



Appeal Decisions

Site visit made on 10 October 2023

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 November 2023

Appeal A Ref: APP/T3725/W/23/3319784

Hay Wood Grange, Birmingham Road, Wroxall, Warwickshire CV35 7ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Meddings against the decision of Warwick District Council.
 - The application Ref W/22/1673, dated 21 October 2022, was refused by notice dated 16 December 2022.
 - The application sought planning permission for alterations to barn to form single dwelling (alternative scheme to W/2002340) and re-use of existing building to provide garage and domestic storage without complying with a condition attached to planning permission Ref W/08/0081, dated 2 May 2008.
 - The condition in dispute is No 10 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Parts 1 and 2 of Schedule 2 of this Order, without the prior permission of the District Planning Authority.*
 - The reason given for the condition is: *To ensure that the rural character and appearance of the barn(s) is protected, in accordance with Policy RAP7 of the Warwick District Local Plan 1996-2011.*
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Appeal B Ref: APP/T3725/W/23/3319786

Hay Wood Grange, Birmingham Road, Wroxall, Warwickshire CV35 7ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Meddings against the decision of Warwick District Council.
 - The application Ref W/22/1672, dated 21 October 2022, was refused by notice dated 16 December 2022.
 - The application sought planning permission for the conversion of a barn to a dwelling together with a garage and a store without complying with a condition attached to planning permission Ref W92/0522, dated 19 August 2003.
 - The condition in dispute is No 6 which states that: *Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, no development shall be carried out which comes within Parts 1 and 2 of the Second Schedule of this Order, without the prior approval of the District Planning Authority.*
 - The reason given for the condition is: *To retain control over future development so that the character and rural setting of the barn is retained.*
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Decisions

1. **Appeal A** is allowed and planning permission is granted for alterations to barn to form single dwelling (alternative scheme to W/2002340) and re-use of

existing building to provide garage and domestic storage at Hay Wood Grange, Birmingham Road, Wroxall, Warwickshire CV35 7ND in accordance with the application Ref W/22/1673 dated 21 October 2022, without compliance with condition number 10 previously imposed on planning permission Ref W/08/0081 dated 2 May 2008 and subject to the conditions in the attached Schedule A.

Appeal B is allowed and planning permission is granted for the conversion of a barn to a dwelling together with a garage and a store at Hay Wood Grange, Birmingham Road, Wroxall, Warwickshire CV35 7ND in accordance with the application Ref W/22/1672 dated 21 October 2022, without compliance with condition number 6 previously imposed on planning permission Ref W92/0522 dated 19 August 2003 and subject to the conditions in the attached Schedule B.

Preliminary Matters

2. There are two appeals on the site, they were refused by the Council for the same reason and therefore raise similar issues. To avoid repetition, while considering each on its own merits, I have dealt with both in a single decision letter.
3. While I have allowed the appeals, the effect of my decision is not to remove the conditions in dispute in their entirety. I have amended the conditions such that permitted development rights for extensions, alterations and outbuildings continue to be withdrawn but for the reasons given, permitted development rights for other types of development and minor operations have in effect been reinstated.

Background and Main Issue

4. Planning permissions for the conversion of the building(s) to residential use included conditions to remove permitted development rights for development within the curtilage of a dwellinghouse, including among other things, extensions, additions, and alterations to the roof, as well as the erection of outbuildings and minor operations such as fences and electric vehicle charging equipment. The appellant seeks to remove the conditions to reinstate permitted development rights at the property as they consider that they are not necessary or reasonable.
5. The Council do not suggest permitted development rights should be restricted in the interests of preventing harm to the Green Belt, but rather the reason for the condition in Appeal A is to protect the rural character and appearance of the barns and in Appeal B is to retain control over future development so that the character and rural setting of the barn is retained.
6. I note the appellant's comments regarding the Council's approach to the removal of permitted development rights historically, however I am required to consider the case having regard to the current situation as it stands now. Based upon the refusal reasons the main issue is therefore whether the conditions are reasonable or necessary in the interest of the character and appearance of the buildings, including their setting.

