

Appeal Decision

Site visit made on 3 September 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2024

Appeal Ref: APP/X3540/W/24/3336781

The Barn, Mill Lane, Witnesham, Suffolk IP6 9HR

- 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 Mr Alan Ambrose against the decision of East Suffolk Council.
 - The application Ref is DC/23/3873/ROC.
 - The application sought planning permission for the 'proposed conversion of existing barn to dwelling following previous approval for demolition and proposed new dwelling (DC/16/0395/FUL) to retain existing building in order to lessen the impact on neighbouring properties associated with the approved new build' without complying with a condition attached to planning permission Ref DC/16/2008/FUL, dated 11 July 2016.
 - The condition in dispute is No 8 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 or any Order revoking or re-enacting the said Order, no development of any kind specified in Part 1, Classes A, C, D and E (except for domestic fuel storage tanks) of Schedule 2 of the said Order shall be carried out unless otherwise agreed in writing with the local planning authority (Classes A, C, D and E relate to extensions and alterations, alterations to the roof, porches and outbuildings) .
 - The reason given for the condition is: In order that the local planning authority may retain control over this particular form of development in the interest of amenity, parking provision, the protection of the local environment and the amenity of adjoining residents.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of Condition No. 8 of DC/16/2008/FUL (Proposed conversion of existing barn to dwelling following previous approval for demolition and proposed new dwelling (DC/16/0395/FUL) to retain existing building in order to lessen the impact on neighbouring properties associated with the approved new build) at The Barn, Mill Lane, Witnesham, Suffolk IP6 9HR in accordance with the terms of the application, Ref DC/23/3873/ROC, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issue

2. The main issues are the effect that removing condition 8 would have on
 - the character and appearance of the area;

- the living conditions of the occupiers of the neighbouring dwellings; and
- highway safety in relation to parking provision.

Reasons

Character and Appearance

3. Planning permission¹ has been granted on the appeal site to allow the conversion of a barn to a dwelling. These conversion works have taken place and the property is in use as a separate dwelling. The appeal seeks to remove condition 8, relating to the removal of permitted development (PD) rights, of the original permission. The appellant does not indicate any particular works that they wish to carry out under PD rights should they be reinstated.
4. Whilst the former agricultural barn has a historic vernacular character, it has been converted as part of the original permission and is now being used as a residential dwelling. Therefore, the building and its immediate surroundings are domestic in nature. Whilst any extensions and alterations to the building, possible under PD rights, would change the appearance of the building, these would be limited and the building would still retain its original character as a converted barn within a residential setting. Furthermore, I am satisfied that the development which could be carried out under PD rights would not be overly visible from the public realm.
5. I therefore conclude that removing condition 8 would not have a harmful impact on the character and appearance of the area. As such I find no conflict with Policy SCLP11.1 of the Suffolk Coastal Local Plan (the LP) 2020 which seeks to ensure that locally distinctive and high quality design which clearly demonstrates an understanding of the key features of local character is supported.

Living Conditions

6. The appeal site is small and surrounded by a number of other residential properties with varied ground levels. Therefore, any extensions or alterations to the dwelling or its roof and any outbuildings constructed would be noticeable additions to the occupiers of the neighbouring dwellings. Nevertheless, due to the modest scale of the site and the host dwelling, the works permissible under PD rights are limited. Furthermore, these rights are designed to, as far as possible, prevent any works having a harmful impact on the living conditions of neighbouring occupiers. Therefore, there is nothing to suggest that the reinstatement of PD rights would result in harm to the living conditions of the occupiers of neighbouring dwellings by way of a loss of privacy, outlook or access to daylight/sunlight.
7. Consequently, the removal of condition 8 would not have a harmful impact on the living conditions of the occupiers of the neighbouring dwellings and would not conflict with Policy SCLP11.2 of the LP. This policy seeks to ensure that when considering the impact of development on residential amenity, the Council will have regard to privacy, outlook and access to daylight and sunlight.

¹ DC/16/2008/FUL (the original permission)

Highway Safety

8. The Council has indicated that the original permission provided parking provision to the front of the dwelling for two vehicles, which has been implemented. A porch constructed under PD rights would be located within this vehicle parking area. However, the scale permissible would be limited and the parking area is relatively large. Therefore, this would not result in a loss of car parking provision or result in any additional on-street car parking.
9. Therefore, removing condition 8 would not have a harmful impact on highway safety in relation to parking provision. As such I find no conflict with Policy SCLP7.2 of the LP which seeks to ensure that vehicle parking provision is protected and managed.

Conditions

10. The appellant states that further conditions do not apply. However, the guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no 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.
11. As the development has commenced, I have not imposed the standard time limit condition for the commencement of the development. The Council have stated that the incorrect drawing number was referred to within condition 6 of the original permission, relating to a boundary fence. Therefore, this has been amended as set out in condition 5 of this appeal decision to ensure accuracy.

Conclusion

12. Paragraph 54 of the National Planning Policy Framework (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The removal of condition 8 of the original permission would not result in harm to the character and appearance of the area, the living conditions of the occupiers of neighbouring dwellings or highway safety. Therefore, it has not been sufficiently demonstrated that there is 'clear justification' for the removal of PD rights as set out in the Framework. As such, the condition is not considered to be necessary, as required by paragraph 56 of the Framework.
13. As such, for the reasons set out above, the appeal is allowed in relation to the removal of condition 8.

E Grierson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall not be brought into use until it has been completed in all respects strictly in accordance with Site Plan and Drawing nos. 7877-PA/16/04 received on 16/5/2016 and 787-PA/16/03 Revision A received on 7/7/2016 for which permission is hereby granted, or which are subsequently submitted to and approved in writing by the local planning authority and in compliance with any conditions imposed by the local planning authority.
- 2) The materials and finishes shall be as indicated within the submitted application and thereafter retained as such, unless otherwise agreed in writing with the local planning authority.
- 3) No development shall commence until a detailed method of construction statement has been submitted to and approved by the Local Planning Authority. This statement shall set out hours of construction/activity on site, the location of parking areas for construction vehicles and delivery hours for materials and equipment to the site before and during construction. Thereafter the approved construction statement shall be adhered to throughout the construction of the development.
- 4) The block paving hereby approved in the front garden shall be constructed from porous materials with a permeable sub-base or provision shall be made to direct surface water from the hard surface to a drainage area within the curtilage.
- 5) The dwelling shall not be occupied until the 1.8m high fence on the southern boundary has been erected as per drawing 7877-PA/16/04. The fence shall thereafter be retained at that height.
- 6) No development shall commence on the construction of the shed, until full and precise details of the shed have been submitted and approved by the Local Planning Authority. The shed shall thereafter be erected in the approved form.
- 7) The use shall not commence until the area within the site shown on 7877-PA/16/04 for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that area shall be retained and used for no other purposes.

END OF SCHEDULE