

Appeal Decision

Site visit made on 4 November 2021

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29TH November 2021

Appeal Ref: APP/Y2620/W/21/3273471

Row Hill Barns, Walsingham Road, Hindringham, Fakenham NR21 0BT

- 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 Darren Woods against the decision of North Norfolk District Council.
 - The application Ref PF/19/1576, dated 16 September 2019, was refused by notice dated 21 October 2020.
 - The development proposed is conversion of agricultural building to dwelling (part retrospective).
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Decision

1. The appeal is allowed, and planning permission is granted for conversion of agricultural building to dwelling (part retrospective) at Row Hill Barns, Walsingham Road, Hindringham, Fakenham NR21 0BT in accordance with the terms of application Ref PF/19/1576 and the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. Various works have already been carried out at the appeal site. I have therefore described the appeal proposal on the basis of the Local Planning Authority's (LPAs) decision notice, which I consider more accurately describes what is before me. It is the same description on the appellant's appeal form. Whilst some works have already been carried out, I have also assessed the appeal proposal with reference to the proposed plans submitted.

Main Issues

3. The main issues in this appeal are firstly, whether the appeal proposal would comprise the conversion of an existing rural building, and secondly whether the site would be a suitable location for residential development having regard to the development plan and national planning policy.

Reasons

4. The appeal site comprises of a former agricultural compound including two principal structures and appreciable areas of concrete hardstanding. The appeal proposal relates to one of the principal structures on the site which was a former Twentieth Century farm building positioned towards the rear (south) of the site away from the highway. In terms of the original structure, it now largely comprises of the seven concrete portal frames and the concrete foundation slab. I understand the roof originally comprised of corrugated asbestos sheeting, which has now been replaced with a less harmful substitute

of similar appearance. I also understand that the original side elevations comprised of a combination of concrete blockwork and additional asbestos sheeting, which have now been removed.

5. In short, the original structure, and what remains of it, points to a simple, utilitarian farm building of little architectural or historical merit. The appellant submits that such buildings are redolent of the agrarian landscape and thus worthy of retention. Given its practical, modern character and appearance I find the original structure to make only a very limited contribution to the local rural character. Nonetheless, it is material that the building was deemed structurally capable of conversion to secure prior notification approval in July 2016 for a residential dwelling.
6. From the evidence before me the appeal site was acquired by the appellant in January 2019 leaving approximately 6 months to implement the extant prior notification scheme by the required date of 20 July 2019. From what I observed on site, and from the submitted plans, the appeal building would not involve the original concrete blockwork, which has largely been removed to the slab level. On the external walls, the appeal building does not appear to be tied into or to rely on the concrete portal frame for its structural integrity. In essence, it would comprise a generally independent structure constructed within the footprint of the concrete portal sections. This is shown by the very modest gaps on the submitted plans between the elevations of the building and the portal frame, which I observed on site.
7. Other than a modest rear terrace and front steps, the appeal proposal would not extend beyond the footprint of the original structure. Consequently, the existing concrete portal sections would form a framework over the proposed residential accommodation, onto which the corrugated sheeting would form the external roofing fabric to the proposal and ensure its weathertightness. To this extent the appeal proposal would incorporate elements of the original structure. The key question, therefore, is whether this degree of adaptation of the original building comprises a 'conversion'?
8. Clearly, it was established that the original building was capable as functioning as a dwelling, including the retention of the original blockwork elevations. In contrast the appeal proposal, notwithstanding the retention of the portal frame and the roof, involves significant new structural elements, not least the construction of four new exterior walls. The LPA refers to the "'Hibbitt' tests"¹ in terms of what is considered to comprise a "conversion" and appeal decisions in support of this². I am mindful that the case of 'Hibbitt' related specifically to the parameters for prior approval under Class Q permitted development which allow for the change of use from agricultural building to dwellinghouse and building operations necessary to convert the building. The starting point for Class Q is it assumes the building is capable of functioning as dwelling, thus in effect facilitating a 'fast-track' mechanism for the conversion of agricultural buildings. On that basis, and so to ensure conversion proposals are genuine, paragraph Q.1 of the GDPO necessarily sets a prescriptive bar on what constitutes 'conversion'. This appeal does not involve permitted development and so I attach limited weight to 'Hibbitt' and consider that planning permission requires a more nuanced consideration³ on whether a proposal would be a

¹ Cited in Planning Practice Guidance paragraph 13-105-20180615

² LPA Statement Appendix 6 – which both deal with whether the proposal would constitute permitted development

³ A matter of planning judgement – as set out at paragraph 27 of 'Hibbitt' at PPG para 13-105-20180615

conversion or a rebuild in recognisable planning terms. As described, the appeal proposal is a marginal case, which the 'Hibbitt' judgement envisages for some conversions requiring planning permission⁴.

