
Appeal Decision

Site visit made on 4 May 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2022

Appeal Ref: APP/Y3940/W/21/3284520

Upper Farm, Wexcombe, Marlborough, Wiltshire SN8 3SQ

- 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 Charles Woodhead of Greatworth Property Managers Ltd against the decision of Wiltshire Council.
 - The application Ref PL/2021/04069, dated 20 April 2021, was refused by notice dated 19 August 2021.
 - The development proposed is the conversion of an existing agricultural building into a residential dwelling (C3 Use Class), together with associated residential curtilage, landscaping, parking and a garage. The proposals also include the demolition and removal of two redundant open sided barns and restoration of an existing former chapel.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of an existing agricultural building into a residential dwelling (C3 Use Class), together with associated residential curtilage, landscaping, parking and a garage, the demolition and removal of two redundant open sided barns and restoration of an existing former chapel at Upper Farm, Wexcombe, Marlborough, Wiltshire SN8 3SQ in accordance with the terms of the application, Ref PL/2021/04069, dated 20 April 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - Whether the site provides a suitable location for residential development having regard to local planning policies and accessibility, and;
 - If harm arises, whether this is outweighed by other material considerations.

Reasons

Location and accessibility

3. Core Policies 1 and 2 (CP1 and CP2) of the Wiltshire Core Strategy, January 2015 (CS) respectively set out a settlement and delivery strategy for development in the county. Together they seek to direct residential development to settlements at a scale commensurate with their position in the hierarchy described in the CS. The county is divided into community areas in the CS, with each having its respective spatial strategy policy. The appeal site

lies within the Pewsey Community Area, and Core Policy 18 reinforces that development should accord with CP1.

4. CP2 of the CS stipulates that residential development is not supported outside of the defined limits of development save for in accordance with six express exception policies in the CS¹. One of these is Core Policy 48 (CP48) entitled Supporting Rural Life. Core Policies 60 and 61 of the CS generally underline the spatial strategy by requiring new development to be in accessible locations in order to contribute towards reducing the need to travel, particularly by private car. However, they do not seek to thwart the exception policies of the CS. This aligns with paragraph 105 of the National Planning Policy Framework (the Framework) which allows for the variance between urban and rural areas to maximise opportunities for sustainable transport solutions to be taken into account in plan-making.
5. The appeal site lies outside of any defined limits of development and is therefore, treated as countryside for the purposes of the CS. The parties disagree as to whether the proposal would comply with criteria in CP48 whereby the conversion and reuse of rural buildings may be considered appropriate for residential purposes. The area of disagreement can be narrowed further to one criterion, namely CP48(i) that requires the building(s) to be structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building.
6. Policy CP48 does not define what constitutes major rebuilding, in the absence of which my attention is drawn to case law² which considered broadly similar territory with respect to permitted development rights for the conversion of agricultural buildings to dwellings contained in the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Whilst there are parallels, the wording of CP48 is not identical to the permitted class of development. However, the case established that whether a proposal constitutes a conversion or a rebuild is a matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment. Equally, whether the proposal before me meets the requirements of CP48(i) requires the exercise of planning judgement. This is generally reflected in the examples of planning decisions and appeals provided by the appellant³.
7. The main subject of the proposal concerns a former agricultural building at the northern end of the site. The main part of the building is a three-bay portal frame with high eaves levels which includes crane beams and lifting equipment. It has a concrete ground floor and double pitched steel-framed roof comprised of sheeting supported by steel angle purlins. The external walls are mostly blockwork to eaves level, above which there is corrugated sheeting but with large openings in both gable ends.
8. The submitted structural assessment⁴ confirms that the building is in a good condition, and finds that the steel frame, masonry walls and concrete floor are all capable of being re-used as part of a residential conversion. I have not seen

¹ Listed in paragraph 4.25 of the CS

² *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin), Appendix G, Appellant's Statement of Case

³ Appendices E & F, Appellant's Statement of Case

⁴ Structural Assessment for the North Barn prepared by WFBA, dated February 2021

substantive evidence that would undermine these findings. It goes on to outline that those elements would be retained as part of the proposals and that the building works proposed can be supported by the structure without the need for additional foundations. Therefore, the structural information prepared by a qualified engineer shows that the building is structurally sound and capable of conversion without significant structural intervention, which aligns with requirements in CP48(i).

