

Appeal Decisions

Site visit made on 20 August 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2024

Appeal A Ref: APP/R2520/W/24/3337741

Main Street, Norton Disney, Lincoln LN6 9JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Cole & Cole Properties Ltd against the decision of North Kesteven District Council.
- The application reference is 23/0277/VARCON.
- The application sought planning permission for '*Erection of extension to existing single storey dwelling and change of use of paddock land to enlarged residential curtilage (serving plot 1) along with demolition of stables and erection of a single storey dwelling (Plot 2)*' without complying with conditions attached to planning permission Ref 22/0605/FUL, dated 15 September 2022.
- The conditions in dispute are numbers 3 (soft landscaping), 4 (boundary treatments), 5 (materials) and 7 (approved plans) which state that:
No. 3: The development shall proceed in accordance with the scheme of hard and soft landscaping shown on drawing J1601M-PL-03 Rev P01. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out within 6 months of the date of first occupation of each respective dwelling to which the landscaping relates or the completion of development, whichever is sooner, unless otherwise agreed in writing by the district planning authority. Any trees, plants or grassed areas which within a period of seven years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size, and species and quality, unless the district planning authority gives written consent to any variation.
No. 4: Prior to the first occupation of each dwelling, the approved boundary treatment/s shown on drawing J1601M-PL-03 Rev P01 shall have been installed and shall thereafter be retained. The timber 5 bar field gate shown on drawing J1601M-PL-03 Rev P01 demarcating the extent of the residential land (Plot 2) and the adjacent paddock land shall be erected prior to the first occupation of Plot 2 and shall be retained as such in perpetuity.
No. 5: The development hereby permitted shall be constructed entirely of the materials details which are shown on drawings J1601M-PL-32 Rev P01 and J1601M-PL-11 or in accordance with such alternatives as may be agreed in writing with the district planning authority.

No. 7: The development hereby permitted shall not be carried out except in complete accordance with the details shown on the approved plans, listed below on this decision notice.

- The reasons given for the conditions are:

No. 3: To ensure the satisfactory appearance of the site in the interests of visual amenity to accord with policy LP26 of the Central Lincolnshire Local Plan (Adopted 2017).

No. 4: In the interests of privacy and visual amenity and in the interests of demarcating the extent of the respective residential and adjacent paddock curtilages for the avoidance of doubt, to accord with policy LP26 of the Central Lincolnshire Local Plan (Adopted 2017).

No. 5: To ensure a satisfactory external appearance in the interests of visual amenity to accord with policy LP26 of the Central Lincolnshire Local Plan (Adopted 2017).

No. 7: To ensure that the development takes place in accordance with the approved details.

Appeal B Ref: APP/R2520/W/24/3338098

Main Street, Norton Disney, Lincoln LN6 9JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Cole & Cole Properties Ltd against the decision of North Kesteven District Council.
- The application Ref is 23/0278/VARCON.
- The application sought planning permission for 'Erection of extension to existing single storey dwelling and change of use of paddock land to enlarged residential curtilage (serving plot 1) along with demolition of stables and erection of a single storey dwelling (Plot 2)' without complying with conditions attached to planning permission Ref 22/0605/FUL, dated 15 September 2022.
- The conditions in dispute are numbers 3 (soft landscaping), 4 (boundary treatments), 5 (materials) and 7 (approved plans) which state that:

No. 3: The development shall proceed in accordance with the scheme of hard and soft landscaping shown on drawing J1601M-PL-03 Rev P01. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out within 6 months of the date of first occupation of each respective dwelling to which the landscaping relates or the completion of development, whichever is sooner, unless otherwise agreed in writing by the district planning authority. Any trees, plants or grassed areas which within a period of seven years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size, and species and quality, unless the district planning authority gives written consent to any variation.

No. 4: Prior to the first occupation of each dwelling, the approved boundary treatment/s shown on drawing J1601M-PL-03 Rev P01 shall have been installed and shall thereafter be retained. The timber 5 bar field gate shown on drawing J1601M-PL-03 Rev P01 demarcating the extent of the residential land (Plot 2) and the adjacent paddock land shall be erected prior to the first occupation of Plot 2 and shall be retained as such in perpetuity.

