



Appeal Decision

Site visit made on 7 November 2023

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/P1615/W/23/3322571

Dutch Barn east of Green Croft Farm

Grid Reference Easting: 373137, Grid Reference Northing: 222076

- 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 Green Croft Farm Ltd. against the decision of Forest of Dean District Council.
 - The application Ref P0243/23/FUL, dated 17 February 2023, was refused by notice dated 4 May 2023.
 - The development proposed is the Conversion of Dutch Barn to Residential Dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the Conversion of Dutch Barn to Residential Dwelling at Dutch Barn East of Green Croft Farm (Grid Reference Easting: 373137, Grid Reference Northing: 222076), in accordance with the terms of the application, Ref P0243/23/FUL, dated 17 February 2023, subject to the attached schedule of conditions.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023, with a further update on 20 December 2023. I have consulted the main parties on the changes and have had regard to the representations received.
3. The appellant has raised concern over the scope of the Council's statement of case, highlighting several areas where they consider the Council's position to step away from the reason for refusal. I accept that in particular, the Council's position in respect of the Structural Report has changed between the officer report and its statement of case. However, I do not consider, as suggested by the appellant, that the Council introduced two new reasons for refusal in their statement of case. No additional conflict with policies was identified; the Council merely gave a more detailed explanation as to how they interpreted the relevant planning policies.
4. As the appellant had an opportunity to comment on the Council's statement of case, and as there are no new reasons for refusal, I consider that the appellant has not been prejudiced by my consideration of all the evidence before me during the appeal.

Main Issues

5. The main issues are therefore a) whether the proposed development would constitute a conversion of the existing building; and b) the effect of the proposal on the character and appearance of the area.

Reasons

Conversion

6. The appeal site is located within an existing farm complex some distance from the nearest settlement, and is in the open countryside for the purposes of planning policy. Policy CSP.4 of the Forest of Dean District Council Core Strategy (the Core Strategy) (February 2012) directs residential development towards settlements, but identifies building conversions as one of a small number of exceptions where housing may be acceptable in the countryside. Paragraph 84 of the Framework also permits the re-use of redundant or disused buildings in the countryside, provided the re-use would enhance its immediate setting. In this context, the parties agree that the appeal site is isolated in the open countryside, and that the building is disused. I have no reason to disagree.
7. The appeal building is divided into two main components based on a steel frame. The main structure is substantially enclosed on three sides, clad in corrugated metal under an arched corrugated metal roof. A smaller lean-to structure is enclosed on four sides, and clad in a mixture of corrugated metal sheeting and varied timber cladding.
8. The evidence includes a Structural Report which sets out that the barn is structurally sound and capable of conversion. The report is based on a visual inspection of the building, and several assumptions are made in respect of elements that were not accessible or visible at the time of the inspection. In particular, the report recommends that during the construction process, condition checks are made of all steel members and all bolted connections to the wall and roof sheeting. While these checks could potentially lead to the need for additional works, the report identifies no explicit structural defects, distress or corrosion of the building fabric, indicating that such works would likely be limited. Similarly, the report finds no major structural defects or distress on the perimeter walls or concrete floor. My observations during my site visit echo these findings.
9. The report also identifies that additional loads on the roof structure and floor slab resulting from the building's conversion would not be significant compared to its originally designed function. This would have included wind and snow loading to the roof and walls, along with concentrated loads from the wheels of heavy vehicles on the concrete floor. In addition, the report notes the light weight of the proposed insulation and internal wall structure, finding that the floor could carry the distributed and line loadings associated with the proposed works.
10. Though the Council raises various concerns regarding the precision and veracity of this report, it appears to have been produced by a suitably qualified authority. In the absence of any substantive evidence to counter the report's findings, and based on my own observations, I am not persuaded that the primary structure of the building could not be retained in substantially the same form as existing.
11. The proposed works would broadly include the enclosure of the open side of the main barn, the introduction of insulation, and the creation of new internal walls and a first-floor. In addition, new windows and door openings would be created, along with the addition of some functional and architectural features

including a flue and timber battens to the lean-to structure. Reference is also made to removing and reinstating exterior cladding during construction, and adding additional timber cladding to the north-western elevation.

