



Appeal Decision

Site visit made on 20 July 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Appeal Ref: APP/P1615/W/21/3273001

Sheperdine Top Barn, Land at Yartleton Lane, Gloucester Road, Longhope, Gloucestershire GL17 0RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Messrs George and G.T Gough and Batt of G.T Batt against the decision of Forest of Dean District Council.
 - The application Ref P1497/20/PQ3PA, dated 3 September 2020, was refused by notice dated 11 November 2020.
 - The development proposed is the conversion of an existing barn to a self-build low impact studio dwelling and associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020¹ made amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter referred to as the Order). This introduced a requirement pertaining to the internal space of new dwellinghouses permitted under the Order. In effect, any such dwelling must comply with the nationally described space standard (NDSS) issued by the Department for Communities and Local Government². However, the transitional arrangements in Regulation 12 confirm that this is not applicable to the giving of prior approval in relation to an appeal which was lodged within 6 months of the date of notice of refusal of a prior approval application submitted before 6 April 2021. Accordingly, the new requirement would not take effect in relation to the proposal before me and I have made my determination on this basis.
3. The appellants have provided a drawing numbered T1301_i as part of their appeal submission which they state illustrates³ a furnished layout. On that basis, I have had regard to the drawing as additional illustrative material to the originally submitted plans and am aware that there may be alternative furnished layouts.

¹ Statutory Instrument 2020 No1243

² March 2015

³ Paragraph 5.10 Appellants' Appeal Statement

4. The Government published its revised National Planning Policy Framework (the Framework) on 20 July 2021. The views of the parties were sought in relation to the bearing of the revised Framework on the case. I have taken these into account when determining the appeal.

Background and Main Issue

5. Class Q of the Order permits the change of use and reasonably necessary building operations to convert agricultural buildings to dwellinghouses. Amongst other things, this is subject to the conditions set out in paragraph Q.2. Paragraph Q.2(1) requires a determination as to whether prior approval will be required for, amongst a series of matters, the design or external appearance of the building. In this case, the Council consider that prior approval is necessary and that it should not be given in relation to this matter, as they contend the resultant living accommodation would be unacceptably cramped. Therefore, the main issue is whether or not prior approval would be required in relation to the design or external appearance of the building in accordance with the condition set out in paragraph Q.2(1)(f) of the Order.

Reasons

Paragraph Q.2(1)(f) – design or external appearance of the building

6. There is no dispute between the parties as to the acceptability of the external appearance of the proposal. As such, the area of disagreement can be narrowed further. It follows that it relates to the acceptability or otherwise of the 'design' of the building under paragraph Q.2(1)(f) of the Order.
7. The term 'design' is not defined in the Order. It is a word that is often used to cover a wide range of matters when describing development. It is generally taken to encompass, amongst other components, the form, appearance, scale and function of a building. Therefore, it is reasonable to consider under the remit of design, whether the building proposed would function satisfactorily for its intended purpose. It follows that this would include consideration of whether sufficient internal space is provided. The appellants generally accept that whether suitable internal space is provided requires a planning judgement to be made⁴.
8. Paragraph Q.2(1) confirms that the procedural matters set out in paragraph W of the Order apply. Paragraph W(10)(b) of Schedule 2, Part 3 of the Order stipulates that regard must be given to the Framework so far as is relevant to the subject matter of the prior approval.
9. Section 12 of the Framework is entitled 'Achieving well-designed places' and is therefore relevant to the subject matter of design under paragraph Q.2(1)(f) of the Order. Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Moreover, paragraph 130⁵ goes on to state, amongst other things, that planning decisions should ensure that development will function well and create places with a high standard of amenity for future users.

⁴ Paragraph 1.4 and 5.9, Appellants' Appeal Statement

⁵ Paragraph 130 (a) & (f)

10. The appeal concerns a small stone built agricultural building. The submitted plans show that it would provide for a single storey dwelling with a main open plan living area for living and sleeping accommodation, and separate kitchen and shower rooms. The illustrative furnished layout is similar but shows the bed provided on a platform accessible by a retractable loft ladder with storage space underneath.
11. The information before me indicates the dwelling would have a floor area of approximately 22sqm⁶ and I have not seen any evidence to suggest otherwise. The parties disagree whether the amount and configuration of internal space would be sufficient to provide reasonable living conditions for the intended future occupants of the dwelling.
12. The proposed floorplan⁷ shows a single bed and two armchairs in the main living space. The limited available floorspace would restrict the amount of furniture that could be accommodated whilst also allowing sufficient room for circulation and clearance for the opening of doors. No provision is shown for a table to eat or work at, which would equate to a basic level of furniture. It is also doubtful whether a wardrobe and drawers could be suitably positioned to cater for clothes and other storage commensurate with the needs of future occupants. Given the rural context, this would be likely to include boots and outdoor clothing, which can be bulky. Moreover, the evidence submitted does not show how reasonable storage requirements for frequently used larger domestic items such as vacuum cleaners or ironing boards have been adequately addressed.
13. In addition, the amount of floorspace proposed in the scheme before me is similar to that referred to in a recent appeal decision⁸. Although that application was not one seeking prior approval, the Inspector nevertheless found the lack of space would result in unacceptably cramped accommodation that would conflict with the high standard of amenity required by paragraph 130 of the Framework. As such, it carries considerable weight in this regard and reinforces my findings.
14. I have had regard to the illustrative furnished layout but find the proposed bed platform shown would not surmount my concerns. In the absence of a section drawing it is not clear at what height the platform would be provided. Nevertheless, given the modest height of the building it seems likely that the raised platform would utilise the roof space. Consequently, it is doubtful that there would be sufficient height available for future occupants to stand up for the entirety of the raised platform, thereby allowing comfortable access to the bed and wardrobe stores shown at either end. In any event, the combination of retractable loft ladder and limited landing space would not provide convenient access to such a frequently used and basic domestic requirement. Likewise, it is not demonstrated that the storage area underneath the platform would be conveniently accessible.
15. Taking these factors together, the day to day living experience of future occupants would be cramped and inconvenient. Therefore, the proposed design of the dwellinghouse would fall considerably below the high standard of

⁶ Council's Planning Officer Report

⁷ Drawing No 2

⁸ Reference APP/P1615/W/20/3249993

amenity for future users that forms part of a well-designed place, referred to in the Framework.

