



Appeal Decision

Site visit made on 9 September 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/Q3115/W/23/3317169

Poachers Cottage, Mays Green, Harpsden, Henley on Thames, Oxfordshire RG9 4AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Eggleton against the decision of South Oxfordshire District Council.
 - The application Ref is P22/S0903/FUL.
 - The development proposed is described as the conversion of redundant barn to one (1x) dwelling house.
 - This decision supersedes that issued on 6 December 2023. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council, and that is the subject of a separate decision dated 6 December 2023.

Main Issues

3. The main issues in this case are whether the principle of the development accords with the spatial strategy, and the scheme's effect on the character and appearance of the area.

Reasons

Principle of the development

4. The appeal concerns a 3-bay former agricultural building. It lies on a site that is not allocated for housing, but is on the edge of the cluster of dwellings known as Mays Green, outside any development boundary in the countryside. It is currently in a poor condition, and has garage doors on its front elevation, corrugated iron walls on its remaining sides, and a cement fibre roof.
5. As the appellant contends that the proposal would be a conversion of the existing building, he has relied on Policy H1 Part 3(vii) in the *South Oxfordshire Local Plan* (the Local Plan). Having regard to the need to deliver houses in a sustainable and achievable manner, this policy seeks to locate new residential development on allocated sites. In Part 3 it goes on to state that housing on sites not allocated in the Development Plan will only be permitted where one of a number of specific instances apply. Of these, the appellant has highlighted instance (vii), namely that '*it would bring redundant or disused buildings into residential use and would enhance its immediate surroundings*'.

This, he has noted, is very similar to what is now paragraph 84(c) of the most recent iteration of the *National Planning Policy Framework* (the Framework) concerning the reuse of redundant or disused buildings for the development of isolated homes in the countryside. As the Council has also approached the scheme on the basis that it is a conversion, it too has relied upon Local Plan Policy H1 Part 3(vii) and Framework paragraph 84 in its determination.

6. A neighbour challenged this approach, contending that, in effect, the proposal is tantamount to a new build and so should be assessed against a different policy context. However, in the decision that was quashed (the previous decision), the Inspector did not consider it necessary to explore this neighbour's challenge, but treated the scheme as a conversion and determined it accordingly.

7. In the Statement of Reasons attached to the Consent Order it was said

'It was ... both necessary and relevant for the Inspector [in the previous decision] to determine whether, as a matter of planning judgment, the Development as applied for would constitute a "conversion" / "re-use" of the existing building at all, or whether the extent of the proposed works would go beyond a "conversion" and amount to a complete rebuild.'

As the Inspector had not done this, then on this basis the decision was quashed. In the Statement of Reasons no view was expressed as to whether or not the proposal went beyond what could be deemed a conversion, with that remaining a planning judgement for the decision-maker. However, it is also apparent that, whilst being aware of the amount of the existing building that was to remain, it considered a judgement still needed to be made as to whether or not it was a conversion.

8. Having regard to the appellant's submissions on this matter, I understand that the resultant building would have the same height, dimensions and footprint as what is there now. However, of the existing structure all that would remain are the 4 pre-cast concrete supports that run from front to back and are bolted together at eaves level, along with the concrete pads under the legs of each support. The compacted base within the building would also remain, but a concrete slab would be put on top. The walls and roofing would be replaced.
9. The Statement of Reasons attached to the Consent Order quashing the previous decision drew on the judgement of *Hibbitt and Another v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin)(the Hibbitt judgement). This concerned a scheme to use a metal framed cattle stall, which was described as '*largely open on 3 sides*', as a dwelling. Whilst this was in the context of a conversion sought under Class Q of the *Town and Country Planning (General Permitted Development)(England) Order 2015*, (the GPDO) the Consent Order makes clear its reasoning is applicable to this case.
10. In the light of that judgement, as the policy context favoured by the appellant, the Council and in the previous decision expressly concerns a conversion, by definition it does not apply to a rebuild, (or fresh build to use the terminology of that judgement). Moreover, the Hibbitt judgement says there will be numerous instances where the starting point might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild.