9. The drawings and Barn schedule of works document provided reveal that the asbestos roof and upper walling sheeting would be replaced with metal sheeting and vertical timber boarding respectively. In addition, new windows and doors would be inserted, for the most part utilising existing openings. Furthermore, internal works would include a mezzanine floor and insulation to meet modern thermal and waterproofing standards. On this basis, the proposal would retain the steel portal frame and concrete floor as well as the existing blockwork walls. I acknowledge that the extent of these works is considerable involving some rebuilding but given the amount of original fabric retained in this case, I am satisfied that it would not amount to major rebuilding of the structure.
10. Furthermore, CP48 only permits necessary extension or modification which preserves the character of the original building. The provision of internal walls and insulation would be generally required to meet regulatory standards necessary to make the building warm, dry and suitable for human habitation. It would be important and necessary to remove the existing asbestos cladding in the interests of health. The combination of sympathetic external finishes and use of existing openings would assist in preserving the rural utilitarian character of the original building. Hence, overall, the proposals in respect of the north barn conversion to a dwelling would accord with criterion (i) of CP48.
11. The proposals also include works to a former chapel building to form a home office associated with the proposed dwelling. The chapel is at the end of a former stable and coach house range that was historically associated with the Grade II listed Wexcombe House to the east. Given the separation distance and division of ownership that occurred prior to the listing of Wexcombe House, both parties agree that the former chapel does not form part of that listed building, rather it is a non-designated heritage asset. On the evidence before me, I have little basis to disagree.
12. The structural assessment provided does not cover the chapel building, but the submitted Heritage Statement describes the building to be in considerable disrepair with relatively little of its historic fabric surviving. It states that only a few rafters, part of a truss and a small area of lathe and plaster ceiling remain of the roof. The entire south-east elevation has been lost. The brickwork of the remaining elevations has been subjected to later alterations and is in poor condition with embedded timbers which have rotted. This was generally consistent with my observations.
13. Evidently, significant building work and new material would be required to restore the collapsed walls and roof of the chapel and bring the structure back to a useable state. Even if this is done sympathetically in matching brick, recycled clay tiles and using steel casement windows, this would amount to major rebuilding. Hence, with respect to the chapel it is not shown that it is structurally sound and capable of conversion without major rebuilding. As such,

this aspect of the proposal would conflict with CP48(i). The impact on heritage assets is a matter I shall deal with later in my decision.

14. Accordingly, I find that for the most part the proposals would fulfil the requirements of exception policy CP48 and therefore would provide a suitable location for residential development having regard to Core Policies 1, 2, 18, 60 and 61 of the CS. However, this would not be the case in relation to the restoration of the former chapel into a home office where there would be a conflict with the requirements of CP48 of the CS. I shall consider the weight that should be attributed to this as part of the overall planning balance.

