



Appeal Decision

Site visit made on 7 January 2025

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th March 2025

Appeal Ref: APP/J0405/C/23/3323146

Land at Hillview Paddocks, Carters Lane, North Marston, Buckinghamshire, MK18 3GY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms Tracy Gray against an enforcement notice issued by Buckinghamshire Council - North Area (Aylesbury).
- The notice was issued on 17 April 2023.
- The breach of planning control as alleged in the notice is 'Without planning permission, the material change of use of a building to a single residential dwelling'.
- The requirements of the notice are to:
 1. Permanently cease the unauthorised residential use of the building shown hatched black on attached Plan 1.
 2. Permanently remove the kitchen, bathroom, toilet and all associated fixtures and fittings from the building.
 3. Permanently remove all internal partitions, walls, doors, materials, installations, fixtures, fittings and residential paraphernalia from the building.
 4. Permanently remove the bifold glass doors on the East facing elevation from the building and reinstate the horizontal wooden panels which were in place prior to the breach of planning control taking place.
 5. Permanently remove the window on the South facing elevation from the building and reinstate the horizontal wooden panels which were in place prior to the breach of planning control taking place.
 6. Permanently remove the window on the West facing elevation from the building and reinstate the horizontal wooden panels which were in place prior to the breach of planning control taking place.
 7. Permanently remove the door on the North facing elevation from the building and reinstate the three (3) rectangle openings and horizontal wooden panels which were in place prior to the breach of planning control taking place as shown on the attached Plan 2.
 8. Permanently remove any debris or materials from the Land that arise as a result of complying with Steps 1 to 7 of this Notice.
- The period for compliance with the requirements is: four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of a building to a single residential dwelling as shown on the plan attached to the notice and subject to the conditions set out in a Schedule attached to this Decision.

The Appeal on Ground (a) and the Deemed Application for Planning Permission

Main Issues

2. The main issues are:
 - Whether or not the site is a suitable location for residential development.
 - The effect on highway safety and parking provision.

Reasons

Locations for new development

3. In support of its spatial strategy to achieve sustainable growth, strategic Policy S3 of the Vale of Aylesbury Local Plan 2013-2033 [2021] (the VALP) seeks to direct new development to existing settlements and states that new development in the countryside should be avoided. However, some exceptions are made through other development plan policies.
4. The appellant refers me to Policy C1 which permits the conversion of rural buildings subject to a number of criteria. Of those, the Council have highlighted some which it considers the development to conflict with. I consider these in the following paragraphs.

Character and appearance

5. The changes to the building retain its scale, form and the main external materials. However, the introduction of numerous domestic style openings, which have little reference to the original 'stall' arrangement (visible in the image attached to the Notice), cause the character of the building to appear as a timber lodge rather than a sensitively converted agricultural building. It no longer retains the rudimentary functional character typical of shelter buildings in the wider pastoral landscape.
6. A new panel fence erected a short distance to the south of the building has a domestic character compared to an earlier rustic post and rail fence present in October 2022. The removal of landscaping previously located along that boundary is also visually retrograde to the building's immediate setting.
7. The Council highlight that any amenity space associated with the use of the building would also undermine the rural location. As an expected requirement of new residential development, including conversions, any such effects could be controlled and/or mitigated by condition if so required.
8. For the above reasons, the conversion has therefore failed to retain the original character and appearance of the building or enhance its immediate or wider setting. However, it is important to note that the building is largely screened by the roadside hedge and fence, or seen against them. Within the wider landscape views, the visual impact is also limited on account of the building's position close to the established hedged road boundary and its overall scale. Accordingly, those aspects of the conversion cause only moderate harm.

Redundant building

9. The appellant states that the farming operation on the wider holding reduced at the time of conversion such that the building became unused. While the introductory text to the policy clarifies that a building need not be empty, the policy seeks assurance that such conversions will not generate a need for further buildings in the countryside. Although here the Council refute the appellant's position by way of reference to other unauthorised development on the holding, there is little evidence before me, including the statements of third parties, to demonstrate that other development has occurred as a direct consequence of the conversion. It is therefore a matter which attracts only limited weight.