It adds that the case subject of that judgement '*was, in all practical terms, starting afresh with only a modest amount of help from the original building*'. As that case did not propose the total removal of the original building but intended to retain the steel frame and the roof, I consider the reference to the works '*starting afresh*' must be read in that context.

11. I accept that what is now present on the appeal site is not skeletal and, unlike the cattle stall subject of the Hibbitt judgement, it does not have 3 sides that are '*largely open*'. Rather, it is a building of a solid appearance with 4 walls and a roof. However, by keeping only the concrete supports on their pad foundations, it is just its skeletal form that would be retained. I also note that whilst the frame would remain on the appellant's site, unlike the scheme subject of the Hibbitt judgement the roof would also be replaced. Overall, little of the existing building would remain once the scheme was undertaken. This shows that it is not now capable of operating as a dwelling. Rather, the works needed to alter the redundant barn would be of such a magnitude that in practical reality what would be undertaken would be a fresh build.
12. In coming to this view I appreciate that much of the proposed external works could be undertaken without needing planning permission, but I have no convincing evidence to show that would, in fact, occur if the appeal were to be dismissed. I acknowledge too that Class Q.1(i) in the GPDO gives an extensive list of works that can be undertaken as a Class Q conversion. As the Hibbitt judgement states though, in relation to this part of the GPDO the concept of conversion is separate to Class Q.1(i), and is found in the overarching provisions of Class Q. Conversion is thus a freestanding requirement that must be met irrespective of anything in Class Q.1. Similarly, when considering this proposal under section 78 of the Act, it does not follow that, if all the works in Class Q.1(i) are completed to their maximum extent in a scheme, then what has been undertaken can still be deemed a conversion, if, by their nature and extent, they are so great as to mean the proposal, in all practical reality, should be considered as a fresh build.
13. I also accept that, elsewhere, Inspectors might have found similar works to be conversions, but such judgements hinge on the circumstances of the specific scheme and will vary from case-to-case.
14. Therefore, as a matter of planning judgment, I find that, because so little of the existing building would remain, the proposal cannot be defined as a conversion, and so must amount to a complete fresh build. In the absence of any conditions to the contrary, it would consequently comprise an unrestricted open market property. Moreover, even though adjacent to the houses of Mays Green, it is in the countryside distant from services, and so inevitably would result in a strong reliance on private motorised transport for even the most basic of needs. I have been referred to no policy support at either a national or a local level for such a development here, and I see none in Local Plan Policy H1.
15. Although, if I had found the scheme to be a conversion, it would have been as far from services, the policy context supporting such a conversion could well have balanced the issue of travel against matters such as the carbon already captured in the retained built fabric.
16. Accordingly, I conclude that in principle. this development is not justified by Local Plan Policy H1. Rather, by constituting a fresh build dwelling in the

countryside, it is contrary to the spatial strategy outlined in Local Plan Policy H1, Local Plan Policy DES1 (which requires access to local services), and also the Framework.

