



## Appeal Decision

Site visit made on 18 November 2022

**by Lewis Condé Msc, Bsc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 February 2023**

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**Appeal Ref: APP/W1850/W/22/3301268**

**Barns South of Longford, Kingsland, Leominster HR6 9RY**

- 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 P Gwatkin against the decision of Herefordshire Council.
  - The application Ref P200995/F, dated 24 March 2020, was refused by notice dated 11 February 2022.
  - The development proposed is described as 'Proposed conversion of three agricultural buildings to form two dwellings and garaging with associated landscaping and infrastructure'.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. The appellant has made an application for the award of costs. This is subject to a separate decision.

### Main Issues

3. The main issues are: a) whether the appeal site would provide a suitable location for the proposal with regard to the Council's spatial strategy for development; and b) the effect of the development on the character and appearance of the Kingsland Conservation Area (CA).

### Reasons

#### *Suitable Location*

4. The three agricultural buildings subject of the appeal lie approximately 300m to the south of the defined settlement boundary for Kingsland. They comprise of 'Barn 1' a traditional two storey timber framed and timber clad building under a corrugated tin roof; 'Barn 2' a more modern portal framed building with a mix of concrete block walls and asbestos sheeting to its elevations and asbestos sheeting roof; and 'Barn 3' a largely dilapidated building consisting of a mono-pitch structure with elements of steel and timber framing. The barns are accessed via a stoned farm track that runs from a yard to the south of the buildings to the B4360 (approximately 350m away).
5. Policy RA2 of the Herefordshire Local Plan Core Strategy 2011 – 2031 (adopted 2015) (the Core Strategy) seeks to secure sustainable development in rural areas by directing housing to locations within or adjacent to identified settlements. The supporting Figures to Policy RA2 identify Kingsland as a main focus for proportionate housing growth in principle.

6. Kingsland contains a range of facilities and services, including public houses, a primary school, GP Surgery, Village Hall, Post Office, a Church and bus stops. The availability of such facilities contributes to its identification as a focus of housing growth in the Core Strategy.
7. However, the proposed dwellings would be located a considerable distance beyond the settlement's built-up area and would not physically relate well to it. The site context is also generally not suitable to encourage walking or cycling as a means of transport. The nearest pavements are located approximately 350m away from the proposed dwellings, which would be accessed via the unlit stoned farm track. The absence of pavements and lighting in the near vicinity of the proposed dwellings may not deter all persons from walking or cycling as a means of travel. Nevertheless, I consider it would still be a hindrance that would deter most occupants of the proposed dwellings, especially during adverse weather or periods of darkness. Future residents are therefore likely to be heavily reliant on the use of private vehicles to access most services and facilities. This would be the least sustainable travel option.
8. Despite the above concerns, Policy RA3 of the Core Strategy sets out exceptions where residential development would be permitted in rural locations outside of defined settlements. The exceptions largely follow those set out at Paragraph 80 of the National Planning Policy Framework (the Framework). This includes the sustainable re-use of redundant or disused buildings that lead to an enhancement of its setting. As such, I find the policy to be generally consistent with the Framework.
9. Further policy criteria for the re-use of redundant or disused buildings (each of which should be met) is established under Policy RA5 of the Core Strategy. Pertinently, this includes a requirement that the buildings are of permanent and substantial construction, capable of conversion without major or complete reconstruction.
10. The Council contests that the barns are capable of conversion without major reconstruction. Policy RA5, nor its supporting text, provides a definition of what constitutes conversion without major reconstruction. However, the Council has brought my attention to the Hibbitt High Court Judgement<sup>1</sup>. This addressed the extent of building operations allowed for the change of use of an agricultural building to a dwelling under Class Q of the General Permitted Development (England) Order 2015 (as amended) (GPDO). Notably, whether the works required to bring about the change of use of the building amounted to a re-build or 'fresh' build as opposed to a conversion.
11. Hibbitt reinforces that it is a matter of planning judgement as to whether the level of works involved would still constitute a conversion. However, the case established that the building should be capable of conversion without new structural elements, and the existing building should be sufficiently robust to bear the loading from external works.
12. The Hibbitt case was considered against the statutory limits outlined under Part Q of the GPDO, including allowing works 'reasonably necessary' for conversion. The nature of the building in that case also differed to the current appeal buildings. Accordingly, the Hibbitt case is not directly comparable to that before me, which instead requires a consideration of whether the works involve

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<sup>1</sup> Hibbitt v SSCLG [2016] EWHC 2853

conversion without major or complete reconstruction. Nonetheless, I find that the principles that the Judgement established in relation to what constitutes a conversion remain a helpful consideration in this instance.

