Avon catchment, a protected European Site, should be refused unless adequate mitigation can be provided. The appellants have indicated that a mechanism to secure adequate mitigation is being developed to allow phosphate neutral development to proceed, but I have not been provided with details of such a solution.
35. As the appeal is to be dismissed, it is unnecessary for me, as the competent authority, to carry out an appropriate assessment. If the appeal were to have been allowed, such an assessment would have been required, and further evidence from the parties would have been required.

Planning balance and other considerations

36. The Council accepts that it may not be able to demonstrate a 5 year supply of housing land. I have found that the policies which protect the AONB

provide a clear reason for refusing the development proposed, and thus the presumption in favour of sustainable development is disapplied, by virtue of paragraph 11(d)(i) and footnote 7 of the Framework. Even so, the Government's objective of significantly boosting the supply of homes is a material consideration of great weight, and the inability of the Council to meet its housing needs weighs in favour of the proposal.

37. However, the addition of a single dwelling is outweighed by the harm to the AONB, which carries great weight, together with the other harms I have identified, including the conflict with the development plan.

Conclusion

38. For the reasons given above, I conclude that there would be a conflict with the development plan as a whole, and that the appeal should be dismissed.

JP Roberts

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 6 August 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The works are permitted through the grant of a deemed planning permission granted under Article 3 and Class A of Part 6 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

JP Roberts

Inspector

Date: 17 August 2021

Reference: APP/Y3940/X/20/3261528

First Schedule

Alterations to the main barn including:

New metal sheet roofing

Insertion of a new concrete floor

Blockwork walls to be re-clad in existing metal sheet cladding

Barn door

As shown on the plans and particulars accompanying application 20/06673/CLP.

Second Schedule

Land at Cranbourne Farm Barn, Old Blandford Road, Coombe Bissett SP5 4LF

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 17 August 2021

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

Land at: Cranbourne Farm Barn, Old Blandford Road, Coombe Bissett SP5 4LF

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Not to scale

