



Planning Committee

8 March 2017

Subject: Determination of Planning Appeals

Report by:

Chief Operating Officer

Contact Officer:

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Purpose / Summary:

The report contains details of planning applications that had been submitted to appeal and for determination by the Planning Inspectorate.

RECOMMENDATION(S): That the Appeal decisions be noted.

IMPLICATIONS

Legal: None arising from this report.

Financial : None arising from this report.

Staffing : None arising from this report.

Equality and Diversity including Human Rights : The planning applications have been considered against Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well-being of the community within these rights.

Risk Assessment : None arising from this report.

Climate Related Risks and Opportunities : None arising from this report.

Title and Location of any Background Papers used in the preparation of this report:
Are detailed in each individual item

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

Appendix A - Summary

- i) Appeal by A & T Coles against the decision of West Lindsey District Council to refuse planning permission for demolition of existing buildings and erection of 5 dwellings at Walk Farm, Green Lane, Cherry Willingham.

Appeal Allowed - See copy letter attached as Appendix Bi.

Officer Recommendation – Grant permission

Committee Decision – Refuse permission

- ii) Appeal by Mr M Barrett against the decision of West Lindsey District Council to refuse planning permission for change of use of agricultural building to form a single dwelling at Agricultural Building, Highfield Farm, East Torrington, Market Rasen.

Appeal Dismissed - See copy letter attached as Appendix Bii.

Officer Decision – Prior approval required.

Appeal Decision

Site visit made on 24 January 2017

by **L Fleming BSc (Hons) MRTPI**

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

Decision date: 03 February 2017

Appeal Ref: APP/N2535/W/16/3156035

Walk Farm, Green Lane, Cherry Willingham, Lincoln LN3 4AW

- 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 A & T Coles against the decision of West Lindsey District Council.
 - The application Ref 133559, dated 22 September 2015, was refused by notice dated 11 February 2016.
 - The development proposed is demolition of existing buildings and erection of 5 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of 5 dwellings at Walk Farm, Green Lane, Cherry Willingham, Lincoln LN3 4AW in accordance with the terms of the application Ref 133559, dated 22 September 2015, subject to the conditions set out in the Schedule to this decision.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area including its impact on the setting of Lincoln Cathedral;
 - The effect of the proposed development on highway safety;
 - whether the proposed development would amount to sustainable development having regard to the development plan and national policies.

Preliminary Matters

3. The Council states that it is able to demonstrate a 5.26 year supply of deliverable housing land in accordance with paragraph 47 of the National Planning Policy Framework as evidenced by the Central Lincolnshire Five Year Land Supply Report published in September 2016. However, this assessment relies on sites which would be allocated in the emerging local plan, without such the Council would be somewhat short of the five year land supply requirement.
 4. That said, in accordance with paragraph 216 of the Framework weight may be given to emerging policies subject to the extent of unresolved objections. There is no evidence before me which allows me to make this judgement and as these allocations have not yet been fully examined I have attached little weight to them. I have therefore determined this appeal on the basis that the
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Council is currently unable to demonstrate a five year supply of deliverable housing land.

Character and appearance

5. The appeal site is a triangular parcel of land located on the west side of Green Lane. The site currently accommodates a group of agricultural buildings and has hedging along its eastern boundary and part of its western boundary. To the south is a row of three detached dwellings, before the lane meets a railway line.
6. The dwellings nearby are of varying sizes and character, set in reasonably sized plots with space between them and set back from the road behind a grass verge, hedging and trees which gives the area a relatively verdant, rural and spacious character and appearance.
7. The proposed development would involve the replacement of the farm buildings with five detached dwellings set in reasonably sized plots. The existing hedging would be retained, additional landscaping provided and new traditional boundary treatments would be installed. The proposed dwellings would be arranged in a courtyard, with space between the buildings and roughly in line with the row of dwellings to the south. Thus, I find the proposed development would accord with the pattern of development in the area and the retained and proposed landscaping would ensure it blended into its verdant and rural setting.
8. Whilst Lincoln Cathedral is visible to the west, it is some distance away with views interrupted by trees, hedging and buildings in the landscape. Even though the proposed development would be just about visible from Lincoln Cathedral it would not be more noticeable than the existing farm buildings and would be viewed alongside the existing buildings on Green Lane and with the wider built up part of Cherry Willingham in the background. Thus, I find the proposed development would have a negligible impact on the setting of Lincoln Cathedral and the landscape.
9. Thus the proposal would not harm the setting of the Lincoln Cathedral or the character and appearance of the area. It would therefore accord with the aims of saved Policies STRAT 1, STRAT 8, NBE 10 and NBE 20 of the West Lindsey Local Plan First Review (2006) (LP) which taken together, seek to ensure new development does not harm the landscape character of an area and the overall character and appearance of an area.

