



Appeal Decision

Hearing Held on 11 January 2022

Site visit made on 13 January 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th March 2022

Appeal Ref: APP/N3020/W/20/3259515

The Riding Stables, Main Street, Lambley, Nottingham NG4 4PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by John Roberts Architects Ltd against the decision of Gedling Borough Council.
 - The application Ref 2020/0250, dated 10 March 2020, sought approval of details pursuant to condition No 1 of a planning permission Ref 2016/0987 granted on 16 March 2017.
 - The application was refused by notice dated 1 May 2020.
 - The development proposed is outline permission for the redevelopment of existing stables to provide 1 no. dwelling.
 - The details for which approval is sought are access, appearance, landscaping, layout and scale.
 - This decision supersedes that issued on 27 May 2021. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by John Roberts Architects Ltd against Gedling Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal was originally submitted by Miss Holly Sykes of John Roberts Architects Ltd. However, it was agreed at the hearing that the appellant's name should be amended to John Roberts Architects Ltd.
4. The original appeal decision, which was quashed by order of the High Court, was considered in a decision letter with another appeal¹ relating to a proposal at the same site. Within the terms of the previous appeal decision letter, Appeal A was the appeal before me, and Appeal B related to an application for planning permission. The Consent Order² of the High Court stated that "... by combining Appeals A and B the Claimant cannot see how the differing tests relevant to the reserved matters determination under Appeal A and those relating to the principle of the development under Appeal B were applied". It

¹ Appeal Ref: APP/N3020/W/20/3259519

² Claim No. CO/2373/2021

was on that basis that it was conceded that the decision in respect of the proposal before me was unlawful, which was sufficient for the decision under Appeal A to be quashed.

Reasons

5. The Council has granted outline planning permission for the redevelopment of existing stables to provide 1 no. dwelling. This was subject to condition 4 which stated:

"The development hereby permitted shall be limited to not more than one dwelling with a maximum floorspace of 240m², which relates to the existing stable buildings on the site, as agreed by the applicant in the email dated 23rd November 2016".

6. As part of this reserved matters application, it is proposed to retain barns within the site. The combined floorspace of the retained barns and the proposed dwelling would exceed the 240m² floorspace specified in condition 4.
7. The appellant submits that the retention of the barns does not involve new development. However, the proposal as submitted under the reserved matters would involve the change of use of the barns, which would represent development. The barns are also not excluded from the boundary of the outline planning permission or the reserved matters application, and are therefore part and parcel of the appeal site and the proposal. Although condition 4 specifically refers to one dwelling, the change of use of the barns would be part of *"The development hereby permitted..."* and the retention and subsequent change of use of the barns therefore falls within the remit of condition 4.
8. During the Hearing, the appellant emphasised that the barns are not referred to in the description of the development and that the reserved matters proposal would not conflict with that description. They also contended that the retention and change of use of the barns flows from the planning permission, as would other elements of development such as a driveway or garden. However, I am mindful that condition 4 refers to *'floorspace'*, and it is reasonable to interpret this as relating to buildings rather than other forms of incidental development. The condition also does not differentiate between proposed buildings and the retention of existing buildings. Assessed objectively and in context, these considerations do not limit the scope of condition 4 solely to the new building of one dwelling, and instead I consider the condition relates to buildings within the development as a whole.
9. The Council's officer report on the reserved matters application states that the proposal *does* comply with condition 4. Potential conflict with condition 4 is also not referred to in the Council's reason for refusal. However, the Council's position has subsequently changed and its appeal statement sets out that the 240m² relates to all buildings on the site, including the proposed dwelling plus any associated outbuildings. Whilst I note the appellant's frustration in relation to the Council's change of stance on this issue, this does not lead me to a different conclusion with regards to the interpretation of condition 4.
10. The Council did not include the barns as permanent structures as part of the outline planning permission, as is reflected in the wording of condition 4. However, it has subsequently accepted that both the stable block and the barns should have been classed as permanent buildings. Nevertheless, consideration

of the reasonableness of condition 4 does not fall within the remit of this appeal which relates to the consideration of submitted reserved matters.

11. I therefore conclude that the appeal should be dismissed given that the submitted details for the reserved matters application are not authorised by the outline permission. A number of other main issues were identified in respect of this appeal and were discussed at the Hearing. However, as I have dismissed this appeal on the basis of conflict with the outline planning permission, it has not been necessary for me to consider these other issues further.

David Cross

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr Phillip Proctor	Interested Party/Site owner
Mr Ben Hunt	Agent on behalf of appellant
Mr Jonathan Roberts	Appellant/Architect

FOR THE COUNCIL:

Claire Turton	Gedling Borough Council
Nigel Bryan	Gedling Borough Council

OTHER:

Des Bowring	Planning Inspectorate (Case Officer)
Dan Burton	Planning Inspectorate (Observing)

Documents Submitted at the Hearing

1. Copy of e-mail dated 23 November 2016 (and attachment) referred to in Condition 4.
2. Copy of Draft Consent Order from Council.
3. Copy of a later Draft Consent Order from appellant.
4. Sealed Consent Order (provided by Inspector).
5. Amended Council Appeal Statement, with tracked changes.
6. Appellant's agreement to the submission of the Amended Council Appeal Statement.

Documents Received Following the Hearing

1. Further Comments on Costs from appellant.
2. Council's Costs Rebuttal.
3. Confirmation from appellant re. no further comments on Council's Costs Rebuttal.