12. The introduction of insulation, insertion of windows and doors, and internal works to form usable rooms would reasonably be required of most conversions of rural buildings. An additional exterior wall would be required to enclose the open elevation of the main barn, and replacement cladding is proposed to part of the lean-to structure. However, as a proportion of the overall building the amount of new exterior fabric would be limited, with approximately 70% shown to be retained including the roof and the majority of the walls.
13. The proposal also includes the removal of some of the surrounding buildings. The adjoining grain store is a tall, modern structure which is visibly prominent sitting above surrounding built form. Its removal would enhance the immediate setting of the appeal building and the wider farm complex. The remainder of the buildings shown to be removed are low-set modern agricultural units. Their removal would have a neutral effect in the context of the surrounding agricultural and residential buildings.
14. Taking all of the above into account, I find that the proposed works would constitute a conversion of the existing building. In coming to this view, I have had regard to the judgement in the *Hibbitt*¹ case, insofar as it is relevant to the appeal scheme before me. Although the Council has not referred to Policy CSP.4 in its reason for refusal, it is discussed in the officer report, and is determinative to this appeal in so far as it describes the spatial strategy for housing in the District. As one of the identified exceptions to the spatial strategy, I find that the proposed conversion would accord with this policy. Given that the existing building would be retained and converted, and that its immediate setting would be enhanced, I also find that the proposal would accord with the Framework where it supports the re-use of redundant buildings.
15. The Council has referred to policies CSP.1 of the Core Strategy, and Policy AP4 of the Forest of Dean District Council Allocations Plan (the Allocations Plan) (June 2018) in relation to this main issue. Although I accept that Policy CSP.1 derives from a strategic objective which seeks to guide development to the right locations, it is primarily a design and environmental protection policy, without reference to the distribution of development. Similarly, Policy AP4 relates to the design of development. I will consider the effect of the proposal on character and appearance later in this decision, but find no conflict with Policies CSP.1 or AP4 in respect of the principle of the proposed conversion in this location.

Character and appearance

16. The appeal building lies within a complex of existing buildings associated with Green Croft Farm. The buildings are varied in scale, form and materials, with a mixture of both traditional and modern built form. The appeal building has an agricultural character and form, reflecting its previous functional use. At present the building makes a consistent contribution to its local and wider agricultural context.

¹ *Hibbitt v SSCLG* [2016] EWHC 2853.

17. In its officer report, the Council accepts that there would be very limited views of the appeal building from the highway and the public right of way that runs adjacent to the site. During my site visit I noted a further footpath to the north-west with limited wider visibility of the site, but agree with the Council's observation that the appeal building is sited well-within the complex of buildings, and would have very limited public visibility. Nevertheless, the Council's considers that the proposed degree of change to the building would fail to take account of local character or establish a strong sense of place.
18. There are a mix of uses on the site including agricultural development and residential properties. I also note that several of the nearby agricultural buildings have extant consents for conversion to residential use. In this varied context, the important characteristics relating to the site are therefore the clustered group of buildings at the farm, and its countryside setting. Existing hedgerows, trees, and other landscaping generally provide a good assimilation of the complex into the landscape, and as one of a number of clustered farms in the area, the group makes a positive and consistent contribution to the character of the area and its sense of place.
19. In broad terms, the proposed conversion would reuse the existing external cladding, and any new materials would reference the same palette. Available views of the appeal building primarily take in the adjoining grain store, which would be removed, and occasionally the arched roof of the main barn, which would be retained. While I accept that the proposal would introduce new features into the building including windows and doors, the overall form and character of the barn within its built context would be retained. In the limited views of the appeal site, the proposal would therefore preserve the perception of the group of varied agricultural and residential buildings, maintaining its contribution to local character.
20. For these reasons I find that the proposal would not harm the character and appearance of the area. The proposal would therefore accord with Policy CSP.1 of the Core Strategy and Policy AP4 of the Allocations Plan. Taken together, these policies seek, amongst other matters, high quality design which establishes or supports a strong sense of place, taking account of local character.
21. I am not convinced that the intention of the last bullet point of Policy AP4 (Design of Development) and its accompanying text, was to direct the location of development under the terms of inclusivity and accessibility. To my reading it is clear that these provisions relate to the designed inclusivity of development, in order to accommodate the accessibility needs of all users. There is no substantive evidence to show that the proposal would not be, or could not be made, suitably accessible, and I therefore find no conflict with this aspect of the policy.
22. The Council has also found conflict with its Residential Design Guide Supplementary Planning Guidance (the SPG), which contains various technical guidance on matters including building design, character, and local distinctiveness. I have been provided with little detail as to which sections of the SPG the Council considers the proposal would conflict with. However, I have found that the proposed development would not harm the character and appearance of the area, and in reviewing the SPG, find no conflict with the guidance it contains.