Character and appearance

17. As well as being in the countryside, the appeal site is in the Chilterns National Landscape (formerly called an Area of Outstanding Natural Beauty). This is one of the country's landscape designations that has the highest level of protection. In such areas the Framework says great weight should be given to conserving and enhancing the landscape and scenic beauty. This supports the position found in the development plan. Local Plan Policies DES1, DES2 and ENV1, together with Policy SD3 in the *Joint Henley and Harpsden Neighbourhood Plan*, require development to respect landscape character, respond positively to its site and surroundings, and conserve and where possible enhance the character and natural beauty of the National Landscape.
18. The former barn subject of this appeal sits in pleasing, rolling countryside, comprising a patchwork of fields, delineated by hedging, and interspersed with areas of woodland and occasional settlements. As such, the area has a distinctly rural character, despite the golfing facility to the north, and makes a positive contribution to the National Landscape as a whole.
19. In the previous decision it was said this building lay '*within*' the hamlet of Mays Green, but that is not the phrase I would use to describe its location. Instead, I would contend it was to the north of the cluster of houses that form the hamlet, generally separated by a strong line of trees. Because of these, views from a southerly direction are limited. From the west though the building can be seen through the boundary hedging along the lane. From the east it can be glimpsed when on the footpath and from the north it is apparent over the intervening meadows against the trees that separate it from most of the Mays Green houses. At the moment though, the building's form, its scale and its muted colours, together with the nature and extent of activity that can be reasonably expected around, mean it is not a striking or significant feature in the landscape. Rather, agricultural buildings of similar appearance to this are an accepted part of the countryside. The remainder of the site comprises mown grass.
20. The suggested materials for the elevations and roofing of the proposal would not, of themselves, be dominant but would reflect the rural nature of the location. I acknowledge as well that there would be little activity expected within the curtilage of a one-bedroomed house. However, the revised windows and door treatments would, to my mind, highlight the domestic nature of the property while the new access would open views from the lane. Furthermore, even with planting to mitigate its effects, the lengthy driveway would become a notable feature in the landscape that would diminish the rural nature of the site at present. Finally, the trees to the south currently constrain the neighbouring cluster of dwellings to a certain extent. By being to the north of that tree-belt, the proposal would not be consolidating the hamlet but expanding it further. Consequently, I consider the scheme would be a discordant element in this rural and nationally designated landscape.
21. I recognise that the existing building is of little design merit. However, as it is of an appearance accepted in this rural setting, removing it is not a matter to which I afford significant weight. Moreover, even if I were to treat the appeal

site as already part of the lawful curtilage of Poacher's Cottage, given its size and the scale of the appellant's house, I have no reason to consider it would be used in a manner that caused harm to the surroundings that was comparable to that of the proposal now before me.

22. In coming to this view I have noted the support for this element of the scheme in the previous decision. However, in that decision the matter was approached on the basis of the proposal being a conversion. Consequently, some element of domestication must be accepted, even within the requirements for such works to enhance their immediate surroundings. Similarly, when considering the driveway it is reasonable to assume vehicular access to a conversion would be expected. As I have found it would not be a conversion but a fresh build, I have assessed the impact on a different basis without the inevitable acceptance of some domestication being introduced. However, even if I had concurred with the previous decision and found no harm had been caused in this regard, it would not have outweighed the harm identified under the first main issue above.
23. Accordingly, I conclude the erection of this dwelling would harm the character and appearance of the area, and would fail to conserve the landscape and scenic beauty of the National Landscape. As such it would conflict with Local Plan Policies DES1, DES2 and ENV1, Policy SD3 in the *Joint Henley and Harpsden Neighbourhood Plan* and the Framework.

Other matters

24. To the west, on the opposite side of the lane is the Grade II listed Bellehatch Park House. Insofar as this appeal is concerned its significance lies in it being a country house of some status, and I anticipate that it has sweeping views over parkland to the south and west. However, to the east its setting is constrained by the tall wall along the lane, by the lane itself, and by the limited relationship to the land in that direction. I am also aware of no historic link between the appeal site and that designated heritage asset. Consequently, the effect of the proposal on the setting of Bellehatch Park House would not harm its significance.
25. Opportunity exists for adequate sight lines at the site access, and any additional traffic associated with this single bedroomed dwelling would not be so great as to compromise highway safety. Given the separations involved, the boundary treatments in between and the respective orientations, the proposal would not cause overlooking or a loss of privacy in any of the neighbouring houses.

Conclusions

26. Accordingly, I find the scheme would conflict with the development plan by reason of its principle and its effects on the character and appearance of the area, and in the absence of any material considerations to outweigh this harm I conclude the appeal should be dismissed.

JP Sargent

INSPECTOR