Reasons

7. The Council cite two policies in their refusal reasons. The first, Policy BE4 of the Warwick District Local Plan 2011-2029 (LP) allows the conversion of rural buildings where specific criteria are met, including that the proposal does not require extensive rebuilding or alteration to the external appearance of the building; retains and respects the special qualities and features of listed and other traditional rural buildings; and the appearance and setting of the building following conversion protects, and where possible enhances, the character and appearance of the countryside.
8. Policy BE4 clearly applies to the consideration of the appeals as the question is not one as to the acceptability of a particular extension or alteration, but whether the condition is necessary in the granting of planning permission for the conversion of the building. In this case, primarily to ensure that the conversion of rural buildings is carried out in an appropriate manner. Moreover, there is nothing before me to suggest that the last criterion of Policy BE4 is limited to listed buildings and would not apply equally to all rural buildings.
9. Whilst the site is in an area of open countryside, Policy H14 of the LP refers to the assessment of proposals to extensions to buildings and is therefore not directly relevant to the appeal, which does not relate to a specific proposal for an extension to the building. Any concern the appellant may have in relation to Policy H14, and the explanatory text is therefore not determinative to my decision.
10. The Council's refusal reason also refers to an 'adopted Supplementary Planning Guidance on Barn Conversions'. I have been provided with a copy of the Council's 'Historic Buildings Guidance Agricultural Buildings and Conversion – Barns (Revised September 2010)'. Given that it is unclear as to whether this is the same document and moreover the status of the guidance, I have therefore attributed it very limited weight. However, I have assessed the appeal in accordance with the development plan.
11. The appeal site comprises an attractive group of rural buildings, made up of a former stable building, which is now the main dwelling, and ancillary residential development. This includes both converted and newly constructed buildings, as well as a swimming pool and tennis court. It lies in an area of open countryside, surrounded by woodland and agricultural land with sporadic scattered development, and is some way from a defined settlement boundary.
12. The main building, which has staggered ridge and eaves heights, is part timber framed and constructed of mainly brick and in part stone, with a tiled roof. Whilst not a listed building it has nevertheless been sympathetically converted to residential use. It retains much of its original agricultural character and appearance, with a traditional plan form arranged around three sides of a central gravelled courtyard and largely uninterrupted roof profile. In addition to the main dwelling, the simple design and appearance of the ancillary brick and timber outbuildings reflect the historic agricultural function of the site.
13. The appeal submissions indicate that the layout and appearance of the site has evolved, some smaller buildings have been removed and a new detached garage constructed at the entrance to the site. Nevertheless, and despite the presence of ancillary domestic paraphernalia including the swimming pool and tennis court, the buildings have a pleasant rural setting.

14. The Planning Practice Guidance (PPG) sets out that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity and advises that the scope of such conditions need to be precisely defined by reference to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). It goes on to say that blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. Paragraph 54 of the National Planning Policy Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
15. In both Appeals the disputed conditions remove Schedule 2, Parts 1 and 2 permitted development rights in their entirety. The enlargement of the property through the erection of extensions or carrying out of alterations, including those to the shape or appearance of the roof of the building, such as dormers, rooflights, chimneys or flues, or insensitively designed or located outbuildings, which could cover a considerable proportion of the site, could have a significant effect on the original form of the building, as well as the spacious rural setting. This would in turn detract from the simple form and traditional character and appearance of the buildings and the site.
16. Consequently, the exercising of permitted development rights set out in Part 1, Classes A to E inclusively and Class G, which includes development within the curtilage of a dwellinghouse such as extensions, additions and alterations to the roof, porches, buildings, enclosures, swimming, or other pools incidental to the enjoyment of the dwellinghouse and chimneys and flues could give rise to harm to the building and site to such a degree that it would be reasonable and necessary to withdraw those rights, in the interests of the character and appearance of the buildings and their setting.
17. Nonetheless, there is nothing before me to demonstrate that more modest development within the curtilage of the property, which could be carried out under the permitted development rights covered by the other Classes of Part 1 and Part 2 of Schedule 2 of the GPDO such as hard surfaces, microwave antenna, gates, fences, walls etc, means of access to a highway, exterior painting, electrical outlets and upstands for the recharging of vehicles and closed-circuit television cameras remaining intact would have a harmful effect on the buildings or their setting. It is therefore not reasonable or necessary to remove those rights in this instance.
18. I note that Hay Wood Grange is not a listed building, nor is it located in an area of special landscape value. Furthermore, whilst the site itself is well contained and does not occupy a visually prominent position in the wider rural landscape, and is not widely visible from public vantage points, these factors do not outweigh the harm I have identified should the conditions be removed.
19. My attention is drawn by the appellant to an appeal decision at Betteridges Barn¹. However, whilst there are some similarities with the issues raised, it differs from the appeal site in that the assessment relates primarily to the potential effect of development that would otherwise be permitted development, on the Green Belt. Moreover, I do not have full details of the

¹ APP/Q4625/A/12/2170281

building so I cannot be sure of the circumstances of the case or the effect of the exercise of permitted development rights.

20. The appeal at Westbrook² differs from the appeal proposal in terms of the type of development and site context. The appeals at Sunrising³ and Land to the rear of Appelon House⁴ also relate to different types of development, with the main issue being the effect on the Green Belt. Therefore, from the evidence before me, they do not appear to be directly comparable, as such the weight to be attached to them is limited.
21. For the foregoing reasons I therefore find that control over the permitted development allowed by Part 1, Classes A to E inclusively and Class G of Schedule 2 of the GPDO is reasonable and necessary in the interests of the character and appearance of the buildings, including their setting. Such controls would ensure that the development would accord with Policy BE4 of the LP.

