



Appeal Decision

Site visit made on 18 March 2025

by H Whitfield BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 APRIL 2025

Appeal Ref: APP/E2530/W/24/3350158

Chestnuts Barn, 62 High Street, Carlby, Lincolnshire PE9 4LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs I Poole against the decision of South Kesteven District Council.
 - The application Ref is S23/2362.
 - The development proposed is removal of agricultural building and erection of dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of agricultural building and erection of dwelling at Chestnuts Barn, 62 High Street, Carlby, Lincolnshire, PE9 4LX in accordance with the terms of the application, Ref S23/2362, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and corrected on 7 February 2025. I have had regard to the revised Framework as a material consideration in my decision making.
3. Since the application was determined, the Council has granted prior approval for the change of use of the existing building on the appeal site to a dwellinghouse under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)¹ (the GPDO). I have been provided with a copy of the prior approval decision and extracts of the approved drawings, which I shall refer to as the “prior approval scheme.” I have taken account of the prior approval scheme in my consideration of the appeal.

Main Issues

4. The main issues are:
 - whether the appeal site would be a suitable location for the proposed development; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Location

¹ Local Planning Authority Decision Notice Ref. S24/1282

5. Carlby is a 'smaller village' as defined by Policy SP2 of the South Kesteven District Council Local Plan 2011-2036 (LP) where residential development is supported in accordance with Policies SP3, SP4 of the LP and all other relevant development plan policies, where development will not compromise the village's nature and character.
6. Policy SP3 supports infill development in all settlements, subject to meeting several criteria. The site lies outside of the "envelope of the village" depicted on Map 4 of the Carlby Parish Neighbourhood Development Plan 2018 to 2036 (the NDP) and the site is located away from the more concentrated area of residential development of the village to the south-east. Furthermore, the site does not relate to a small, restricted gap in the continuity of existing frontage buildings, nor is it a site within the built-up area of the village closely surrounded by buildings. Consequently, the proposal does not represent infill development as defined by the NP. Nor would it constitute a redevelopment opportunity as defined by SP3 as it would not meet the definition of previously developed land. It would therefore fail to comply with Policy SP3. For the same reasons, the proposal would fail to comply with Policy D.2. of the NDP which similarly relates to infill development.
7. I note the appellant has referred to an appeal decision² for the village gospel hall on land adjacent to the appeal site, in which the Inspector concluded that that site formed an established part of the village curtilage. However, this decision pre-dated the adoption of the NDP, which has now defined the envelope of the village. I have based my findings on this matter on the site context and the most up to date development plan.
8. The Council finds conflict with Policy D.1. of the NDP, however, the intention of the policy is to maintain existing garden and green spaces and resist encroachment into the countryside. The site is not identified on Map 3 of the NDP as a green space that contributes greatly to the rural character of the village and must be protected. Instead, the development would replace an existing building and would not encroach into any green space of importance as identified on Map 3. Consequently, I find no conflict with Policy D.1.
9. The appeal site does, however, lie immediately adjacent to the village envelope. Based on the location of the site relative to its surroundings, I therefore consider that the development would be on the edge of the settlement for the purposes of Policy SP4. This policy supports development on the edge of settlements subject to meeting several criteria. One of which is demonstrating clear evidence of substantial support for the proposal from the local community and meeting a proven local need for housing that seeks to address a specific targeted need for local market housing.
10. Based on the evidence before me, the appellant has not met these policy requirements. The appellant refers to the application receiving three letters of support, however, set against these are objections from a local resident and the Parish Council. SP4 provides advice on what might be a proportionate consultation exercise to seek the views of the local community, but there is no evidence before me that indicates such an exercise was undertaken, and the responses received do not meet the threshold of 'substantial' within the policy. Therefore, from the evidence before me, I am not persuaded that there is substantial support from the local community as required by the policy. Nor is there substantive evidence before me to

² APP/E2530/W/16/3147751

demonstrate that the proposal would meet a proven local need for housing and seeks to address a specific targeted need for local market housing. For these reasons, the development would be contrary to Policy SP4.

11. Overall, I conclude that the appeal site would be an unsuitable location for the proposed development and the development would be contrary to Policies SP3 and SP4 of the LP and Policy D.2. of the NDP which set out the circumstances where development will be supported in the smaller villages defined in the settlement hierarchy and on the edge of a settlement.