13. The appellant has provided structural survey reports for Barns 1 and 2, including a subsequent addendum to the report for Barn 1. These have been completed by suitably qualified structural engineers.
14. With respect to Barn 1 the submitted survey identifies that the oak timber frame appears to be of reasonable quality, albeit replacement softwood elements used in the timber framed barn appear to be of basic strength. The report further recommends the replacement of various timber elements. Notably, the doubling up of existing softwood slope purlins and supplementing alternate softwood floor joists is recommended. Upgrades to these structural elements are identified as being necessary to increase the building's load carrying capacity to accommodate domestic roof and floor loadings.
15. Additionally, the proposal would also involve the provision of various new elements, including slate and standing seam metal roofs, window and door openings, a concrete slab floor and timber weatherboard cladding to the building's elevations. I recognise that the external cladding is a cosmetic choice and not essential for the proposed dwelling. However, it remains that the scheme before me would involve a substantial level of alterations including the upgrading of structural elements of the Barn.
16. Even though it may not be a complete reconstruction project, and the relevant works are individually minor or uncomplicated, the totality of the works proposed would result in the major reconstruction of Barn 1. Indeed, I find the proposals would be tantamount to the creation of a new dwelling as opposed to a conversion.
17. Turning to Barn 2, the structural survey identifies the existing building's individual structural elements were each found to be in generally good condition and the building is structurally sound. I have no reason to doubt these findings.
18. The survey of Barn 2 further indicates that the structure's existing frame would be capable of supporting loads associated with the proposed development. The structural report however identifies that no investigations of the existing foundations, such as trial pits, were complete. The condition of the foundations is not questioned in the structural survey, whilst it is highlighted that the building is showing no indication of subsidence or heave. Nevertheless, it has not been categorically demonstrated that no underpinning or further structural works to the foundations would be required to complete the proposal, which include additions such as a new floor and sizeable glazing panels.
19. Additionally, the works to Barn 2 would also involve new window and door openings, lowering of part of the ground floor level to create additional headroom, whilst a mezzanine floor would also be added over approximately a third of the building. It would also be necessary to remove the upper asbestos clad surfaces. As such, each elevation would be clad in timber boarding, while the roof would comprise of standing seam metal cladding. Together, these works would be considerable in nature. As such, based on the evidence before me, I fail to be convinced that the works to Barn 2 would not amount to major reconstruction of the building.

20. Barn 3 is proposed to be converted for use as an ancillary garage/storage space. The current building is in a highly dilapidated state and much of it is proposed to be demolished. However, the appellant indicates that the portal framed part of the structure would be kept and most of the redevelopment would consist of retained parts of the existing building. Be that as it may, there is no robust structural evidence before me to indicate whether the building is structurally sound for conversion. Additionally, the proposed plans do not provide a clear indication of the specific elements of the barn that would be retained.
21. I note the comments of the Council's building control officer in respect of the proposed works comprising a conversion of the buildings. The officer may not have had concerns regarding the findings of the structural reports or the proposed works involved. However, the comments provided do not demonstrate that the officer was considering whether the proposed works would amount to a conversion having regard to planning policy or case law. Instead, given the different regulatory processes to planning, it is likely that the building control officer was more concerned with the feasibility of the proposed works and the technical accuracy of the structural reports.
22. I also note the officer's report and recommendation to the planning committee. However, for reasons outlined above, I do not agree with the findings that the proposed development would amount to a conversion of the existing buildings without major reconstruction.
23. The appellant has provided a copy of a previous appeal decision<sup>2</sup> in the authority area. I have only limited details of that case and it is unclear as to the precise level of works that were involved, or the findings of its associated structural survey. However, the Inspector was satisfied the change of use from an agricultural building to a dwelling (under Part Q of the GPDO) was acceptable on the basis that the proposal would amount to a conversion of the building and that the works to facilitate this were reasonably necessary. This view was reached based on the structural evidence before the Inspector and due to a lack of robust evidence to the contrary. The appeal decision does not specifically outline that an alternative view could only be reached subject to the findings of technical/expert evidence. Instead, it suggests that in that instance there was no robust reason, or evidence, not to concur with the appellant's case.
24. In this instance, however, the evidence submitted by the appellant, demonstrates that the extent of works proposed to the barns would be substantial and would amount to major reconstruction. This is despite retention of elements of the existing barn being feasible and the works involved not being overly complicated.
25. The appeal site is therefore not a suitable location for the development proposed having regard to the Council's spatial strategy for new dwellings. It would be contrary to Policies RA2, RA3 and RA5 of the Core Strategy. It would also conflict with Policy KN2 of the Kingsland Parish Neighbourhood Development Plan 2011 – 2031 (made 2017) (KPNDP), which further sets out the development strategy for the Parish including restricting new development in the open countryside. Likewise, it would also not accord with the aims of the

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<sup>2</sup> Appeal Ref: APP/W1850/W/18/ 3216155

Framework in regard to the development of isolated dwellings in the countryside.