Other Considerations

15. The chapel is understood to have been used in the past as a chapel of ease, serving local people who were not able to attend the parish church. It is also on the end of stable buildings historically associated with the listed Wexcombe House. Therefore, it possesses some historic significance derived from this social and religious use as well as probably having formed part of farmyard buildings serving the listed building. Paragraph 203 of the Framework states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.
16. According to the statutory list description, Wexcombe House is a detached farmhouse dating from the late 18th century. Its significance is largely derived from its architectural and aesthetic qualities. Nevertheless, a notable part of its significance lies in its historic association with agriculture and the role it played over time in rural society. The appeal site lies close to Wexcombe House and is within its setting. The relatively modern agricultural buildings presently on the site contribute little to its significance but are overtly agricultural in nature and have a neutral impact overall. Due to its historic association, the former chapel positively contributes towards the significance of the listed building. However, the paucity of its condition considerably tempers its ability to reveal the significance of the designated heritage asset. I have a statutory duty⁵ to give special attention to the desirability of protecting the setting of listed buildings.
17. The conversion of the modern northern barn to a dwelling would retain elements of its rural character such that it would read as a former agricultural building. Together with the removal of the modern southern barns, these aspects of the proposal would have a broadly neutral impact on the setting of the listed building. It is further proposed to restore the former chapel to an approximation of the religious structure as part of a home office. This would retain some of the surviving historic building fabric and secure a long term use for the heritage asset. A sympathetic restoration would better reveal the historic significance of the chapel and enhance its positive contribution to the setting of Wexcombe House. Paragraph 197 of the Framework stipulates in determining applications, account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. As such, there would be a modest heritage benefit arising from the proposal which weighs in its favour.

⁵ Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Other Matters

18. In coming to my view, I have had regard to the representations received. These included concerns that the proposal would increase light pollution, would set a precedent in an Area of Outstanding Natural Beauty (AONB) and would be seen from public footpaths. The development would relate to an existing building sited relatively close to other residential buildings and the road. Although there would be larger areas of fenestration in the walls, there would be fewer rooflights. On the basis of the evidence before me, it is not shown that lighting levels connected to the development would be intrusive, and additional planting could assist in assimilating the development into the landscape. Hence, there is little before me to indicate that the proposal would harmfully undermine the special qualities of the North Wessex Downs AONB. My views on this are generally reinforced by the comments⁶ of the Council's Landscape officer.
19. Furthermore, planning applications must be determined on their own merits and therefore, generalised concerns regarding a precedent being set attract little weight. Whilst it may be possible to see the appeal site from the nearest public rights of way, it does not necessarily follow that this would result in harm and based on the evidence before me, the proposed design would be suitably in keeping.
20. The Council has drawn my attention to a recent appeal decision⁷ which it asserts concerned a similar development and in which the Inspector was not satisfied that the building in question was capable of construction without major rebuilding. However, the construction of individual buildings and the extent of works associated with specific proposals are likely to differ and it is not shown that the nature and extent of works in the appeal decision highlighted matched those before me. As such, it carries little weight.

Planning balance

21. There is no dispute between the parties that the Council is unable to demonstrate a 5 year land supply. The appellant suggests a recent briefing note produced by the Council indicates 4.72 years' supply of deliverable housing sites. In these circumstances footnote 8 of paragraph 11 of the Framework deems that the policies which are most important for determining the application are out-of-date. There is nothing otherwise before me to show that the Framework policies in footnote 7 provide a clear reason for refusing the proposal. Consequently, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
22. The main benefit of the proposal would be the provision of an additional dwelling towards the overall supply. In addition, there would be a modest benefit arising from the restoration of the chapel which is a non-designated heritage asset. There would be economic benefits associated with the proposed works, as well as the activity of future occupants. Overall, I attribute moderate weight to the benefits of the proposal.
23. Balanced against this would be the limited conflict with policy CP48 of the CS, as the extent of the restoration works to the non-designated heritage asset

⁶ Appendix B, Appellant's Final Comments

⁷ Appendix 2, Statement of the LPA: Appeal reference APP/Y3940/W/21/3268931

would not entirely fall within the specified criteria for the reuse and conversion of rural buildings. However, I am mindful that this element of the proposal could be severable from the conversion of the northern barn, which I otherwise found complied with CP48. Given the benefits to the historic environment that would entail, it would be clearly preferable to include the restoration of the chapel rather than omit it. Overall, I attribute limited weight to this conflict with CP48 of the CS.

