Appeal Decisions

Inquiry opened on 1 July 2009
Site visit made on 2 July 2009

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
12 August 2009

Appeal A: APP/K2420/A/09/2099681
Common Farm, Barton Road, Carlton, Nuneaton CV13 0RL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G Wragg against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 08/00978/FUL, dated 8 October 2008, was refused by notice dated 24 November 2008.
- The development proposed is the conversion of Barns B and C into two residential dwellings.
- The inquiry sat for 2 days on 1 and 2 July 2009.

Appeal B: APP/K2420/A/09/2101955
Common Farm, Barton Road, Carlton, Nuneaton CV13 0RL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G Wragg against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 09/00029/FUL, dated 16 January 2009, was refused by notice dated 13 March 2009.
- The development proposed is the conversion of Barns B and C into two residential dwellings.
- The inquiry sat for 2 days on 1 and 2 July 2009.

Application for costs

1. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Decision

2. I allow the appeals and grant planning permission for the conversion of Barns B and C into two residential dwellings at Common Farm, Barton Road, Carlton, Nuneaton CV13 0RL in accordance with the terms of the applications, Ref 08/00978/FUL, dated 8 October 2008 and 09/00029/FUL, dated 16 January 2009, and the plans submitted with them, subject to the conditions set out in Annex 1 to this decision.

Main issues

3. I consider the main issues in respect of both appeals to be whether the amount of rebuild would be tantamount to the erection of a new building in the countryside and the effect this would have on the character and appearance of

the area; and secondly, whether the proposals would set a precedent for similar developments.

Reasons

The site and its surroundings

4. Common Farm lies in the countryside to the north east of Barton Road and between the settlements of Carlton and Market Bosworth. The appeal site comprises of two "L" shaped barns which form part of a larger complex of former agricultural buildings including a detached farmhouse.

5. Planning permission has already been granted for the replacement of the farmhouse and the conversion of a number of outbuildings for industrial and storage use as well as the conversion of Barns B and C into two residential dwellings. The permissions already granted have been implemented and work is nearing completion with the exception of Barn C. During the works to convert this barn external walls were demolished and permission was subsequently sought on three occasions to rebuild the demolished sections of wall to allow the implementation of the scheme to the same design as that previously approved. The design of the scheme for each of these submissions was the same as that granted planning permission in 2005 (application ref: 05/00197/FUL) but for each application the appellant had submitted additional information in respect of the rebuilding of the demolished elevations. It is the first two of these applications which are the subject of the appeals.

6. The buildings form a tight complex but the redevelopment of the site has successfully segregated the commercial and residential uses. In addition, the works to upgrade the agricultural buildings to accommodate their new uses has not resulted in the loss of the overall agricultural character of the site in its rural setting.

*Amount of rebuild and its effect on the character and appearanc*e of the area

7. It was agreed between the parties that the design of the scheme for the conversion of Barns B and C was, apart from the omission of the access road, the same as that for which permission had been granted by the Council in 2005. It was also agreed that the only point on which there was dispute was the amount of rebuilding required on Barn C to implement the scheme.

8. Barns B and C are traditional 19th century agricultural buildings constructed mainly of red brick under tiled roofs. Whilst Barn B is single storey, Barn C is part single and part two storey. The two storey element, referred to as the High Barn, is constructed of brickwork above a plinth of local Carlton stone. It is part of the brickwork sections of the High Barn which have been demolished.

9. Although the structural survey, which formed part of the planning application submitted in 2005, confirmed that the barns were in a sound structural condition it did identify that the High Barn would, due to its height and modifications over the years, require significant structural works. However the survey concluded that the introduction of necessary strapping and the utilisation of existing buttresses would restore the long term stability of the structure. It was therefore evident in 2005 that the stability of the High Barn needed to be addressed. Although at the Inquiry the Council referred to the

need to rebuild some of the outer walls having been identified in 2005 none of the evidence before me indicates that the extent of the rebuilding required had been established at the application stage and no condition was attached to the permission requiring the submission of further details in this respect.