### *Conservation Area*

26. The appeal site lies within the Kingsland CA, which incorporates fields to the south of the main village. The CA contains a range of buildings including many of a traditional rural character, as well as several listed buildings of architectural and historic interest. The village also has a pleasant, verdant, and tranquil quality which contributes positively to its significance. While its historic role of a village settlement within wider agricultural surroundings also adds to its significance.
27. The appeal site itself contributes to the historic context of CA, displaying a longstanding cluster of agricultural buildings in a courtyard arrangement. Notably, Barn 1 is a fairly well-preserved example of a traditional agricultural barn. The appellant has also demonstrated that it is likely to be the last remaining historic structure of a previous group of buildings historically linked to a local Grade II Listed Farmhouse.
28. The proposed development would not be highly appreciable from most public vantage points. This is due to the scale of the proposed dwellings, which are of a smaller footprint than the existing buildings, alongside their separation distances from Kingsland. Additionally, the presence of intervening mature vegetation, including hedgerows to field boundaries, largely conceal the existing buildings from public views, other than from a footpath to the south.
29. Furthermore, the proposed dwellings would be of an appropriate scale, would replace existing buildings of questionable aesthetic value, whilst still retaining a suitable agricultural vernacular and courtyard arrangement. The proposed dwellings would also relate well to similar buildings of rural character within the CA. As such, even where views of the proposals would be possible, the design of development would not harm the character or appearance of the CA or the wider landscape.
30. The Council is also concerned that the domestic use of the appeal site would lead to erosion of the tranquillity associated with the rather open rural landscape at the south of the CA. However, again the scale and design of the proposals would ensure that a large degree of openness and rural character would be maintained at the site. Suitable landscaping, to avoid an overly domestic appearance, could also be secured via the use of conditions in the event planning permission was granted. While I consider the level of activity associated with two dwellings is unlikely to be so substantial that it would meaningfully affect the tranquillity of the CA. It is also noted that, although now redundant, the existing buildings at the site would have also been used for agricultural purposes in the past, attracting vehicle movements, noise, and human activity.
31. Notably, the proposal would also preserve elements of existing Barn 1, including its oak frame and some of its likely original internal layout. Due to its architecture, age and probable past agricultural links to Kingsland, Barn 1 can be considered a non-designated heritage asset (NDHA). Thus, the proposal also offers heritage benefits. I will return to this matter in my planning balance below.

32. Based on the above, I consider the proposed development would conserve the character and appearance of the Kingsland CA. Accordingly, the proposal complies with Policies SS6, LD1 and LD4 of the Core Strategy and Policies KNDP1, KNDP4 and KNDP5 of the KPNDP. Collectively, these policies, amongst other matters, seek for new developments to protect environmental assets that contribute to the county's distinctiveness, and retain local character, including through the conservation and enhancement of the historic environment and heritage assets. Likewise, the proposal would accord with the aims of the Framework in respect of the preservation of designated heritage assets.
33. The Council has also referenced Policy SS1 of the Core Strategy in relation to its second reason for refusal, but has not provided specific reasoning. I have not found the policy to be directly applicable in this instance.

### **Other Matters**

34. I recognise that the appeal scheme could deliver a range of potential benefits, including biodiversity enhancements, and socio-economic benefits relating to the provision of dwellings. These will be discussed further in the planning balance below.
35. The appellant's frustration with the way the Council resolved the application, are noted, especially given the generally positive pre-application advice that was received. However, the appeal has been determined on its own merits.

### **Planning Balance and Conclusion**

36. Although the proposed development would not harm the character or appearance of the CA, it would result in isolated new dwellings that would not adhere to the Council's spatial strategy. The conflict with the spatial strategy is a matter to which I give substantial weight.
37. The proposal, however, would preserve elements of a NDHA which is encourage through both local and national policy. However, given the extensive changes that would take place to Barn 1 the elements of the NDHA that would remain would be rather limited and not particularly appreciable. As such, I ascribe only modest weight to the public benefits associated with the preservation of the NDHA.
38. Further benefits of the proposals include biodiversity enhancements through landscaping proposals and socio-economic benefits associated with the delivery of new dwellings. However, given the scale and nature of the development proposed the wider identified benefits would be minor and worthy of only limited weight.
39. Together, I do not consider that the proposed benefits of the scheme outweigh the conflict with the development plan's spatial strategy.
40. In conclusion, the appeal scheme conflicts with the development plan as a whole and there are no other considerations, including the Framework's provisions, which outweigh this finding. Therefore, for the reasons given above and considering all other matters raised, the appeal is dismissed.

*Lewis Condé*

INSPECTOR