Proximity to settlements and utilities

10. The closest settlement to the site is North Marston. The village offers a shop, pub, church and other limited facilities which could be supported by the use of the development. Those facilities and the nearest bus stops are estimated by the Council to be some 2.5km away.
11. Travel to North Marston is along unlit rural lanes without footways until entering the village. Outside the village, the national speed limit applies. In the main, this would be sufficient to deter journeys made on foot or by bicycle for most, particularly during darkness hours or inclement weather.
12. However, as a policy exception to managed patterns of growth, and to make best use of existing buildings, the site location is not so remote from North Marston for access to services to be unusually difficult. Nor is the development of a scale to generate significant daily trips by private motor vehicle for that purpose.
13. According to the appellant, the site is serviced by utilities, and this is not contested by the Council. The development therefore aligns with policy C1 in those respects.

Other policy C1 considerations

14. As the re-use of an existing modest building, significant effects on wildlife, including Great Crested Newt and other protected species, are highly unlikely and there is little to indicate that disturbance of wildlife has taken place because of the development.

Conclusion on locations for new development

15. The development conflicts with Policy C1 as it requires the conversion of rural buildings to respect the character of the building and enhance its setting. Accordingly, it conflicts with the exception to the Council's strategy for the spatial distribution of new development in the interests of sustainable development. It thereby conflicts with policy S3 of the VALP. Furthermore, there are no policies within the North Marston Neighbourhood Plan [2022] which support housing in this location.

Highway safety and parking

16. The site benefits from an existing access approved in conjunction with the use of another barn conversion to the north. The access provides adequate forward and emerging visibility for vehicles turning into and out of the site. The road widens in the location of the access point. This will facilitate manoeuvring on the otherwise single carriageway width. Furthermore, the limited scale of the accommodation would not generate significant amounts of additional traffic on the lane.
17. Off-street parking and turning capability exist within the appellant's land in the immediate area of the highway access. This is of sufficient size to accommodate most types of vehicles. The retention of that area for those purposes and the provision for electric vehicle charging could be secured by condition. Subject to those requirements no unacceptable transport impacts could reasonably be anticipated as a consequence of the small-scale of the development. The development would thereby align with the requirements of policies T1, T5, T6 and T8 of the VALP as together they seek safe access, encouragement of more sustainable options for travel and the provision of sufficient parking.

Other Matters

18. As a conversion of a single agricultural building in private ownership, policies for the protection of community facilities are of limited relevance. Any need for new community facilities and infrastructure arising from the single unit has not been demonstrated by the Council. Further, matters of housing density or agricultural need are not directly applicable in the case context.
19. The development is likely, however, to secure the upkeep of the building for some time. It could thereby provide an effective, efficient and viable use of the building. As the re-use of an existing structure and building footprint, any effects on archaeological interest on the Land are likely to be negligible.
20. In support of the development, the appellant refers me to a recently approved conversion at Stonehill Farm within 500m of the site. However, in that case the Council concluded that the character and appearance of the building and its locality were preserved or enhanced. It is therefore distinct from the case before me.
21. I acknowledge that the provisions of the Town and Country (General Permitted Development) (England) Order 2015 allow for the conversion of agricultural buildings, however, that is subject to conditional and procedural requirements. It does not provide a fallback or justification for development already carried out. I also note reference to an historical permission dating back to 2003 for a barn on the wider site, but it is unclear whether that was implemented.
22. The appellant has provided a unilateral undertaking to retain the use of an adjacent building as an agricultural store. However, there is little before me to demonstrate that structure or a clad container attached to it are lawful. Although the appellant suggest that the undertaking would secure a high standard of living conditions for occupiers of the appeal building, that is not necessarily the case for a closely sited building used in association with agriculture. Accordingly, I find the obligation would not meet the legal tests as reflected in Paragraph 58 of the National Planning Policy Framework (the Framework).
23. The use could take place without direct harm to the living conditions of other residents in the area. It would likely be at low risk of flooding. As requirements of the VALP, these are not benefits in favour of the development.
24. The Council have expressed concerns that a decision in support of the development could create a precedent. However, precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations.