16. The appellants highlight that Planning Practice Guidance (PPG)⁹ makes it clear that where a local planning authority wishes to require an internal space standard, they should do so by reference in their Local Plan to the NDSS. They point out that the Council have not adopted the NDSS as part of their development plan policy. Be that as it may, development plan policies are not directly applicable to the prior approval procedure. As will be seen from the above, my judgement in this case has been based upon the merits of the proposal presented with reference to the high standard of amenity referred to in the Framework, rather than the application of the NDSS.
17. Paragraph W(10)(b) of the Order confines the regard to be had to the Framework to that relevant to the subject matter of the prior approval. In this case those are the matters listed (a)-(g) in paragraph Q.2(1), with the main focus in this case on (f) which refers to design. The principle of housing is not the subject matter of the prior approval as it is established by virtue of the Order. In these circumstances, wider references to housing related matters in the Framework would not necessarily be relevant to the specific matter in hand. On that basis, the sections of the Framework which refer more generally to matters of housing supply, the presumption in favour of sustainable development set out in paragraph 11 and self and custom build housing have little bearing to my consideration of paragraph Q.2(1)(f), which concerns only the design or external appearance of the building.
18. The appellants refer to the need for a planning balance exercise¹⁰, and contends that the tilted balance in paragraph 11d of the Framework should apply. PPG¹¹ confirms that a local planning authority, and therefore by extension an Inspector, cannot consider any other matters when determining a prior approval application than those specified elements set out in the relevant part of the Order. Therefore, it is not shown that planning law requires applications for prior approval to be determined in accordance with the development plan, unless material considerations indicate otherwise¹². It follows that the prior approval procedure does not permit the same flexibility or balancing exercise as a planning application. Whether the tilted balance in paragraph 11d is engaged or not in part turns upon whether development policies that would otherwise apply are deemed out of date. As such, I cannot agree with the appellant that the tilted balance described in paragraph 11d of the Framework applies in this case. To do otherwise would run counter to the light-touch prior approval process described in the PPG¹³.
19. For similar reasons, the vision referred to in the Longhope Neighbourhood Development Plan that is brought to my attention¹⁴ is of little weight.
20. The appellants point out that the proposal would satisfy other components of good design. Even so, this would not address nor outweigh the concerns I have

⁹ Paragraph: 018 Reference ID:56-018-20150327

¹⁰ Paragraph 5.9, Appellants' Appeal Statement

¹¹ Paragraph: 026 Reference ID: 13-026-20140306

¹² Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

¹³ Paragraph: 028 Reference ID: 13-028-20140306

¹⁴ Paragraph 5.13 Appellants' Appeal Statement

identified in relation to the particularly constrained accommodation that would be provided.

21. I have considered whether the imposition of conditions might overcome my concerns but given the limited space available, I am not persuaded that an alternative layout would surmount the degree of harm identified. The appellants suggest a condition restricting occupancy of the dwelling to holiday accommodation. However, future occupants of holiday accommodation would still constitute future users of the building to which the high standard of amenity threshold in paragraph 130(f) of the Framework would apply. Moreover, occupants of holiday accommodation would also have requirements for a basic level of furniture provision, adequate storage and circulation space. The evidence does not show why they should be subject to a lower threshold or cramped accommodation. Hence, I am not satisfied that conditions would adequately address my concerns.
22. Accordingly, I find that prior approval is required for the design and external appearance of the building under condition Q.2(1)(f) of the Order. Furthermore, as the proposed design of the building would be unacceptably cramped and harmful, it would not provide an acceptable standard of accommodation and should be refused.

Other matters

23. There is no dispute between the parties in relation to the other matters that are subject to prior approval under paragraph Q.2(1) (a)-(e) and (g) of the Order. However, given that I have found the proposal to be unacceptable in relation to Q.2(1)(f) I have not considered these matters further, as they would not affect the outcome of my determination.
24. I acknowledge that the proposal would be beneficial to Mr G Gough and the farm by providing him with an opportunity to build his own home on the farm. Moreover, he may find the living environment proposed to be suitable for his needs. Nevertheless, paragraph W of the Order requires me to have regard to the Framework which refers to high quality buildings and good design that functions well not just for the short term but over the lifetime of the development. As such, the design should be suitable for all future users rather than one individual. Therefore, these factors would not overcome the concerns identified in relation to the design of the dwelling.
25. Paragraph W(10)(a) of the Order requires me to take account of representations received, and I have had regard to them as part of my determination. My attention is specifically drawn to those of Longhope Parish Council who raised no objections. Be that as it may, I am required to form my own judgement based on the entirety of the evidence presented. On that basis, the lack of objection from the Parish Council would not lead me to a different view in relation to the main issue.

Conclusion

26. For the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector