



Appeal Decision

Site visit made on 5 January 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal Ref: APP/K2420/W/21/3281831

**Sutton Ridge Barn, Sutton Lane, Cadeby, Nuneaton, Leicestershire
CV13 0AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs R Jackson against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/00655/CONDIT, dated 18 May 2021, was refused by notice dated 13 July 2021.
 - The application sought planning permission for the change of use of land, store and stables to form one dwelling including extensions and alterations without complying with a condition attached to planning permission Ref 14/00400/FUL, dated 17 July 2014.
 - The condition in dispute is No 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2: Part 1, Classes A - E inclusive, G and H and Part 2 shall not be carried out unless planning permission for such development has first been granted by the local planning authority.*
 - The reason given for the condition is: *In the interests of preserving the agricultural character and appearance of the buildings and to accord with Policies BE1 (criterion a) and BE20 (criterion c and d) of the adopted Hinckley and Bosworth Local Plan.*
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land, store and stables to form one dwelling including extensions and alterations at Sutton ridge Barn, Sutton Lane, Cadeby, Nuneaton, Leicestershire CV13 0AR in accordance with application Ref 21/0065/CONDIT without compliance with condition numbers 1, 3 and 4 as previously imposed on planning permission Ref 14/00400/FUL, dated 17 July 2014, but subject to the following conditions:
 - 1) The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Plan at 1:200 scale, Drg ref:- B14/08/P01A received by the local planning authority on 23 April 2014.
 - 2) The existing (southernmost) access to the site shall have an effective minimum width of 4.25 metres and shall be surfaced in hard-bound materials over a distance of at least 5 metres behind the highway boundary. The access shall thereafter be permanently so maintained.

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification) no development referred to within Schedule 2, Part 1, Classes A - E (inclusive), G and H shall be carried out.

Preliminary Matters

2. Since the 2014 permission the GPDO 1995 has been replaced by the GPDO 2015. As part of this, Class AA of Part 1 and Classes F and G of Part 2 of Schedule 2 have been added. The provisions of the other classes have largely remained the same. Condition 4 includes reference to "any order revoking or re-enacting that Order with or without modification" and I have therefore considered these additional classes as they fall within those restricted by the condition.

Background and Main Issue

3. Planning permission for the conversion of the stable to a dwelling included a condition removing a number of permitted development rights under Schedule 2, Part 1 and Part 2. The Council's statement indicates that the condition is necessary to protect the character and appearance of the building and the surrounding area. The appellants object to the condition as they consider that the context has changed and that exceptional circumstances have not been demonstrated to justify the condition.
4. Therefore, the main issue is the effect of varying the condition would have on the character and appearance of the host building and its surroundings.

Reasons

5. The appeal site is accessed from Sutton Lane and is within a predominantly rural and undeveloped setting, although there are some residential properties nearby, including one immediately adjacent to the appeal site. The host dwelling is an L-shaped building of a single-storey set within large grounds. It is primarily timber clad, is simple in appearance and retains a number of stable doors as well as a short clock tower feature. Overall therefore, while the building has been converted to residential, its original use and character as a stable is still readily legible. The host dwelling also reads as a subservient building to the neighbouring dwelling which is much larger and clearly residential in nature. As such, the host dwelling provides a somewhat retiring feature in the predominantly open countryside and is in keeping with its rural nature.
6. Whilst this character has been retained through the appellants' conversion of the host building this does not mean it is not at risk from future inappropriate development which could erode the character. I find that such risk would primarily stem from alterations and extensions to the building and roof which alter its form, scale or massing. However, smaller alterations to the roof, such as the installation of rooflights, while to a more limited degree, could also significantly affect the character and appearance of the building if of an insensitive design or scale. Such extensions and alterations would have the potential to change the rural character and simple appearance of the building and its relationship with its surrounding, including the neighbouring dwelling and open countryside. However, more limited alterations such as those

resulting from repainting the building, installing electrical outlets or closed circuit television cameras would be unlikely to, either separately or cumulatively, affect the character and appearance of the building and its surroundings.

7. Although the land surrounding the host dwelling has clearly been turned to residential garden space and hardstanding for vehicles, its relationship with the host dwelling is still suggestive of a stable yard and paddock. As such, this relationship is an important contribution towards the character of the building and its surroundings. The erection of any outbuildings, depending on their scale, appearance and siting could adversely affect this character, especially given the openness to the rear of the site and the distant views afforded of the site. However, given the existing highway accesses serving the site and the mixed boundary treatments, it would be unlikely that any changes or additions to these features would significantly affect the rural character and appearance of the area.
8. I note that additional land surrounding the host dwelling has been converted to a residential use since the original permission. However, this does not alter the character and appearance of the host dwelling itself. While it may have affected the character and appearance of the surrounding area this is still predominantly rural in nature and so does not justify allowing the above permitted development rights. Moreover, whilst the Council may have been overly definitive by stating the removal of condition 4 'would' result in harm, I nevertheless find that there is a significant potential for harm to occur should all permitted development rights be re-instated.
9. Therefore, I conclude that whilst allowing permitted development under Schedule 2, Part 2 of the GPDO 2015 would be unlikely to harm character and appearance, allowing the works afforded by Classes A-E, G and H of Schedule 2, Part 1 of the GPDO 2015 would put the character and appearance of the host dwelling and its surroundings at risk. As such the complete removal of Condition 4, without substitution, would conflict with the purposes of Policies DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016) which require that development protects the intrinsic value, beauty and landscape character of the countryside and complements or enhances its surroundings.

Other Matters

10. The appellant has cited court judgements, referred to as *Cadogan V SSE* (1992) and *DLA Delivery Ltd V SoS*. However, I have not been provided with copies of these cases. Nevertheless, from the evidence before me I find they are not directly relevant to this case as Condition 4, around which this appeal turns, does not alter the extent or nature of the permission and no inconsistency in decision making has been demonstrated. Appeal Ref APP/K2420/W/20/3244583 has also been raised by the appellant, however it is not directly relevant to the case before me.

Conditions

11. As I have concluded that a condition is reasonable and necessary to prevent extensions, roof alterations and outbuildings, in the interests of the character and appearance of the host building and its surroundings, I will replace the condition subject to the appeal with one that refers to Part 1, Classes A-E

(inclusive) and Classes G and H, but not to any Class in Part 2. In arriving at this conclusion, I have had regard to the advice within the Planning Practice Guidance that conditions restricting permitted development rights should only be imposed where there is a clear justification to do so. The need to retain the character and appearance of the host dwelling and its surroundings in accordance with local and national policy is a clear justification.

12. I have also considered the conditions attached to the original permission and those further conditions suggested by the Council. The condition listing the plans as approved under Ref 14/00400/FUL would be necessary in the interests of certainty and for the purposes of enforcement. It is also necessary, for highway safety, that a condition setting out the standards at which the site access must be retained is also imposed. As the development has already been carried out the wording has been altered to reflect the current situation.
13. However, I consider that a condition requiring matching materials to be used is not necessary as the development has been carried out and the condition does not require their retention in perpetuity. Likewise, for this reasons a condition setting out the standard commencement time is also unnecessary.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and substituting it with a new condition and by restating those conditions that are still subsisting and capable of taking effect.

Samuel Watson

INSPECTOR