



Appeal Decision

Site visit made on 21 September 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/P3040/W/21/3275284

Sawmill Barn, Main Road, Hawksworth NG13 9DA

- 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 Kate Storey against the decision of Rushcliffe Borough Council.
 - The application Ref 21/00516/FUL, dated 15 February 2021, was refused by notice dated 16 April 2021.
 - The development proposed is the change of use of an existing equestrian building to a permanent dwelling, and relocation of manège.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of an existing equestrian building to a permanent dwelling, and relocation of manège, at Sawmill Barn, Main Road, Hawksworth NG13 9DA in accordance with the terms of the application, Ref 21/00516/FUL, dated 15 February 2021, subject to the conditions in the attached Schedule.

Procedural Matters

2. The description of development used in the banner heading and my formal decision above is adapted from that used on the Council's decision notice and subsequently in Section E of the appeal form. I have used it as it provides a slightly more detailed and accurate description of the proposal than that on the original planning application form, which did not include the reference to the manège. I have not included the reference to it being a resubmission of an earlier planning application, as this is not descriptive of the proposal.
3. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. Both main parties were given the opportunity to comment on the relevance of the revised Framework to this appeal. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the July 2021 version.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is a plot of land containing a stable building with an all-weather manège to the rear. It lies within a small developed cluster within the open countryside a short way south west of the village of Hawksworth. Immediately to the north east of the site is Saw Mills, a late 19th or early 20th century dwelling, beyond which lie further dwellings.
6. The proposal is to convert the stable block to form a two-bedroom dwelling, with external alterations including the installation of windows to existing shuttered openings on the front and rear elevations, an entrance door on the front elevation, and patio doors on the rear elevation. Three parking spaces would be provided at the front of the building. The existing manège would be relocated further to the north west to allow room for the creation of a garden at the rear of the dwelling, and a small wildflower meadow would be planted on the north eastern side of the site between the dwelling and the boundary with Saw Mills.
7. The Council's objections to the proposal are centred on the introduction of domestic paraphernalia and the parking of vehicles having an adverse impact on the rural character of the surrounding area. However, I saw on my site visit that the front part of the site is already used for parking vehicles, including a horse box at the time I was there, and the proposal would merely formalise the situation which already exists. There was also various other equestrian equipment being used or stored around the stable.
8. The site is partly screened from the passing road by a dense hedgerow on the front boundary. Where visible in public views, the dwelling would be seen in a residential context; from the site entrance, the neighbouring properties Saw Mills and The Old Sawmill form the backdrop to the existing stable building, while from in front of Saw Mills the stable is seen alongside that neighbouring front garden. While the proposed change of use would inevitably lead to the introduction of domestic paraphernalia, given the setting of the appeal site I do not consider that this would be likely to be especially obtrusive or incongruous.
9. The submitted drawings show that, notwithstanding the external alterations to facilitate the change of use, the building would retain a stable-like appearance which would not be inappropriate in its rural surroundings. Having regard to the pattern of development and the character of the adjoining residential cluster, I consider that the proposal would not significantly detract from or diminish the established rural character of the area.
10. The development plan is also supportive of the re-use and adaptation of existing buildings for appropriate uses, including housing. I note that an interested party objected to the scheme on the grounds that the original planning permission for the stable building dates only from 2016¹, but there is nothing in the relevant policies which suggests that the length of time for which either a building has been in place or a use has been established should be a determinative factor. I note also the Council's comment that rooms shown as a "snug" and an office on the submitted drawings could be used as bedrooms. While the purposes for which those rooms could be used is not a matter which could reasonably be controlled by a condition, no substantive evidence was

¹ LPA Ref: 16/00101/FUL, with subsequent variations in LPA Ref: 19/00993/FUL

provided to support this speculative suggestion, and I have determined the proposal as it was submitted.

11. Taking all of these points together, the proposed development would not cause significant harm to the character and appearance of the area. I therefore conclude that the proposal complies with Policy 10 of the 2014 Rushcliffe Local Plan Part 1: Core Strategy ("the Core Strategy"), and with Policies 1 and 22 of the 2019 Rushcliffe Local Plan Part 2: Land and Planning Policies ("the Part 2 Plan"). Together these policies seek to ensure that development is sympathetic to neighbouring buildings and the surrounding area, and that the appearance and character of the countryside is conserved and enhanced. For the same reasons, I find no conflict with the requirements of Paragraph 170 of the Framework, which requires that at planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Conditions