10. By the time the planning application which is the subject of Appeal A was submitted to the Council the condition of the building had deteriorated and the structural survey identified that movement of the west and east flank walls had resulted in the formation of wide separation cracks between the flank walls and both gables measuring between 25mm and 40mm. In addition the walls were out of plumb and also noticeably distorted at eaves level. The report concluded that the movement in the flank walls was so severe that they could no longer be salvaged and that any attempt to execute rebuilding or repair works on the scale required to convert the building would present unacceptable safety hazards to the workforce. The unstable areas of the walls were therefore dismantled and the materials retained for use in the rebuilding of the barn.

11. The gable wall closest to Barn B remains intact together with part of the elevation linking the High Barn with the remainder of Barn C and an equivalent section of the rear elevation. The remaining sections of these elevations have been taken down to the top of the stone plinth and the gable wall, which had been previously rebuilt in facing brick which was out of keeping with the original brickwork, has also been demolished.

12. There was disagreement between the parties as to whether the amount of rebuild should be calculated as a percentage of the total wall area of the High Barn alone or the whole of Barn C. The Council had arrived at a figure of approximately 68% based on the wall area of the High Barn whereas the appellants had based its calculation on the whole of Barn C and had arrived at a figure of approximately 37%, which was a level which had been deemed acceptable in other appeal cases.

13. Policy BE20 of the Hinckley & Bosworth Local Plan, February 2001 (LP) states that permission would be granted for the reuse and adaptation of rural buildings unless the building is in a structurally unsound condition and thus incapable of conversion without significant adaptation and rebuilding. However there is nothing in the policy or its justification which defines significant adaptation and rebuilding and it was against this policy that the 2005 application was judged when it was evident that the High Barn would require significant structural works if the conversion was to be implemented.

14. The Council's Supplementary Planning Guidance *Guide to Conversion of Rural Buildings*, June 2004 (SPG) makes reference to the part rebuilding of brickwork or masonry and whilst it requires the re-use of existing materials it does not identify the scale beyond which rebuilding would be unacceptable. It does state in the section on demolition, rebuilding and extensions that where the demolition and rebuilding of walls would be required to ensure the structural integrity of the building, planning permission for conversion may not be forthcoming as the result would, in effect, be a new building in the countryside.

15. If the amount of rebuild is taken as a percentage of the total wall area of High Barn on its own it would, in my opinion, be a significant amount of rebuild. However, the High Barn forms an integral part of both Barns B and C and the

overall scheme for the conversion to a residential unit requires the use of the whole of Barn C. Therefore I do not consider that it would be unreasonable to consider the amount of rebuild as a percentage of Barn C as a whole and on this basis I do not consider that the amount of rebuild would be so significant as to effectively constitute a new building.

16. The variety of size and design of the buildings at Common Farm is part of the historic evolution of the former farm and gives the site its character. High Barn, which is central within the complex of buildings, adds to this character being the only section of Barns B and C which is two storey. It is also the only building which has a plinth of local Carlton stone which was an important attribute of the building referred to by the Market Bosworth Society. In addition its position in relation to the other buildings encloses the courtyard and is important in the relationship of the older agricultural buildings with the farmhouse and more modern buildings set further away. I therefore consider that the High Barn is an important element in the range of buildings and of the character of the site and its loss would be to the detriment of the character and appearance of the site and the surrounding countryside.

17. The Council, in refusing planning permission cited Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7) and the Regional Spatial Strategy for the East Midlands (RSS8) together with Policies BE1, BE20 and NE5 of the LP and the SPG. RSS8 was replaced in March 2009 by the East Midlands Regional Plan (RSS) and it was accepted in the Statement of Common Ground (SoCG) and by the Council at the Inquiry that the appeal proposals were considered to be consistent with the spatial strategy of the RSS concerning rural development. The Council also accepted that as the policies of the RSS accord with the principles and objectives of PPS7 relating to rural development that the appeal proposals would also be consistent with PPS7.

18. Policy NE5 of the LP allows development in the countryside including the change of use or reuse of existing buildings subject to a number of criteria, one of which is that the development would not have an adverse effect on the character and appearance of the area. In the SoCG the Council agreed that the appeal proposals would have a lesser impact on the openness, character and appearance of the countryside than the scheme permitted in 2005 as a result of the omission of the access road and at the Inquiry it agreed that the development would not harm the objectives of Policy NE5.