9. For the proposed building to function it would rely on reusing the skeletal concrete portal frame to support the roof and thus protect the internal structure. I also recognise that in many views, due to its principal containment within the original portal frame and roofscape, the appeal proposal would appear of comparable scale and massing to the original building. Matters are therefore very finely balanced, recognising the proposal does conserve some of the resources of the existing building. Overall, however, I find the appeal proposal effectively involves building, in large part, a dwelling afresh under the canopy of the existing framework of the agricultural dwelling. The amount of new construction required to form a dwelling would be significant rather than recognisably converting or repurposing the wider fabric of an existing building. On a marginal balance, I find the appeal proposal would tip into a category of rebuild rather than a conventional conversion.
10. The relevant development plan policy is Policy HO9 of the North Norfolk Local Development Framework Core Strategy 2008 (the Core Strategy) which deals with the conversion and re-use of rural buildings as dwellings. Policy HO9 was specifically updated in 2012 following the original publication of the National Planning Policy Framework (NPPF). The policy supports the conversion and re-use of "suitably constructed buildings". It is clear from the supporting text to the policy that it is intended to secure a future for traditional rural buildings that positively contribute to the local distinctiveness of North Norfolk due to historical, architectural or landscape value and are thus worthy of retention. Policy HO9 also requires that buildings are capable of re-use without substantial re-build, extension or alteration.
11. As set out above, the appeal building due to its relatively modern construction and the degree of work involved to create a new dwelling would be contrary in principle to Policy HO9. It is not the kind of building which has the support of Policy HO9 at criterion 2. Whilst the remaining elements of the building are structurally sound, the amount of work involved to create a dwelling would amount to more than a conventional conversion and would tip into the category of substantial re-building and alteration. As such the appeal proposal would be contrary to Policy HO9 at criterion 3.

Suitable location

12. The appeal site is in the countryside, distant from any recognisable settlement. It is part of a small cluster of development on this remote part of Walsingham Road. I understand the neighbouring dwelling and outbuildings immediately to the east operate as holiday accommodation and to the west is a large, modern potato store. I note from the various submissions in support of the appeal proposal that there is clearly a small community amongst the scattered dwellings in this remote part of North Norfolk but nonetheless on any reasonable measure the proposed dwelling would be isolated.
13. The development plan at Core Strategy Policies SS1 and SS2 and national planning policy at paragraph 80 of the NPPF are consistent and both seek to avoid isolated homes in the countryside unless there are particular

⁴ Paragraphs 29 & 30 of 'Hibbitt' at PPG para 13-105-20180615

circumstances to justify it. Policy SS2, in combination with Policy HO9, allows for the re-use and adaptation of buildings for appropriate purposes and NPPF paragraph 80 c) allows for isolated homes where the development would re-use redundant or disused buildings and enhance its immediate setting.

14. At present the appeal site, due in part to the partial implementation of the proposal but also the wider condition of the large concrete compound and dilapidated state of the buildings to the front of the site, after years of disuse, is in a generally moribund condition. The straightforward design of the appeal proposal would markedly improve the appearance of the site in its rural context. Additionally, through imposing conditions relating to landscaping and boundary treatments, the appeal proposal would present an opportunity to enhance the immediate setting. These would be moderate benefits of the appeal proposal and I return to them below under the planning balance.
15. Ultimately, to accord with Policy SS2 and NPPF paragraph 80 c), judgement is required as to whether the proposal would re-use the building. As set out above under main issue 1, this is finely balanced. In planning terms, I see little difference between 'conversion' and 're-use' when considering the need to carefully manage isolated homes in the countryside. Consequently, due to the degree of new building work involved, the appeal proposal would conflict with Policies SS1 and SS2 of the Core Strategy and would not accord with NPPF paragraph 80 c).

Other Matters

16. As set out above, the appeal proposal would be in the countryside. It is located adjacent to a large modern agricultural building to the west. Immediately to the east is a sizeable new dwelling and various large outbuildings which I understand replaced an existing property. When approaching the appeal site from the east this dwelling largely obscures views of the appeal building. Due to its set back position the appeal building is not otherwise prominent from elsewhere within Walsingham Road until you are directly parallel to the appeal site. It is not generally visible from Blakeney Road to the north.
17. In various views from the surrounding countryside, including across from the quiet lane on the opposite side of the shallow valley to the south of the appeal site, the developments adjoining the appeal site described above are starkly conspicuous in the wider landscape. In contrast, the relatively low profile of the appeal structure and surrounding vegetation means the appeal proposal would not be noticeable from this direction, including the proposed pergola/terrace element or lights at night-time. Conditions securing suitable landscaping and controlling external lighting would also assist in assimilating the proposed development into its rural context. Ultimately, due to its straightforward, utilitarian appearance and modest scale, the appeal proposal would not harm the landscape character of the host tributary farmland character type or that of the adjacent river valley.
18. The appeal plans show solar panels on the south-facing roof. I observed panels on the roof of one of the adjacent outbuildings of the dwelling to the east and a large array of panels on the roof of the adjacent agricultural store. In this context, I do not consider the proposed solar panels on the appeal building would result in significant harm to the wider landscape.

19. The appeal proposal arises in large part through the appellant's desire to deliver a development with a superior environmental performance compared to the prior approval scheme. This occurred part-way through the implementation of the prior approval scheme resulting in the revised design and construction. I have found above, on fine balance, this cannot be described as a conventional conversion or re-use, despite the framework of the original building being retained. Nonetheless, I do consider it material that the appellant was part-way through implementing an established residential consent, irrespective of the suitability of the location for housing in development plan terms. I therefore attach moderate weight to this material consideration, taking into account the reasonable prospect that a continued stasis in activity at the appeal site or removing what has been built to re-establish a disused farm building would lead to the site significantly detracting from the character and appearance of the countryside in this location.
20. The construction is intended to comply to Passivhaus principles including the use of straw bale infill, lime render, limecrete, solar panels and a mechanical heat recovery ventilation system. As stated above, the character of the appeal building is its simple utilitarian appearance. The proposed lime render finish, the exposed concrete portal framework, replacement corrugated roofing sheets and uncomplicated openings would reinforce this character resulting in a building compatible with its rural location. It would be no more residential in its character and appearance than numerous Class Q conversions. Overall, the high environmental credentials of the proposal would be a moderate benefit in favour of the appeal and would accord with the design ambitions in the NPPF at paragraph 130 criteria a) and c) in terms of functioning well over the lifetime of the development and not to discourage appropriate innovation. Whilst I accept the proposal would generate an additional modest number of vehicle movements, the occupation of the building would accord with NPPF paragraph 152 in supporting the transition to a low carbon future through both the very low energy demand of the building and the re-use of the embedded energy in the concrete portal frame sections and original slab.
21. Additionally, as stated above, the appeal proposal, through the use of conditions, would also present an opportunity to secure extensive landscaping to enhance both the character and appearance and biodiversity value of the site. Again, this would be a benefit of moderate weight in favour of the appeal.

Planning Balance and conclusion

22. The appeal proposal would be contrary to the development plan on the two main issues for this appeal. Accordingly, Section 38(6) of the Planning and Compulsory Purchase Act 2004 is clear that planning permission should be refused unless material considerations indicate otherwise. In this appeal there a number of considerations which need to be weighed against the conflict with the development plan. The weight I give to that conflict is to some extent tempered by the balanced judgment on whether what is proposed, in contrast to the required higher test for prior approval, would be a conversion in conventional planning terms. In the particular circumstances of this case, the judgment has been very marginal. In many perspectives, the appeal proposal, because of its principal containment within the original framework and roofscape of the building, would appear as a conversion or re-use, even if technically it is not.

