



Appeal Decision

Site visit made on 20 March 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2023

Appeal Ref: APP/F1610/W/22/3306148

Ad Astra, West End Farm, Poole Keynes, Gloucestershire GL7 6EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval of details required by a condition of a planning permission.
 - The appeal is made by Mr and Mrs Tingley against the decision of Cotswold District Council.
 - The application reference 22/00557/COMPLY, dated 14 February 2022, sought approval of details pursuant to condition Nos. 3 and 5 of planning permission reference 21/02199/FUL, granted on 15 July 2021.
 - The application was refused by notice dated 28 July 2022.
 - The development approved under planning permission reference 21/02199/FUL is described as 'Design amendments following approval of applications 19/01276/AGRPAN and 20/00984/FUL to convert building into a dwelling'.
 - The details for which approval is sought are:
 - *Condition 3 - Prior to the construction of any external wall of the development hereby approved, samples of the proposed walling and roofing materials shall be approved in writing by the Local Planning Authority and only the approved materials shall be used'.*
 - *Condition 5 - Prior to the construction of any external wall on the development hereby approved details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period'.*
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Decision

1. The appeal is allowed, and the materials details and construction management details submitted pursuant to condition Nos. 3 and 5 of planning permission reference 21/02199/FUL, granted on 15 July 2021, in accordance with the terms of application reference 22/00557/COMPLY, dated 21 July 2022, are approved.

Preliminary Matters

2. An application for Approval of Details Reserved by Condition was made and subsequently refused by the Council. The Council state that the permission to which the conditions relate was for the conversion of an existing agricultural building, and because the structure was removed entirely prior to commencement, the permission had been lost. They therefore refused the application for approval of details, on the basis that it was not possible to comply with the conditions attached to a permission that had been lost.

3. This appeal relates to the refusal to approve details reserved by condition. The appeal is therefore made under s78(1)(b) of the Act which covers “the Right to appeal against planning decisions and failure to take such decisions, (1) Where a local planning authority (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission or grant it subject to conditions ...”. Consequently, whether the original permission is capable of being implemented or whether the development would be lawful are not matters which I can consider under the scope of this s78 appeal. The status of the development is for the parties to establish outside of this appeal, such as via an application for a lawful development certificate.
4. In addition, conditions 3 and 5 required details to be approved prior to the construction of any external wall. At the time of my site visit, the external walls had been constructed and the dwelling appeared to be occupied. I have no substantive evidence to establish whether the application was submitted prior to construction of the walls, but it is evident that construction commenced prior to approval of details required by the conditions. However, the application subject to this appeal did not seek permission to carry out development without complying with a condition which had been imposed on a planning permission (ie to vary, modify or remove conditions, which would be considered under s73 of the Act).
5. Consequently, for the reasons set out above, I have confined my considerations under this appeal to the acceptability of the details submitted in relation to the requirements of conditions 3 and 5 of planning permission reference 21/02199/FUL granted on 15 July 2021. Approval of the details required by the conditions does not confirm the status of the development as that is not within the scope of this appeal.

Main Issues

6. Having taken the above preliminary matters into account, the main issues in this appeal are whether:
 - The proposed external materials would provide a satisfactory appearance for the development and its surroundings; and
 - The proposed construction management arrangements would avoid any unacceptable impacts on highway and pedestrian safety.

Reasons

External Materials

7. Photographs of a sample of the wall cladding and the front door have been provided. I have also viewed the external materials on site, as used within the development. The materials are of a type, colour and quality appropriate to the site and its surroundings. I note that the Council also consider the materials used in the development to be acceptable. Therefore, the materials details submitted with the application subject to this appeal are sufficient and they comply with the requirements of Policy EN2 of the Cotswold District Local Plan 2011-2031 (Adopted August 2018) (LP). This policy seeks to ensure quality design that respects the character and distinctive appearance of the locality.

Construction Management

8. It was evident from my site visit that the external elements of the development are substantially complete at the appeal site meaning a construction management plan now has little relevance. Notwithstanding this, I note that the site is accessed off a quiet lane and there is ample space on site for vehicle turning, parking and the storage of materials. The construction management details submitted with the appeal are very basic. However, given the size and nature of the site and the road it is accessed from, the details are sufficient for me to conclude that construction could be managed in a way that avoided any unacceptable impact on the safety of users of the highway. I note that the Council raise no objection to the construction method statement, on the basis that the need for it has been superseded by events. As such, the construction management details comply with Policy INF4 of the LP which seeks to ensure highway safety.

Conclusion

9. For the reasons given above I conclude that the appeal should be allowed, and the materials details and construction management details submitted pursuant to conditions Nos. 3 and 5 of planning permission reference 21/02199/FUL are approved.

Helen Davies

INSPECTOR