



Appeal Decision

Site visit made on 27 June 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2023

Appeal Ref: APP/F2415/W/22/3301363

**Agricultural Building, Debdale Lane, Smeeton Westerby, Market
Harborough LE8 0QD**

- 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 Arnold against the decision of Harborough District Council.
 - The application Ref 21/02148/FUL, dated 09 December 2021, was refused by notice dated 24 May 2022.
 - The development proposed is to convert an agricultural building into one residential dwelling.
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Decision

1. The appeal is allowed and planning permission is granted to convert an agricultural building into one residential dwelling at Agricultural Building, Debdale Lane, Smeeton Westerby, Market Harborough, LE8 0QD in accordance with the terms of the application, Ref 21/02148/FUL, dated 09 December 2021, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

Main Issue

3. The main issue is whether the site is an appropriate location for the development proposed having regard to the development plan and any other material considerations.

Reasons

4. The appeal site is a large parcel of land which contains an agricultural building that is proposed for conversion. The surrounding area is characterised by large open fields with limited development and the village of Smeeton Westerby is nearby.
5. Policy GD4 of the Harborough Local Plan 2011 to 2031 Adopted 30 April 2019 (LP) states that within the countryside, housing will only be allowed in special circumstances. There is no dispute that the appeal site is located outside any settlement boundaries and is therefore within the countryside. None of the special circumstances that support such development have been raised. Therefore, it is clear that the proposal conflicts with Policy GD4 of the LP.
6. However, the agricultural building is subject to an extant permission under Schedule 2, Part 3, Class Q of the Town and Country Planning (General

Permitted Development) (England) Order 2015 (as amended) (Class Q) which would enable the agricultural building to be converted into a dwelling. The appellant has stated their intentions to carry out the fallback position should this appeal not exceed. The appellant has also provided information concerning the difference in financial options between a Class Q scheme and that of full planning permission as well as the potential value of the land and dwelling once completed.

7. On the basis of the appellants stated intentions and efforts in exploring the financial options in relation to the development, I consider that there is a greater than theoretical possibility that the Class Q scheme would be carried out should permission for this scheme not be forthcoming.
8. The proposal mirrors that of the Class Q in terms of its location, appearance and layout. As such there would be no greater impact of the development proposed, particularly on access to services and public transport. As such, the extant Class Q is a material consideration which I give significant weight and justifies a departure from the conflict with the LP.
9. Section 38 (6) of the Act requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, having regard to the above, I find that the conflict with the development plan in respect of the location of the proposal is outweighed by the extant Class Q permission. Accordingly, I find that the site is an appropriate location for the development proposed.

Other Matters

10. Interested parties have raised concerns over the effect of the proposal on the character and appearance of the area, highways, flooding and wildlife. The Council have found the proposal to be acceptable in these regards and I have no substantive evidence before me to reach a different conclusion. In any case the proposed development mirrors the extant Class Q and as such, the development would not result in any greater harm in these regards.
11. I note that there are concerns that allowing this appeal could lead to further applications in the future. However, on the basis of the information before me there is no substantive evidence that this will happen and in any case I must consider the appeal on its own merits.
12. A number of interested parties have raised concerns about the appellants intentions, agendas and who the future occupiers of the proposal might be. These are however not planning matters for which I can consider and as such I have had no regard to these in reaching my decision.

Conditions

13. I have considered the Council's suggested conditions. Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to more closely reflect the advice in the National Planning Policy Framework and the Planning Practice Guidance.
14. Condition 1 is the standard condition which relates to the commencement of development and condition 2 specifies the approved plans for the avoidance of doubt. Conditions 3, 4 and 5 have been included to ensure the satisfactory appearance of the development and to maintain the character and appearance

of the area. Conditions 6 and 7 have been included in the interests of highway safety and to ensure satisfactory parking provision is provided.