Other Matters

23. I note the submissions regarding the suggested fallback of a conversion under Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). It is not for me, under a Section 78 appeal, to determine whether or not a theoretical conversion would accord with the GPDO. However, as I have found the proposal to accord with the development plan, this is not a matter which requires further consideration here.

Conditions

24. I have considered the conditions put forward by the Council against the advice in the Framework and Planning Practice Guidance (PPG). As a result, I have amended some of them in relation to the six tests, and omitted others.
25. In the interests of certainty and proper planning I have included conditions relating to commencement and approved plans. A condition restricting the commencement of development until a land contamination assessment has been carried out is necessary in view of the site's previous uses, along with a subsequent condition requiring the completion of any necessary remediation work.
26. Conditions concerning foul and surface water drainage works are necessary to ensure satisfactory drainage of the development, safeguard the living conditions of future and neighbouring occupiers, and to ensure flooding is not exacerbated in the locality.
27. A condition securing details of any new external materials of the building is necessary in order to safeguard the character and appearance of the area. For the same reason, conditions securing hard and soft landscape details, including boundary treatments, are necessary. A condition securing details of external lighting is necessary to safeguard rural character and to protect the biodiversity interests at the site, and a condition securing biodiversity mitigation and enhancement measures is also necessary to safeguard biodiversity.
28. The installation of electric vehicle charging points for new dwellings, including buildings undergoing a material change of use to dwellings, is covered by the Building Regulations and so a condition in that respect is not necessary.
29. The Council suggested that some permitted development (PD) rights should be removed through conditions to safeguard the surrounding rural environment and maintain the character and appearance of the original rural building. The Framework advises that conditions should not be used to restrict national PD rights unless there is clear justification to do so. In this case, I consider that there is sufficient justification to limit PD rights in so far as they relate to extensions and general alterations, roof alterations, porches, and other buildings given the simple agricultural shape and form of the barn and its context. However, I do not consider that there is clear justification to remove PD rights in relation to hard surfacing, given the existing external surfacing at the site and the landscaping details secured by conditions 8 and 9.

Conclusion

30. For the reasons given above I find that the proposal would comply with the development plan when read as a whole. There are no material considerations that indicate a decision be made otherwise than in accordance with the development plan. Accordingly, I conclude that the appeal is allowed.