19. Policy BE1 of the LP sets out a list of criteria which need to be satisfied by developments in terms of siting and design in order to safeguard and enhance the existing environment. At the Inquiry the Council accepted that as it had been agreed that the development would not harm the countryside in relation to Policy NE5 then the development would not harm the environment around Common Farm in relation to Policy BE1.

20. On the basis of the evidence before me I have no reason to disagree that the development proposed would not be consistent with PPS7, the RSS or Policies BE1 and NE5 of the LP. I have already concluded that the amount of rebuilding would not be significant and would not be tantamount to the erection of a new building in the countryside and I therefore consider that the development would accord with Policy BE20 of the LP. High Barn plays an integral role in the character and appearance of the site and I consider that its loss would have a

significant adverse effect on the site as a whole. I therefore conclude that the development would not have a detrimental effect on the character and appearance of the countryside.

Precedent

21. In its second reason for refusal the Council stated that the approval of the development would set a precedent for the consideration of further applications of a similar nature which it would find difficult to resist and which would be contrary to the aims of Policy BE1 of the LP. However the Council did not submit any detailed evidence to support this view.

22. It has been established in case law *Poundstretcher Limited v. Secretary of State for the Environment* [1988] 3PLR 69 that, in essence, a general fear of the establishment of a precedent is not in itself sufficient to warrant the refusal of planning permission, there needs to be evidence that the grant of planning permission for development would result in other permissions being granted.

23. The circumstances pertaining to the appeals before me are quite unique. The history of the site and the Council's decisions on previous planning applications all indicate that the merits of the appeals are unlikely to be duplicated elsewhere. I am therefore satisfied that the development would not set a precedent for the consideration of further applications of a similar nature which the Council would find difficult to resist.

Conditions

24. I have considered the conditions put forward by the Council in the light of the advice contained within Circular 11/95 and the discussion at the Inquiry. I have not imposed a time limit condition as the development has been partially implemented under the terms of the previous permission. In order to protect the character and amenity of the area I have imposed a condition giving the Council control over the materials to be used in the development. I have also removed permitted development rights in relation to extensions, alterations and curtilage buildings. I have not imposed all of the suggested conditions relating to the access, parking and turning, as it was confirmed at the site visit that the access as constructed complies with most of them. However I have imposed a condition in respect of the position of the access gates as well as the need to provide parking and turning prior to the occupation of the dwellings.

Conclusions

25. For the reasons given above, and having had regard to all other matters raised, I conclude that the amount of rebuild would not be tantamount to the erection of a new building in the countryside and would not have a detrimental effect on the character and appearance of the area. I also conclude that the development would not set a precedent for similar developments in the area. I therefore allow the appeal.

Kay Sheffield

INSPECTOR

Annex 1

Schedule of Conditions:

1) Notwithstanding the details already submitted no development shall take place until a method statement has been submitted to and approved in writing by the local planning authority detailing the reuse of the materials salvaged from the demolition of the barn and the details of any further materials required. The development shall be carried out in accordance with the approved details.

2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development falling within Schedule 2, Part 1 Classes A – E shall be carried out unless planning permission has first been granted by the local planning authority.

3) The vehicular access gates shall be set back a minimum of 15 metres from the edge of the highway carriageway and shall be hung to open inwards only.

4) None of the dwellings hereby permitted shall be occupied until the parking and turning area has been laid out within the site in accordance with drawing No. 5960C-06D. The parking and turning area shall be available for this use at all times.

DOCUMENTS

1 Statement of Common Ground signed by both parties.

2 Drawing No. 5960B-B-C Floor layout (A), being the plan considered by the Council in the determination of the applications the subject of the appeals.

3 Extract from elevation drawings indicating the measurements on which the percentage rebuild calculations by the Council were based.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Michael Rice	Solicitor for the Council
He called	
Ms Louise Foreman	Planning Officer with the Council

FOR THE APPELLANT:

Mr John Edmund	Senior Partner, Marrons, 1 Meridian South, Meridian Business Park, Leicester LE19 1Wy
He called	
Mr David Prichard	Director of Planning, Marrons.