Conditions

22. The guidance in the PPG is clear that decision notices for the grant of planning permission under section 73 should also reinstate the conditions imposed on earlier permissions that continue to have effect. The development started some time ago, as such conditions setting out a time limit for the implementation of the permissions is not necessary. However, as I have insufficient information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
23. As I have concluded that only specific permitted development rights should be withdrawn, I have therefore amended the wording of the disputed conditions to reflect those rights of particular importance. In this case, I have replaced the conditions subject to the appeals with one that refers to Part 1, Classes A to E inclusively and Class G, excluding the remaining Classes of Part 1 and Part 2.

Conclusion

24. For the reasons given above, considering the development plan as a whole and all relevant material considerations, I conclude that the appeals should be allowed, and the planning permissions varied as set out in the formal decision.

E Worley

INSPECTOR

² APP/J3720/W/18/3217169

³ APP/X4725/D/18/3201609

⁴ APP/J3720/W/16/3167715

Schedule A

- 1) The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) ROC\408\PD\001, 003A, 004, 008, 009, 010, and 012A and specification contained therein, submitted on 18 January and 1 April 2008, unless first agreed otherwise in writing by the District Planning Authority.
- 2) No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.
- 3) Before any work in connection with the development hereby permitted is commenced on site, detailed plans and specifications of screenwalls/fences shall be submitted to and approved in writing by the District Planning Authority. The approved screenwalls/fences shall be constructed in the positions shown on the said plan before the buildings hereby permitted are occupied and shall thereafter be maintained in those positions unless otherwise agreed in writing by the District Planning Authority.
- 4) A landscaping scheme (including details of the surfacing of the courtyard area to the south of the main barn) for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted.
- 5) Details of the proposed means of access to the unclassified road 5059 shall be submitted to, and approved by the District Council before development hereby approved is begun. The development hereby permitted shall not be brought into use until the proposed access has been constructed in strict compliance with such approved details.
- 6) No development shall be carried out on the site which is the subject of this permission, until details of arrangements for the disposal of foul and surface water have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.
- 7) All external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building.
- 8) The garaging shown on the plans hereby approved shall be retained and kept available for such purposes and shall not be altered either internally or externally without the prior consent of the District Planning Authority.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development falling within Classes A to E inclusive and Class G of the Part 1 of Schedule 2 of this Order, shall be carried out without planning permission first being obtained from the Local Planning Authority.
- 10) The development hereby permitted shall not be brought into use unless there is available vehicular turning space within the site so that vehicles are able to enter and leave the public highway in a forward gear. Such area shall thereafter be kept available for that purpose.
- 11) This permission authorises the repair and conversion of the existing building for use as a garage and does not authorise its demolition and replacement.

*****end of conditions*******

Schedule B

- 1) The development shall be carried out strictly in accordance with the plans accompanying the application submitted on the 18th May 1992, as amended by plan and drawing received on 6th August 1992.
- 2) No development shall be carried out on the site which is the subject of this permission, until; satisfactory large scale architectural details of windows, doors, eaves and cart entrance screen have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details.
- 3) All external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building.
- 4) The garaging shown on the plans hereby approved shall be retained and kept available for such purposes and shall not be altered either internally or externally without prior consent of the District Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development falling within Classes A to E inclusive and Class G of the Part 1 of Schedule 2 of this Order, shall be carried out without planning permission first being obtained from the Local Planning Authority.
- 6) Before any work in connection with the development hereby permitted is commenced on site, satisfactory detailed plans and specifications of screenwalls/fences, or any other proposed boundary treatment, shall be submitted to and approved by the District Planning Authority. The approved screenwalls/fences, or any other proposed boundary treatment, shall be constructed in the positions shown on the said plan before the development hereby permitted is occupied and shall thereafter be maintained in those positions unless otherwise agreed in writing by the District Planning Authority.

- 7) A landscaping scheme (including details of the surfacing of the courtyard area to the south of the main barn) for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting, shall be replaced by trees of similar size and species to those originally required to be planted.
- 8) The development hereby permitted shall not be brought into use unless there is available vehicular turning space within the site so that vehicles are able to enter and leave the public highway in a forward gear.
- 9) Details of the proposed means of access to the unclassified road 5059, shall be submitted to, and approved in writing by, the District Council before the development hereby permitted is begun. The development hereby permitted shall not be brought into use until the proposed access has been constructed in strict compliance with such approved details.
- 10) All foul drainage shall be discharged to a septic tank with an adequate land soakaway such that there is no discharge of sewage effluent to any ditch or watercourse, nor to any land drainage system leading thereto. The soakaway should be sited no closer than 10 meters to any such watercourse.

*******end of conditions*******