Highway Safety

10. Green Lane is a relatively narrow single carriage lane. Even though it is unlit and has no public footpath, the appeal site is only a short distance from High Street and the centre of the village which has pavements and street lighting.
11. Furthermore, given this section of Green Lane currently only serves a small number of dwellings, paddocks and agricultural land it is unlikely to experience significant volumes of traffic. Thus, whilst I acknowledge that the lane is well used by walkers, the increase in traffic generated by five additional dwellings would not be significant enough to result in any increased risk to highway safety in the area as a result of vehicle collisions with pedestrians.

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12. The proposed development would therefore accord with saved Policy STRAT 1 of the LP which seeks to ensure new development does not create or aggravate highway problems.

Sustainable development

13. The appeal site is outside of the defined built footprint of Cherry Willingham and therefore within the countryside. Saved Policy STRAT 12 of the LP is broadly restrictive of new housing development in the countryside. However, as the Council is currently unable to demonstrate a five year supply of deliverable housing land in accordance with paragraphs 47 and 49 of the Framework insofar as saved Policy STRAT 12 of the LP seeks to restrict new dwellings it is out of date.
14. Thus, the proposal should be considered in accordance with the presumption in favour of sustainable development and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole.
15. Paragraph 55 of the Framework encourages housing in rural areas where it will maintain or enhance the vitality of rural communities but requires isolated new homes in the countryside to be avoided unless there are special circumstances. As the site adjoins a row of three dwellings and is close to the main built up part of the village, the proposed dwellings would not be isolated.
16. Cherry Willingham benefits from a good range of local facilities including a primary school, secondary school, shops, and a doctors/health care service. There is also a relatively frequent bus service which connects the village to Lincoln where a range of employment opportunities are accessible. Thus, many day to day needs could be met within the village or could be accessed close by using public transport, such that the occupants of the proposed dwellings would not be entirely dependent on the use of a private car.
17. The proposal would provide five new homes contributing to the supply of housing in the District and the village. There would also be economic benefits in terms of customers and employees for local businesses and economic benefits associated with construction. As such the proposal would help to maintain the vitality of the rural community.
18. Thus, overall I find the adverse impacts of the scheme including the conflict with saved Policy STRAT 12 do not demonstrably outweigh the benefits of the scheme. Thus, when assessed against the policies in the Framework taken as a whole, I conclude that the proposal does amount to sustainable development having had regard to the development plan and national policies.

Other Matters

19. I have considered the impact of the proposed development on the enjoyment of walking routes nearby. However, as I found no harm to the character and appearance of the area and the proposed dwellings would be close to other dwellings the proposal would have no harmful impact on walking routes in the area.

Conditions

20. The conditions imposed are those which have been suggested by the Council but with some variation in the interests of clarity and precision having regard to the advice on imposing conditions in the Framework and the Planning Practice Guidance (PPG). I have also combined some of the conditions suggested to ensure each individual condition is able to meet the PPG tests.
21. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty. I have also imposed conditions which require materials and landscaping to be agreed and the existing landscaping to be protected all in the interests of safeguarding the character and appearance of the area. However, I have amended the suggested conditions relating to materials to allow preparatory works to proceed before such matters are agreed to ensure efficient construction.
22. Furthermore, a condition is also necessary to ensure an appropriate access and turning space is put in place and retained thereafter in the interests of highway safety. For the same reason conditions are also needed to ensure visibility associated with the railway line is retained and vehicle passing bays are installed on Green Lane following agreement of such works with the Highway Authority.
23. In the interests of safeguarding biodiversity, conditions are necessary to ensure wildlife habitats are appropriately protected and managed and ecological implications appropriately assessed and mitigated.
24. A condition is also necessary to ensure proper site drainage and sewage management. However, I have amended the suggested condition to allow preparatory work to take place before such matters are agreed in the interests of efficient construction.
25. Conditions are also necessary to ensure any asbestos or other site contamination is appropriately dealt with, to ensure the safety of the future occupants and nearby residents. However, there is no substantive evidence before me which demonstrates exceptional circumstances exist to justify the removal of permitted development rights. Thus, I have not imposed a condition to this effect.

Conclusion

26. For the reasons given, on balance, I conclude that the proposed development would accord with the aims of the development plan and national policies. Therefore, having had regard to all other matters raised I conclude that the appeal should be allowed.