15. Conditions 8 and 9 have been included to ensure that the development can be carried out safely without unacceptable risks to workers, other receptors and that risks to future users of the site are minimised. Condition 10 has been included in the interests of protecting and enhancing biodiversity.
16. In the circumstances, I consider it exceptionally necessary to include conditions 11 and 12 which remove permitted development rights for Schedule 2, Part 1, Classes A through to H and Schedule 2, Part 2, Class A. This mirrors the permitted development right restrictions in terms of the Class Q fallback position and prevents the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure in order that the Council can exercise control over these aspects to ensure that the area's character and appearance is maintained.
17. The Council have suggested a condition requiring works to convert the building to not exceed that shown on the submitted Existing and Proposed Floor Plans and Elevations and detailed in the Site Inspection Report (Date of Visit 25 September 2020); however, these plans are already included in condition 2 and as such I do not consider that it would be reasonable or necessary to duplicate reference to these plans.

Conclusion

18. For the reasons set out above and having regard to the development plan as a whole and all other material considerations, I conclude the appeal should be allowed.

D Wilson

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three 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 (1:1250 scale @A4)
 - Existing Block Plan (1:500 scale @A4)
 - Existing Elevations and Floor Plans (1:100 scale @A2)
 - Proposed Block Plan (1:500 scale @A4)
 - Proposed Elevations and Floor Plans (1:100 scale @A2) (Amended Plan; received 04.05.2022)
 - Site Inspection Report (Nigel Grace Limited; Date of Visit 25 September 2020)

--Planning Application Supporting Statement (Amended v2; received 06.01.2021)

3. Prior to their use in the development hereby granted, specifications / samples of the materials to be used in the construction of the external surfaces of development shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be carried out in accordance with the approved specifications / samples.
4. Prior to first occupation of the dwelling, a Landscaping Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Landscaping Scheme shall include full details of existing and proposed hard and soft landscape works, including boundary treatments; surfacing materials, retained planting/hedges/trees and new planting/hedges/trees; as well as a timetable of implementation. Prior to first occupation of the dwelling, the hard and soft landscaping works shall be completed in accordance with the approved Landscaping Scheme. Any new trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.
5. The hedgerows / trees on the northwest and southwest boundaries of the site shall be protected during the course of the development in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction - Recommendations'. No felling, removal or other works shall take place to these hedgerows / trees unless approved in writing by the Local Planning Authority by a Planning Condition Discharge application (under the above Landscaping Scheme Condition, or post-development under this Condition).
6. Prior to the first occupation of the development hereby permitted, turning facilities and parking provision for two cars shall be provided within the site in order to allow vehicles to enter and leave in a forward direction and to provide adequate off-street parking provision. The turning area and parking spaces so provided shall not be obstructed and shall be available for use at all times, unless otherwise agreed in writing by the Local Planning Authority.
7. Prior to first occupation of the development hereby granted, the gates to the vehicular access from Debdale Lane shall be set back a minimum distance of five metres from the edge of the carriageway and, thereafter, retained at that distance.
8. No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
 - BS10175:2011+A2:2017 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
- Or any documents which supersede these.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
- BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;
- Or any documents which supersede these.

The Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
- BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;
- CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA, 2014;
- Or any documents which supersede these.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

9. Prior to first occupation of the completed development, or part thereof, either:
 - a) If no remediation was required by the above Risk Based Land Contamination Assessment Condition, a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority; or
 - b) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole

development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

10. The development shall include 1 group of 3 Swift Conservation Nest boxes/bricks in a suitable position. Prior to installation, the locations of the Swift Conservation Nest boxes/bricks shall be marked on a plan, details of box specification provided, and approved in writing by the Local Planning Authority. Thereafter, the approved Swift Conservation Nest boxes/bricks shall be installed prior to the first occupation of the dwelling and retained thereafter.

11. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or amending that Order, with or without modification), no development within Article 3, Schedule 2, Part 1, Classes A through to H shall take place to the hereby approved dwellinghouse, its curtilage or access track.

12. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or amending that Order, with or without modification), no development within Article 3, Schedule 2, Part 2, Class A shall take place to the hereby approved development (including its access track).