Character and appearance

12. The appeal site is located to the rear of dwellings on the High Street and to the north of two existing traditional outbuildings. The site is occupied by a large building which has a part flat roof, part curved roof appearance and is mostly clad with corrugated metal. The site is enclosed to the north by a post and rail fence, to the east by vegetation and trees and is open to the remaining grass land to the west. The village gospel hall lies to the south-west. The existing building is partially visible when travelling into the village and due to its unusual form and appearance, the building does not complement the surrounding rural landscape.
13. The proposed dwelling would have a simple single storey design and would utilise materials that would complement buildings in the immediately surrounding area such as stone, timber cladding and pantiles. The footprint, height and massing of the building would also be smaller than the existing building. The use of traditional materials would allow the development to assimilate more successfully into its surroundings and would be an improvement upon the existing unattractive building.
14. Whilst the proposed dwelling would result in a change in the character of the land from agricultural to residential, this would be relatively well confined given the site context. Indeed, I concur with the Council that development would not be highly prominent and would not appear to be dominant in relation to existing development. Furthermore, the curtilage proposed for the dwelling would not be disproportionate or out of character with properties in the surrounding area.
15. Moreover, given the proposal would replace an existing building that has an established position in the pattern of development it would not extend beyond existing built form. Nor would the development extend obtrusively into the open countryside given the site and wider field are contained by existing physical features such as field boundaries, roads, and paths. For these reasons, I consider the appeal scheme would result in an enhancement over the existing situation. Consequently, I conclude that the development would accord with the character and appearance of the area.
16. It follows then, that the development would accord with Policy V.0. of the NDP and Policies DE1, SP3 and SP4 of the LP insofar as they require development to be well designed, appropriate to the site context and to be sympathetic to the character and appearance of the local area.

Other matters

17. Interested parties have raised concerns relating to, amongst other matters, the effect of the development on the living conditions of neighbouring occupiers through noise and disturbance associated with the use of the access to serve the dwelling and

highways safety. Comments also challenge the historic use of the access. There is no substantive evidence to indicate that the access is unsuitable for vehicles or that the proposed development would adversely affect highway and pedestrian safety. Moreover, I note that the highway authority has raised no objection to the development, which I have considered on its own merits irrespective of how the building may have been previously accessed. I also consider the potential for noise and disturbance from one single dwelling to be limited and would not be sufficient to warrant withholding permission on this basis.

18. Comments made by the Parish Council refer to several planning application reference numbers. However, I have not been provided with any details of these cases. Therefore, I am unable to draw any direct comparisons with the scheme before me. Moreover, each case must be dealt with on its own merits. Concerns are also raised relating to the removal of trees and the alleged expansion of the garden of Chestnuts Barn. However, I have no evidence to suggest any trees on site were protected by tree preservation orders and have limited my assessment to the scope of the appeal before me.
19. Interested parties have also raised concerns in relation to the use of the land and the validity of the prior approval scheme. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Act and is not a matter that is disputed by the Council in any event.

Planning Balance

20. As set out above, I have concluded that the appeal site would be an unsuitable location for the proposed development and consequently would be contrary to Policies SP3 and SP4 of the LP and Policy D.2. of the NDP. This conflict is sufficient to bring the proposal into conflict with the development plan when read as a whole. A grant of planning permission would therefore only be justified where other material considerations exist that outweigh the conflict with the development plan.
21. Of principal importance in this regard, is the extant permission for the prior approval scheme. The Council accepts that the existing consent is a fallback position. However, they consider the weight to be given to it is limited because the works to convert the existing building would be extensive and are unlikely to go ahead. However, the prior approval scheme could be implemented without any further consent from the Council and the appellant has indicated an intention to do so. Consequently, I consider there is a greater than theoretical prospect that the prior approval scheme would be implemented in the event the appeal is dismissed. It therefore represents a genuine 'fallback' position.
22. The conflict with the development plan relates to the suitability of the site's location for housing, as it does not meet the criteria where development is supported in the district's smaller villages, which are less hierarchically preferable locations for housing development in accordance with the spatial strategy. However, any harm in this regard would be offset by the fact that the existing building could be converted to a dwelling even in the event the appeal fails.
23. Based on the evidence, the proposed dwelling would have a smaller footprint, height, and overall massing than the prior approval scheme. It would also utilise a more traditional material palette and building form when compared with the existing building. The appeal scheme would result in a larger curtilage to provide improved parking, turning and amenity space for the occupants of the dwelling, however this

would not extend significantly into the land that surrounds the building or exceed the established boundaries of the site.

24. Furthermore, I have found that the development would enhance the character and appearance of the area, through the removal of the existing building and replacement with a building that would complement its surroundings, particularly when compared with the fallback position. This attracts significant weight in favour of the development. The proposed dwelling would also provide modest social and economic benefits during construction and after occupation and additional landscaping, biodiversity mitigation and enhancement measures would provide modest biodiversity benefits.
25. Overall, I attach significant weight to the fallback position in my consideration of the appeal. Taken together with the other social, economic and environmental benefits I have identified, I therefore conclude that in the particular circumstances of this case, the identified benefits and material considerations would significantly and demonstrably outweigh the harm and conflict with the development plan.

Conditions

26. The Council has suggested several conditions which I have considered in light of the advice in the Framework and Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability and to prevent unnecessary duplication.
27. In addition to the standard three-year time limit condition for implementation, it is necessary to specify the approved plans in the interests of certainty.
28. As the site was formerly in agricultural use, conditions for the identification and remediation of any potential contamination within the site is necessary in the interest of the health and safety of future occupants. It is necessary for the condition relating to the survey of the land for contamination to be pre-commencement to ensure that any contamination is identified prior to demolition or groundworks commencing to minimise the potential disturbance of contamination and in the interests of the health and safety of construction workers and future occupants.
29. I have also imposed conditions requiring the submission of material samples, boundary treatments and a landscaping scheme in order to protect the character and appearance of the area.
30. A condition to secure a biodiversity mitigation and enhancement scheme, in the interests of protecting and enhancing biodiversity is also imposed.
31. Due to the proximity of the development to existing residential properties, conditions to control the hours of demolition, construction and construction material deliveries are included to ensure that living conditions matters are addressed during these phases. However, I have adjusted the time periods suggested by the council to ensure consistency between the two conditions and to not unnecessarily restrict construction works.
32. A condition is required to secure sustainable building measures including minimisation of carbon dioxide emissions, water efficiency and the provision of electric car charging points, in order to support the reduction of carbon emissions and energy use.

