



Appeal Decision

Site visit made on 27 July 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2022

Appeal Ref: APP/A2335/W/22/3290722

Bainsbeck Farm, Kirkby Lonsdale Road, Arkholme LA6 1BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Edward Hayton against the decision of Lancaster City Council.
 - The application Ref 21/01447/PAD, dated 18 November 2021, was refused by notice dated 15 December 2021.
 - The development proposed is prior approval for demolition of outbuilding.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Edward Hayton against Lancaster City Council. This application is the subject of a separate decision.

Procedural Matter

3. I have used the description of development from the Council's decision notice as there was no specific description on the application form. I have determined the appeal accordingly.

Main Issue

4. The main issue is whether the development would be permitted development for the purposes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), having regard to the limitations listed in Schedule 2, Part 11, Class B.

Reasons

Permitted Development

5. The demolition of a building within a conservation area can be considered to be permitted development not requiring planning permission. However, this is subject to certain criteria or tests being met, including whether the proposed demolition is "relevant demolition" for the purposes of section 196D of the Town & Country Planning Act 1990, in order to meet Class B.1(b) of Schedule 2, Part 11 of the GPDO, and an assessment of the structural condition of the building to be demolished under Class B.1(a) of that same Part.

6. On the basis of the information submitted with the application, and my observations during my site visit, there is no dispute between the parties that the kitchen garden wall forms part and parcel of the outbuilding it is proposed to demolish. Whilst the building is under 115 cubic metres in volume, the garden wall which forms one of its structural walls is over 2m high. The compliance of the proposal with the criterion for the volume of the building does not prevent the need to comply with other criteria in respect of the height of the wall.
7. I saw that the single face of garden wall brickwork is tied into the stone wall that makes up the rear elevation of the outbuilding. It could not therefore be removed without demolishing the kitchen garden wall, which extends for a greater length than the appeal outbuilding. Due to the height of the wall above 2m, the proposed demolition of the outbuilding and associated garden wall does not meet the exceptions for demolition as set out under 4(b) of the Conservation Areas (Application of section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990) Direction 2015 and therefore, is "relevant demolition" under Class B.1(b) of Schedule 2, Part 11 of the GPDO.
8. The Council's reference to the outbuilding having been rendered unsafe by the action or inaction of any person having an interest in the land on which the building stands, and if it is practicable to secure safety or health by works for affording temporary support, is taken directly from the conditions of Class B.1(a) of Schedule 2, Part 11 of the GPDO.
9. Although the building suffered storm damage in 2019, the appellant advises that the lintel was wet and rotten and this was the cause of the collapse of the north-eastern elevation. There is no evidence before me by way of a structural survey to demonstrate that the outbuilding is beyond practicable repair. Neither is there any evidence that it is urgently necessary to demolish the outbuilding in the interests of safety or health. The remainder of the building is substantially intact, and the appellant has afforded temporary support to the north-eastern section through the provision of acrow props. I therefore consider that the building is capable of practicable repair.
10. As the proposed building is capable of practicable repair and the proposed demolition is "relevant demolition," the proposal would conflict with the conditions set out under Class B.1(a) and Class B.1(b) of Schedule 2, Part 11 of the GPDO. Consequently, the proposed demolition is not permitted development and planning permission would be required.

Other Matters

11. Whilst I appreciate that the outbuilding is the appellant's property to do with as they see fit, in this case a valuable and unique piece of the heritage of the site would be lost through its removal. It is reasonable for the appellant to repair and maintain buildings and walls within their ownership. Although of restricted height to the north-western elevation, the outbuilding appears to be of a reasonable size to be utilised for purposes ancillary to the main dwelling, including domestic storage.
12. Reference is made to a previous planning application refused by the Council for the demolition of 2 outbuildings, including the appeal outbuilding and the erection of a garage/workshop. As that was a different form of development to

the one before me and it has since been dismissed on appeal (reference 3288032), it does not affect my findings.

Conclusion

13. Having given careful consideration to all of the above, I conclude that the proposed demolition would not be permitted development in accordance with Schedule 2, Part 11, Class B of the GPDO. Therefore, for the above reasons, and having regard to all other matters raised, the appeal is dismissed.

M Clowes

INSPECTOR