12. I have considered the conditions suggested by the Council having regard to the tests in the Framework and the advice in the Planning Practice Guidance ("the PPG"), as well as the appellant's comments in response. Where necessary I have altered the ordering and proposed wording, as well as merging suggested conditions, in the interests of clarity and effectiveness.
13. In addition to the standard time limit condition (1), in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans (2).
14. A condition to ensure satisfactory drainage (3) is required to comply with Policies 1 and 18 of the Part 2 Plan. A condition relating to land contamination (4) is necessary to protect public safety and to comply with Policies 39 and 40 of the Part 2 Plan. I have merged two suggested conditions into a single one requiring the approval and provision of biodiversity enhancements, and requiring an updated ecological survey in the event of development not beginning by August 2022 (5), which is necessary in the interests of protecting biodiversity, and to comply with the requirements of the Wildlife and Countryside Act 1981, Policy 17 of the Core Strategy, and Policies 1 and 38 of the Part 2 Plan. Conditions 3 to 5 are pre-commencement conditions as they are fundamental to development being able to take place in a safe or otherwise acceptable manner; I note here therefore that the appellant indicated their agreement to these suggested conditions.
15. A condition in respect of landscaping (6) is necessary to protect the character and appearance of the site and surrounding area, to protect biodiversity, and to comply with Policy 17 of the Core Strategy and Policies 1 and 38 of the Part 2 Plan. A condition requiring the driveway and parking spaces to be provided and maintained (7) is necessary in the interest of highway safety and to comply with Policies 1 and 11 of the Part 2 Plan, while a condition requiring the provision of charging facilities for electric vehicles (8) is necessary to promote sustainable transport measures, to contribute to a reduction in carbon emissions and air pollution, and to comply with the requirements of Policy 2 of the Core Strategy, Policy 41 of the Part 2 Plan, and Paragraph 112 of the Framework. A condition supporting a reduction in water consumption (9) is necessary to comply with Policy 12 of the Part 2 Plan, while a condition in respect of external lighting (10) is necessary to protect the rural character of

the area, and to comply with Policies 1 and 22 of the Part 2 Plan (although again I have merged the Council's two suggested lighting conditions into a single one). A condition restricting the use of the manège to private recreational use (11) is necessary as the site's amenities are not suited to commercial operation, and to comply with Policy 1 of the Part 2 Plan.

16. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so, and the PPG advises that conditions restricting the future use of permitted development rights or changes of use "may not pass the test of reasonableness or necessity"². In this case the retention, for the most part, of the existing stable-like character and appearance of the existing building went to the heart of why I found the proposal acceptable. I therefore consider that it is necessary and reasonable to remove permitted development rights relating to extensions, additions, outbuildings and enclosures in order to control the effect of the development on the rural character of the surrounding area, and to comply with Policies 1 and 22 of the Part 2 Plan. As such conditions restricting the permitted development rights of the dwelling (12 and 13) would be in accordance with the Framework and the PPG.
17. As the development will retain the existing walling and roofing materials, a condition requiring approval of materials to be used on external elevations is not necessary. The condition suggested in respect of demolition is not necessary as the permission is defined by the planning application form and approved plans.

Conclusion

18. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

M Cryan

Inspector

² Paragraph: 017 Reference ID: 21a-017-20190723

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:
 - Proposed Site Plan – '2316/3 Rev.D' – Received 16/02/2021;
 - Proposed Floor Plans and Elevations – '2316/4 Rev.F' – Received 16/02/2021.
- 3) Prior to the commencement of development, a foul and surface water drainage scheme shall be submitted to and approved by the Local Planning Authority. Any surface water scheme must show compliance with the drainage hierarchy whilst any foul water scheme (facilities for the disposal of foul sewage) must show compliance with the National Planning Practice Guidance drainage hierarchy to be evidenced through the submission of a Foul Drainage Assessment Form. The drainage shall thereafter be implemented in accordance with the approved scheme.
- 4) (a) The development hereby permitted must not commence and no preparatory operations in connection with the development (including demolition, site clearance works, fires, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) shall take place on the site until a written report of the findings of a Preliminary Risk Assessment ("PRA") of the nature and extent of any contamination affecting the site, whether or not it originates from the site, has been submitted to and approved in writing by the Local Planning Authority. The PRA must be prepared by a suitably qualified "competent person" (as defined in the National Planning Policy Framework) and must be in accordance with the Environment Agency's *Land Contamination Risk Management*. As a minimum the PRA must include the following:
 - i) a desktop study identifying all previous and current uses at the site and any potential contaminants associated with those uses;
 - ii) the results of a site walkover, including the details and locations of any obvious signs of contamination at the surface;
 - iii) the development of an initial "conceptual site model" ("CSM") which identifies and qualitatively assesses any potential source – pathway – receptor (contaminant) linkages;
 - iv) a basic hazard assessment identifying the potential risks from any contaminants on:
 - Human health;
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - Adjoining land;
 - Ground and surface waters;
 - Ecological systems; and
 - Archaeological sites and ancient monuments.
 - v) Recommendations for any further works that may be required to refine the CSM including any exploratory site investigation works and the sampling and analytical strategies proposed.