No. 5: The development hereby permitted shall be constructed entirely of the materials details which are shown on drawings J1601M-PL-32 Rev P01 and J1601M-PL-11 or in accordance with such alternatives as may be agreed in writing with the district planning authority.

No. 7: The development hereby permitted shall not be carried out except in complete accordance with the details shown on the approved plans, listed below on this decision notice.

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No. 5: To ensure a satisfactory external appearance in the interests of visual amenity to accord with policy LP26 of the Central Lincolnshire Local Plan (Adopted 2017).

No. 7: To ensure that the development takes place in accordance with the approved details.

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). However, none of the proposed changes relate to the main issues of this appeal. As such, I have not sought the views of the main parties in coming to my decision.

Background and Main Issues

4. The appeal site and adjacent environs have a complex recent planning history. On the appeal site, planning permission was originally refused¹ by the Council for the conversion of the existing stable block to form a single residential unit. This was subsequently allowed on appeal² and I have been provided with the Council's decision notice, delegated officer report and relevant plans for that development. The site plan shows the stable located at the end of the site access road with areas of curtilage to either side of the dwelling and the site boundary tight to the rear, beyond which is a paddock.
5. A further planning application³ was granted permission by the Council which is described in the banner heading above. This sought to demolish the stables and erect a like-for-like replacement of the same general appearance on the same footprint as the previous structure. Furthermore, the curtilage of the

¹ 19/1364/FUL

² APP/R2520/W/20/3248608

³ 22/0605/FUL

already approved dwelling of plot 1 was extended to the north into the paddock area while the boundary to plot 2 was also amended.

6. An application⁴ to vary the same conditions subject to this appeal was refused by the Council. This scheme proposed to alter the layout of the site, with the dwelling moved further to the east. This proposal also included a significantly larger floor area, evidently increasing from 86m² to 145m² and amendments to the general design of the former stable, such as openings and roof heights and a modular arrangement with two parallel but offset sections forming the dwelling.
7. The two applications which are subject to this appeal sought to vary the same conditions as above. These changes are evidently limited to plot 2. Appeal A includes the same modular type of layout as that proposed in 22/01639/VARCON with additional planting and energy efficiency measures such as solar panels on the roof. Appeal B includes a similar layout to the former stable but with its projecting gable flipped to the eastern side and its location again moved to the east with the same energy efficiency measures as Appeal A.
8. Therefore, the main issues in both appeals are the effects of varying the conditions on the character and appearance of the area.

Reasons

9. The appeal site is accessed by an access road which runs from Main Street. Two original dwellings, Vine Tree House and The Chestnuts, are located at the entrance of the site, while a pair of new semi-detached properties and the dwelling built on plot 1 are on opposing sides of the lane. I observed on the site visit that the semis and plot 1 are largely complete. The stable building appeared to be mostly removed from the site, with only a small section remaining. The paddock area to the north is clearly marked by a timber fence, while beyond that the landscape expands into open countryside.
10. In both appeals, the crux of the dispute between the parties is the positioning of the dwellings within plot 2, with both proposals seeking to move the structure to the east. This would open views beyond to the paddock when viewed from Main Street.
11. In the previously allowed appeal decision, the Inspector noted that the appeal site and paddock related more with the surrounding countryside than the built form of the village and that those factors were an important contributor to the rural setting of the village. Moreover, that the stables were a substantial timber structure which sit at the end of, and provide a visual stop to, the access road. The shape and size of the building was not proposed to be changed in that proposal and the changes to openings were largely cosmetic while retaining their equestrian character. The position of the stables, whereby its visibility would remain as a tangible reminder of the site's rural character, was considered positive for the proposal.
12. Although much change has occurred around and within the appeal site, it is clear that the dwellings constructed to either side of the road have altered the character of the wider site. As the Inspector observed in allowing that appeal,

⁴ 22/1639/VARCON

the stable building set against the paddock would have helped to retain some of that rural character and provide a transition from built form to the countryside beyond. The fundamental character of the wider site may have changed but the preservation of some of that rural character as the road moved north towards the countryside was an important positive attribute. The central location of the stables in views heading in this direction helped to give the stables a sense of primacy within the site and drew the eye to that rural feature.