23. Against this policy conflict, there are several material considerations described above under 'other matters' in favour of the appeal proposal to which I have ascribed various weights. Chief amongst these are the high environmental performance of the appeal proposal and the planning history of the appeal site. I have also give very limited weight in favour of the appeal proposal arising from the benefit that it would comprise a self-build dwelling, as supported by NPPF paragraph 62. Taking these considerations cumulatively into account, on balance, they support a decision, in the particular circumstances of this case, other than in accordance with the development plan. I accept there would be some modest harm from vehicle generation in a remote location but similar would have applied under the prior approval and could apply from an alternative re-use of the appeal site/buildings. In design and landscape terms there would be no significant harm. I therefore conclude that the appeal, on balance, should succeed.
24. The LPA has suggested a number of proposed conditions which it considers necessary were the appeal to be allowed. I have considered the suggested conditions in light of the content of the Planning Practice Guidance (PPG) on the use of conditions and the guidance at paragraph 56 of the NPPF.
25. A condition (1) requiring the development is carried out in accordance with the approved plans is needed in the interests of proper planning and for the avoidance of doubt. Given the countryside location of the appeal site, a condition (2) is necessary to ensure that the boundary treatments to the site are appropriate in terms of assimilating the development into its context. A further condition (3) is necessary to ensure an appropriate standard and character of hedge is established along the southern boundary within the first available planting season to suitably integrate the proposed development into the wider landscape. For similar reasons, a condition (12) controlling external lighting is necessary in order to preserve the remote, rural character including dark skies.
26. Irrespective of current circumstances at the appeal site, conditions (4), (5), (6) and (7) are all necessary to ensure highway safety at the appeal location, given the narrow width of the adjoining public highway. Whilst the PPG cautions against conditions removing permitted development rights, given the very rural character at the appeal location, conditions (8) and (9) would be necessary to maintain the functional and uncluttered character and form of the appeal building and the general absence of development in what was the wider, open yard to the former agricultural use.
27. In light of the ecological evidence, a condition (10) requiring the installation of owl boxes as recommended is necessary to mitigate any adverse impact. The appeal proposal has been designed to PassivHaus standards and therefore proposes mechanical ventilation. Given the proximity of the dwelling to the east a condition (11) requiring the submission of details on the equipment to be used and subsequent approval is necessary to protect the amenity of occupants of this holiday use from potentially unacceptable noise pollution.

David Spencer

Inspector

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans and documents, except as may be required by specific condition(s):

Location and block plans plan dated 04/03/2019

Drawing no. 19002-02

Drawing no. 19002-004

Drawing no. 19002-005

Drawing no. 19002-006

Landscape Proposal document

2. The building shall not be occupied as a dwelling until a scheme of boundary treatment to the north, east and west boundaries of the site has been completed in accordance with details including a plan indicating the positions, design, materials, planting and type of boundary treatment that has first been submitted to and approved in writing by the local planning authority. The boundary treatment shall be retained thereafter.
3. In the first planting season following the occupation of the building as a dwelling the southern boundary of the site shall be enclosed by a hedge of mixed native species planted in a double row, staggered, with 45cm between rows at a density of 5 plants per metre. All hedge plants shall be 30-45cm in height at the time of their planting and shall be suitably protected, each with a stake and guard. The hedge shall be grown to attain a height of at least 1.5 metres above the adjacent ground level and then be maintained at a height not less than 1.5 metres. Should the hedge or any part of it die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, a replacement hedge, or other agreed means of enclosure shall be planted/installed in accordance with details and timescales which shall be submitted to and approved in writing by the Local Planning Authority.
4. The building shall not be occupied as a dwelling until the vehicular access has been upgraded/widened to a minimum width of 4.5 metres in accordance with the Norfolk County Council residential access construction specification for the first 5 metres as measured back from the near channel edge of the adjacent carriageway. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
5. The building shall not be occupied as a dwelling until a 2.4 metre wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) has been provided across the whole of the site's roadside frontage. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.
6. Prior to the first occupation of the building as a dwelling space shall be provided within the site to enable two cars to park, turn and re-enter the highway in forward gear in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. This area shall be levelled, surfaced, drained and be retained thereafter available for that specific use.

7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) any access gates/bollard/chain/other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 5 metres from the near channel edge of the adjacent carriageway. Any sidewalls, fences or hedges adjacent to the access shall be splayed at an angle of 45 degrees from each of the outside gateposts to the front boundary of the site.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (as amended) or any order revoking or re-enacting that Order, with or without modifications, no enlargement, improvement or other alteration of the dwelling under Schedule 2, Part 1, Classes A, B, E or F shall be carried out.
9. No fences, gates, walls or other means of enclosure as defined within Class A of Part 2 of Schedule 2 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) shall be carried out on the land, other than in accordance with any details indicated on the approved plan.
10. Prior to the first occupation of the building as a dwelling two owl boxes shall have been installed on the eastern and western gables of the building in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The owl boxes shall thereafter be retained.
11. Prior to the installation of any extractor or ventilation equipment its details shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include measures to control noise. The equipment shall be installed and thereafter maintained in accordance with the approved details
12. Any outdoor lights associated with the development hereby permitted shall be fully shielded (enclosed in full cut-off flat glass fittings); directed downwards (mounted horizontally to the ground and not tilted upwards); switched on only when needed (no dusk to dawn lamps); and white light low-energy lamps (LED) and not orange or pink sodium sources.

Schedule Ends.