(b) Where the PRA identifies potential unacceptable risks associated with the contaminant linkages present in the initial CSM, the development (excluding any demolition) hereby permitted must not commence until a written report of the findings of any exploratory Site Investigation ("SI") with either a generic and/or detailed quantitative risk assessment of those findings has been submitted to and approved in writing by the Local Planning Authority.

c) Where the findings of the submitted SI identifies unacceptable risks to human health and/or the environment, the development (excluding any demolition) hereby permitted must not commence until a detailed Remediation Scheme ("RS") has been submitted to and approved in writing by the Local Planning Authority.

The submitted RS must include:

- full details of how the contamination on the site is to be remediated and include (where appropriate) details of any options appraisal undertaken;
- the proposed remediation objectives and criteria; and
- a verification plan.

The RS must demonstrate that as a minimum the site after remediation will not be capable of being classified as contaminated land under Part 2A of the Environmental Protection Act 1990.

d) The development hereby permitted must not be occupied or first brought into use until the site has been remediated in accordance with the approved RS and a written Verification Report ("VR") confirming that all measures outlined in the approved RS have been successfully carried out and completed has been submitted to and agreed in writing by the Local Planning Authority. The VR must include, where appropriate the results of any validation testing and copies of any necessary waste management documentation.

- 5) The development shall not commence until a scheme detailing biodiversity enhancements together with details of a timetable for their installation, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme should consider the opportunities for additional enhancements as recommended including:
- Bat Boxes;
 - Bird Boxes; and
 - Owl Boxes.

The approved scheme shall be installed in accordance with the approved timetable. The approved enhancements shall thereafter be retained and maintained.

In the event that work has not commenced before 1st August 2022, prior to the commencement of development, an updated ecological survey, along with any proposed scheme of mitigation shall submitted to and approved by the Local Planning Authority. The further surveys must be conducted in the peak season (May to September) immediately prior to the planned commencement of works. The approved mitigation schemes and any requirements of the surveys shall be implemented thereafter in accordance with the approved details and timings.

- 6) The development hereby permitted shall not be occupied until a scheme for the hard and soft landscaping of the site (including the location, number, size and species of any new trees/shrubs to be planted) has been submitted to and approved in writing by the Local Planning Authority.

Thereafter the scheme must be carried out and completed in accordance with the approved details no later than during the first planting season (October – March) following either the substantial completion of the development hereby permitted, or it being brought into use, whichever is sooner.

If, within a period of 5 years of from the date of planting, any tree or shrub planted as part of the approved scheme is removed, uprooted, destroyed, dies or become diseased or damaged then another tree or shrub of the same species and size as that originally planted must be planted in the same place during the next planting season following its removal.

Once provided all hard landscaping works shall thereafter be permanently retained throughout the lifetime of the development.

- 7) The development hereby permitted shall not be occupied until the driveway and parking area as shown on the approved plans have been completed. These provisions shall then be maintained in such condition for the life of the development.
- 8) The development hereby permitted shall not be occupied until a scheme for the provision of Electric Vehicle Charging Points ("EVCP") has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme must include details of the type, number and location of the proposed EVCP apparatus. The dwelling hereby permitted must not be first occupied until the EVCPs have been installed in accordance with the approved details. Thereafter the EVCPs must be permanently retained on the site in accordance with the approved scheme throughout the lifetime of the development.
- 9) The dwelling hereby permitted shall be designed to meet the higher "Optional Technical Housing Standard" for water consumption of no more than 110 litres per person per day.
- 10) Prior to the installation of any external lighting to the dwelling or dwelling land hereby approved, including the manège, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be designed so as not to cause a nuisance to neighbouring residents, and shall also have regard to guidance for bat-sensitive lighting. The details shall include a lux plot of the estimated illuminance, demonstrating that such lighting conforms to the Institute of Lighting Engineers' document *Guidance Notes for the Reduction of Obtrusive Light*. The lighting shall be installed only in accordance with the approved details and maintained as such thereafter.
- 11) The manège hereby permitted shall be used only for personal recreational use by the owners of the site, and not as a commercial riding school or for any other business or commercial use.
- 12) Notwithstanding the provisions of Schedule 2, Part 1 Class A; B; C; D; E and G of the Town and Country Planning (General Permitted

Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification) there shall be no enlargement or alteration of the dwelling hereby approved, or the erection of any outbuildings, without the prior written approval of the Local Planning Authority.

- 13) Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no fence, wall, or other built form seen as a means of enclosure other than those shown on the approved plans shall be erected on the site without the prior written approval of the Local Planning Authority.