13. The stables have since been mostly removed. While moving the stables to one side may allow glimpses to the north in a similar manner to that described in previous appeal decisions⁵, it would not create a benefit sufficient to outweigh the harm caused by eroding the remaining rural character of the appeal site. The resulting layouts of both proposals would be more akin to an estate type development, despite the paddock remaining to the north.
14. In the case of appeal A, this would be compounded by the proposed changes to openings whereby features such as traditional stable doors and small windows are proposed to be replaced by larger expanses of fenestration and a glazed link alongside a significantly increased floor space compared to the earlier approved designs. The side-by-side offset parallel arrangement of the two structures in that proposal are a significant deviation from the stables and only feature design nods to the site's history and rural character.
15. Appeal B has sought to retain many of the livery style characteristics of its predecessor, although as above its siting to the east would be harmful for the same reasons. While the Council does not dispute the use of some facing materials, this would be neutral rather than weigh in favour of the scheme.
16. Taken together, I find that the disputed conditions are necessary to ensure the character and appearance of the area is preserved in both appeals. The proposals are therefore contrary to policies S1, S4 and S53 of the Central Lincolnshire Local Plan (LP) (adopted April 2023). These seek, among other things, to ensure that all development, including extensions and alterations to existing buildings, must achieve high quality sustainable design that contributes positively to local character, landscape and townscape. The variations of the conditions and resultant changes would also be contrary to the design aims of the Framework, including paragraph 135 which states that decisions should ensure proposals are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Other Matters

17. I have had regard to the Energy Statements⁶ submitted along with the appeal proposal. These advise that both proposals would meet the requirements of policy S7 of the CLLP, part of which requires that development proposals can generate at least the same amount of renewable electricity on-site (and preferably on-plot) as the electricity they demand over the course of a year. This does not appear to be in dispute between the main parties. The previously approved scheme would not have complied with the requirements of the CLLP, although it would not have been required to, given

⁵ APP/R2520/W/18/3219280 & APP/R2520/W/19/3223936

⁶ Origin Design Studio: Revision A01 – 20th July 2023 & Revision A01 – 4th August 2023.

the CLLP was adopted after that proposal was determined. Regardless, the introduction of renewable energy and energy efficiency methods are welcome. They are a requirement of policy, so this is a minimum standard, albeit the measures proposed are worthy of limited positive weight.

18. I have also had regard to the Biodiversity Impact Assessments⁷ which conclude that the loss of modified grassland would be offset by the gains in the hedgerow biodiversity and the new mixed woodland belts. I understand that this is not mandatory in terms of meeting a policy requirement, although it is nevertheless worthy of some further limited weight in favour of the schemes.
19. A large part of the appellant's case includes the option of 'fallback' permissions. From the evidence before me, this would appear to mean either the conversion of the stable which was allowed on appeal, or the scheme approved by the Council. The appeal decision would now appear irrelevant as the stable has been largely demolished. It would therefore not be a conversion.
20. The approved planning application would involve rebuilding the stable in its former location, which would negate the harm identified. It is also argued that the dwelling approved on the site may not be built at all and that the views would remain open and absent of the positive contribution of the stables. The appellant states that there is no obligation to finish the approved scheme, and I see no reason to disagree. However, I find this an unlikely scenario from a financial perspective and as such this limits the weight I can attribute to this argument. Moreover, I do not consider the proposals before me to constitute a 'betterment' of the existing situation given my findings above and as such I give these fallbacks limited weight.
21. The appellant considers the proposed layout would improve the living conditions of potential future occupiers of the property. Whether the previous schemes provided suitable living conditions was not identified as an issue during the previous proposals nor was parking provision. I see no reason to raise either matter to a main issue based on all that I have seen and read. Neither of these matters weighs in favour of the scheme as a result.

Conclusion

22. If the disputed conditions were varied the resultant developments would harm the character and appearance of the area, contrary to the development plan and aims of the Framework. The material considerations outlined above would not be sufficient to outweigh that conflict. The appeals are therefore dismissed.

C McDonagh

INSPECTOR

⁷ CBE Consulting: Report Refs P2727/0923-01 Report Version 1 (26 September 2023) & Report Version 2 (31 October 2023).