24. Therefore, in this case, I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It follows that the presumption in favour of sustainable development applies in this case and represents a material consideration of considerable weight.
25. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁸. In this instance, the material considerations carry sufficient weight to outweigh the limited conflict with the development plan that I have identified. Hence, the appeal should succeed.

Conditions

26. The three-year period in which the planning permission may be implemented is a statutory requirement. I also consider that it is necessary to specify the plans that are approved, and that the development shall be undertaken in accordance with these, as this provides certainty.
27. I have attributed positive weight to the restoration of a non-designated heritage asset. A limited schedule of works for the chapel has been submitted, but it is appropriate that further details are agreed to ensure a sympathetic restoration is carried out.
28. A condition requiring a scheme of landscaping to be agreed and implemented would assist in ensuring the visual quality of the development, particularly given that existing sheds are to be demolished. I have amalgamated and amended the wording of the Council's suggested conditions to make the requirements more proportionate to the scale of the proposal. Furthermore, it would be in the interests of highway safety to ensure the provision of the parking and turning areas before the occupation of the proposed dwelling.
29. A condition is imposed to ensure that the development proceeds in accordance with the recommendations of the ecological assessment provided to ensure the impact on bats, barn owls, reptiles and nesting birds is mitigated. It also secures the recommended ecological enhancements.
30. In the interests of human health, a condition is imposed to ensure that the asbestos presently at the building is removed either prior to or as part of the refurbishment proposed in accordance with the specific survey provided. This should ensure that any harmful material is removed in advance of residential occupancy. The Council have also suggested a more general condition relating to land contamination. However, aside from asbestos, there is little evidence before me to indicate that the appeal site is likely to be contaminated. On that basis I am not convinced such a condition would be necessary to make the

⁸ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

development acceptable in planning terms. Moreover, I am mindful that paragraph 184 of the Framework confirms that where a site is affected by contamination, responsibility for securing a safe development rests with the developer and/or landowner.

31. The Council have suggested a further condition to prevent the separate or commercial use of the home office or garage. However, in broad terms such sub-division, separate or commercial use is likely to need specific consent. Therefore, I am not persuaded such a condition would meet the test of necessity and have not imposed it.

Conclusion

32. For the reasons given above, I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

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: Site Location Plan P0-01 Rev A; Proposed Site Plan WEX/P/02; Proposed Plan – Ground Floor WEX/P/04; Proposed Plan – First Floor WEX/P/05; Existing and Proposed Elevations WEX/P/06; Existing and Proposed Elevations WEX/P/07; Proposed Elevations WEX/P/08; Proposed Section WEX/P/09; Proposed Section WEX/P/10; Detail Section WEX/P/11; Proposed Materials WEX/P/12; Proposed Plan and Elevations of Refurbished Chapel WEX/P/14 and Proposed Garage WEX/P/15.
- 3) The development hereby permitted shall not be occupied until a schedule of works for the repair and restoration of the former chapel shown on drawings no. WEX/P/13 and WEX/P/14 has first been submitted to and approved in writing by the local planning authority and thereafter repaired and restored in accordance with the approved schedule.
- 4) The development hereby permitted shall not be occupied until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include a planting specification, details of hard and soft surfacing materials, boundary treatment details and a timetable for implementation. Thereafter, the development shall proceed in accordance with the approved details and timetable.
- 5) The development hereby permitted shall not be occupied until the access, turning area and parking spaces have been completed in accordance with the proposed site plan, drawing number WEX/P/02.
- 6) The development hereby permitted shall be carried out in accordance with the mitigation, mitigation plan and enhancements contained in section 5 and appendices F, G and H of the Ecological Assessment prepared by Pro Vision, March 2021 Version 3. The measures detailed shall be carried out prior to the first occupation of the development and/or in accordance with the timing detailed in the Ecological Assessment.
- 7) The development shall be carried out in accordance with the conclusions and actions of the Pre-refurbishment Asbestos Survey and Report prepared by Stephenson's Analytical Services Ltd dated February 2021.