33. The Council has suggested conditions requiring the installation of the external materials in accordance with the approved details prior to occupation and restricting the domestic curtilage of the development to the area shown on the plans. However, I consider a condition specifying the approved plans to be sufficient for both of these purposes.
34. The Council has suggested conditions to remove permitted development rights under Classes A to C of Part 1 of Schedule 2 of the GPDO. The Framework advises that conditions should not be used to restrict permitted development rights unless there is clear justification to do so. Whilst the dwelling under the extant prior approval scheme, if implemented, would not benefit from permitted development rights, I have not been presented with any compelling evidence that the site circumstances are such to justify the removal of these permitted development rights or that harm would arise to the living conditions of existing occupiers or the character and appearance of the area in the absence of these conditions. I have therefore not imposed these conditions.
35. The officer report refers to a requirement for an arboricultural survey and impact report to demonstrate what impact the development would have on trees surrounding the site; however, this is not reflected in the Council's list of suggested conditions. Nevertheless, considering separation distances and the relationship of the existing and proposed buildings with surrounding trees, I do not consider this to be necessary.
36. The Environmental Protection Officer has recommended conditions requiring a light spillage assessment and that lighting be switched off by 10pm each evening. Insufficient justification has been provided for these conditions and I note these conditions are not suggested by the Council either. Having considered the nature and scale of the development and its proximity to existing residential properties I do not consider these conditions to be reasonable or necessary to make the development acceptable.

Conclusion

37. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. Accordingly, the appeal is allowed.

H Whitfield

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 drawing nos: PCB/BB23/01 100_01 Proposed Dwelling Site Plan and PCB/BB23/01 100_2 Dwelling Plans and Elevations.

- 3) Before the development hereby permitted is commenced, a scheme relating to the survey of the land for contamination shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - a) A desk top study documenting all the previous and existing land uses of the site and adjacent land;
 - b) A site investigation report assessing the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study;
 - c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring; and
 - d) The nomination of a competent person to oversee the implementation of the works.
- 4) Before any part of the development hereby permitted is occupied, a verification report confirming that agreed remedial works have been completed shall be submitted to and approved in writing by the Local Planning Authority, should any contaminated land be identified by the above condition. The report must be submitted by the nominated competent person approved, as required by the condition above. The report shall include:
 - a) A complete record of remediation activities and data collected as identified in the remediation scheme, to support compliance with agreed remediation objectives;
 - b) As built drawings of the implemented scheme;
 - c) Photographs of the remediation works in progress; and certificates demonstrating that imported and/or material left in situ is free from contamination.

The scheme of remediation shall thereafter be maintained in accordance with the approved scheme.
- 5) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall thereafter be implemented as approved.
- 6) No development above ground level shall take place until details of all materials (and samples upon request) to be used in the construction of the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 7) Before any part of the development hereby permitted is occupied, a scheme for biodiversity mitigation and enhancement shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but may not be limited to, measures for creation of new habitats for bats and birds. The scheme shall include a plan identifying the location of any mitigation and enhancement measures, along with a detailed schedule (and technical details as relevant) for each of the measures proposed. The biodiversity mitigation and enhancement measures shall thereafter be completed in full, in accordance with the agreed scheme, prior to the occupation of the dwelling hereby permitted and retained for the lifetime of the development.

- 8) Construction work deliveries shall be taken at or despatched from the site only between 8:00 to 18:00 on Monday to Friday, between 9:00 to 18:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) Demolition or construction works shall take place only between 8:00 to 18:00 on Monday to Friday, between 9:00 to 18:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 10) No development above ground level shall take place until details demonstrating how the proposed dwelling will comply with the requirements of the South Kesteven District Council Local Plan Policies SB1 and SD1 have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of how carbon dioxide emissions would be minimised through the design and construction of the building; details of water efficiency; and the provision of electric car charging points. The approved sustainable building measures shall be completed in full, in accordance with the agreed scheme, prior to the first occupation of the dwelling hereby permitted.
- 11) Before any part of the development hereby permitted is occupied, details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the dwelling is occupied and thereafter retained for the lifetime of the development.
- 12) Before any part of the development hereby permitted is occupied, details of soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - a) planting plans;
 - b) written specifications (including cultivation and other operations associated with plant and grass establishment); and
 - c) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;

Before the end of the first planting/seeding season following the occupation of the dwelling, all soft landscape works shall have been carried out in accordance with the approved soft landscaping details.

*****End of Schedule*****