K Jones

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:
 - Location and Block Plan (4060 P(0) 300 Revision A
 - Block Plan (4060 P(0) 301)
 - Proposed GFP (4035 P(0)304)
 - Proposed FFP (4035 P(0)305)
 - Proposed Elevations (4035 P(0)306)
 - Proposed Elevations (4035 P(0)307)
- 3) Prior to the commencement of development hereby permitted, including site clearance and demolition, a land contamination assessment and associated remedial strategy, together with a timetable of works, shall be submitted to and approved in writing by the Local Planning Authority:
 - a) The land contamination assessment shall include a desk study and site reconnaissance. The desk study shall detail the history of the site uses, identify risks to human health and the environment, and if the desk study identifies that an unacceptable risk could reasonably exist, propose a site investigation strategy. The strategy shall be submitted to and approved in writing by the Local Planning Authority prior to investigations commencing on site.
 - b) The site investigation shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis and risk assessment to any receptors. If unacceptable risk is identified, a proposed remediation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
- 4) Prior to first occupation of the dwelling hereby permitted all land contamination remediation work shall be completed as approved, in accordance with the following:
 - a) Approved remediation works shall be carried out in full on site under a Quality Assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority in writing.
 - b) A completion report shall be submitted to and approved in writing by the Local Planning Authority. The completion report shall include details of the remediation works and Quality Assurance certificates to

show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the completion report together with the necessary waste transfer documentation detailing what waste materials have been removed from the site.

- c) A certificate signed by the developer shall be submitted to the Local Planning Authority confirming that the appropriate works have been undertaken as detailed in the completion report.
- 5) Prior to the commencement of development hereby permitted, including site clearance and demolition, a full surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme, and emergency plans for safe access and egress. The scheme shall use results of soakage tests carried out at the site to demonstrate the infiltration rate. Three tests should be carried out for each soakage pit as per BRE 365, with the lowest infiltration rate (expressed in m/s) used for design. The scheme shall also include a management plan setting out the maintenance of the drainage scheme. The approved drainage scheme shall be implemented prior to the first occupation of the development hereby approved and shall be maintained in accordance with the management plan thereafter.
- 6) The foul drainage for the development hereby permitted shall be undertaken in accordance with the Council's Technical Guidance Document "Drainage requirements for domestic extensions and single dwellings" (or any subsequent revisions). The foul drainage shall be in place and operational before the development is occupied and shall thereafter be permanently maintained.
- 7) Prior to any development above slab level, full details and samples of all new external materials for the dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.
- 8) Notwithstanding Condition 2, prior to development above slab level, a scheme for hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - a) Details of all hard surfacing; and
 - b) The positions, height, colour, materials, and type of all existing and proposed boundary treatments.All hard landscaping and means of enclosure shall be completed in accordance with the approved details prior to first occupation of the dwelling hereby permitted, and shall thereafter be retained.
- 9) Notwithstanding Condition 2, prior to development above slab level a scheme for soft landscaping of the site (incorporating existing vegetation), shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - a) A plan showing existing vegetation to be retained and safeguarded during construction, including any trees offsite that may be affected

by the works, along with measures for their protection in accordance with BS5837:2012;

- b) Detailed planting / sowing specifications including species, size, density, spacing, cultivation, protection (fencing, staking, guards) and methods of weed control for any new planting;
- c) A timetable for implementation;
- d) A schedule of establishment maintenance and ongoing management for new and existing planting for a minimum period of five years following implementation.

The scheme shall be implemented and maintained in accordance with the approved details. Any trees or plants which within a period of 5 years from the completion of the development die, 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 consent to any variation.

- 10) Notwithstanding Condition 2, prior to development above slab level, details including specifications and locations of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed in accordance with the approved details, and shall be maintained thereafter. No other external lighting shall be installed.
- 11) The development hereby permitted shall be undertaken in accordance with the recommended mitigation measures approved through Section 5.1 of the Preliminary Ecological Appraisal prepared by Willder Ecology (Reference: 3GC\Bat & bird's survey.doc 28th November 2022 Amended Feb 2023). The bat and bird boxes detailed in Section 5.2 of the same report shall be installed prior to first occupation of the dwelling hereby permitted, and shall thereafter be retained for their intended use.
- 12) Notwithstanding the provisions of Part 1 of the Second Schedule to the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development as specified in Part 1 (Classes A, B, C, D and E) other than such development or operations indicated on the plans hereby approved, shall be carried out.

**** End of Schedule ****