Conclusion and planning balance

25. For the reasons above, I find that the development conflicts with the VALP with respect to the Council's spatial strategy for the distribution of new residential development and requirements for converted rural buildings to have regard to the protection or enhancement of the character of buildings and their immediate settings.
26. Notwithstanding, there is no dispute between the main parties that the Council is currently unable to demonstrate a 5-year housing land supply. Consequently,

because of the provisions of footnote 8, paragraph 11 d) ii of the Framework should be applied and consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

27. Having particular regard to the Framework's key policies for directing development to sustainable locations and securing well-designed places I find that the location of the building is such that some reliance on private motor vehicles is necessary. However, that effect is partially offset by the re-use of an existing building which is supported in principle in Paragraph 84c) of the Framework.
28. I have found the harm to the character and appearance of the building and the lack of enhancement of its immediate setting conflict with the development plan. This is consistent with the Framework's aim of achieving well-designed places. However, this harm is limited on account of the scale and the restricted visibility of the development, and it could be reduced by mitigation landscaping. Notwithstanding, as a development designed to last tens of years, that harm should be given moderate weight.
29. In the context of the shortfall of housing land supply, the development makes a relatively small contribution. Nevertheless, it constitutes a benefit of considerable weight. Taking the above matters together, I find any adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits when assessed against the Framework policies taken as a whole; therefore, having regard to the specific case circumstances, the presumption in favour of sustainable development applies.
30. The appeal on ground (a) succeeds and the deemed planning application is granted subject to the conditions as set out in the schedule to this decision.

Conditions

31. I have considered the suggested conditions from the Council and had regard to Paragraph 57 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions.
32. A scheme requiring details of hard and soft landscaping is necessary to mitigate and assimilate the development. This shall include boundary treatments and a parking area. Detail of drainage is necessary in the interests of providing sustainable drainage for the use of the building.
33. The condition requiring those details is imposed to ensure that they are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of those matters before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
34. Requirements to secure site biodiversity enhancements are necessary to comply with the Framework. To encourage modal shift of transport, an electric vehicle charging point is reasonable. Restriction on external lighting is reasonable in the interests of biodiversity and protecting the rural area.

35. Given that the extent of the residential use hereby permitted is limited only to the building, conditions restricting permitted development rights are unnecessary and unjustified. The restriction of occupancy to a rural worker is unnecessary to make the development acceptable in planning terms.

Conclusion

36. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use as described in the notice. The enforcement notice will be quashed.
37. In these circumstances the appeal on ground (f) does not fall to be considered.

R Hitchcock

INSPECTOR

Schedule of Conditions

- 1) Unless within 3 months of the date of this decision schemes for hard and soft landscaping and site foul and surface water drainage are submitted in writing to the local planning authority for approval, and unless the approved schemes are implemented within 9 months of the local planning authority's approval, the residential use of the building shall cease until such time as a scheme is approved and implemented. The Schemes shall include:

- A) Means of enclosure; car parking layout and hard surfacing materials, details of new trees, hedges to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities.

- B) Means of foul and surface water drainage of the dwelling.

If the schemes in accordance with this condition are not approved within 6 months of the date of this decision, the residential occupation of the building shall cease until such time as schemes approved by the local planning authority are implemented.

Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be maintained/retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) Within 3 months of the date of this permission, details of ecological enhancements to be installed on the building shall be submitted to and approved in writing by the Local Planning Authority. The ecological enhancement measures shall thereafter be implemented in accordance with the approved details and timetable and shall thereafter be retained for the duration of the development hereby approved.
- 3) Within 3 months of the date of this permission full details of an electric vehicle charging point to be installed shall be submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point shall be implemented in accordance with the approved details and timetable and shall thereafter be retained for the duration of the development hereby approved.
- 4) No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.

End.