L Fleming

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 the following approved plans: Location Overview Drawing No 000/0061, Block and Location Plan Drawing No 002/0061, Existing Site Plan Drawing No 003/0061, Proposed Sketch Plan drawing No 005/0061, Proposed Plan Units 1, 5 Drawing No 010/0061, Proposed Elevations Units 1, 5 Drawing No 011/0061, Proposed Plan Units 2 Drawing No 012/0061, Proposed Elevation Unit 2 Drawing No 013/0061, Proposed Plan Unit 3 Drawing No 014/0061, Proposed Elevation Unit 3 Drawing No 015/0061, Proposed Plan Unit 4 Drawing No 016/0061, Proposed Elevation Unit 4 Drawing No 017/0061, Proposed Garage Plans and Elevations Unit 4-5 Drawing No 018/0061, Proposed Site Plan Drawing No 020/0061, Boundary Treatment Drawing No 021/0061 all dated August 2015.
- 3) No development shall take place until a landscaping scheme including details of the height and materials used for the boundary treatments and the surface material of the parking spaces and estate road have been submitted to and approved in writing by the local planning authority. All planting and introduction of trees shall be carried out in the first planting and seeding season following the implementation of the use, whichever is the sooner; and any hedging which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The development shall be carried out in accordance with the approved details which should be retained thereafter.
- 4) No development shall take place until an asbestos survey (including required remedial works) has been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development or demolition shall take place during the bird breeding season (1st March to 31st August) in any year until, a detailed survey is undertaken to check for the existence of bird nests. Any active nests shall be protected until the young fledge. Completion of bird nest inspection shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the local planning authority before any demolition works commence.
- 6) No construction works above ground level shall take place until a sample panel of brickwork and bond, sample of the timber cladding and sample of a roof tile used in the development has been made available on site and agreed in writing by the local planning authority. The sample panel of brickwork and bond shall be constructed with lime mortar mixed with a washed sharp sand brushed back at first set. The development shall be carried out in accordance with the approved details.
- 7) No construction works above ground level shall take place until details of all other external materials listed below have been submitted and agreed in writing by the local planning authority.
 - rainwater goods and downpipes including the colour

- all windows, domestic doors and garage doors including section drawings, depth of reveal and colour finish
- rooflight details including section drawings and colour finish

The development shall be carried out in accordance with the approved details.

- 8) No construction works above ground level shall take place until details of a scheme for the disposal of foul/surface water (including soakaway/percolation tests) from the site and a plan identifying their position has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 9) Prior to the first occupation of the dwellings hereby approved a Section 278 Agreement under the Highways Act 1980 shall be entered into with the local highway authority (Lincolnshire County Council) to provide passing places along Green Lane along with all other ancillary works and a scheme shall be submitted to and agreed in writing by the local planning authority for the construction of 3 number passing places along Green Lane along with the arrangements for the disposal of surface water run-off. The development shall be carried out in accordance with the approved details which shall be fully implemented before any of the dwellings hereby approved are occupied.
- 10) No development shall take place until details including positions of three bat boxes, three swallow nest boxes and a single barn owl box has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
- 11) Prior to first occupation of the dwellings hereby approved the access and turning space shall be fully completed in accordance with the approved plan Proposed Site Plan Drawing No 020/0061 and retained for that use thereafter.
- 12) If during the course of construction, contamination is found to be present on site, then no further development (unless otherwise agreed in writing by the local planning authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the local planning authority. The contamination shall then be dealt with in accordance with the approved details.
- 13) No site clearance including the removal of existing materials and storage of building material on site shall take place without the supervision of a suitably qualified ecologist. Completion of the supervision shall be confirmed in writing to the local planning authority by the qualified ecologist and works shall immediately cease if protected species are found and will not commence until methods of mitigation have been approved by the local planning authority and the development should be carried out in accordance with the approved methods of mitigation.
- 14) During and after construction no part of the development shall cause the level crossing site lines road traffic signs and markings or the crossing itself to be obstructed. This includes the parking of caravans, machines and equipment together with the erection of signs, fences and the planting

of trees and hedges. All roads paths or ways providing access to any part of the railway undertakers land shall be kept open at all times.

END OF SCHEDULE

Appeal Decision

Site visit made on 24 January 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 20 February 2017

Appeal Ref: APP/N2535/W/16/3160230

Agricultural Building, Highfield Farm, East Torrington, Market Rasen, Lincolnshire LN8 5SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015..
 - The appeal is made by Mr M Barrett against the decision of West Lindsey District Council.
 - The application Ref 134321, dated 14 April 2016, was refused by notice dated 15 June 2016.
 - The development proposed is change of use of agricultural building to form a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issue

2. Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits a change of use of a building and any land within its curtilage from a use as an agricultural building to a residential use falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO) and the building operations reasonably necessary to convert the building to that use.
3. The Council considers that the proposal is not permitted development because the works would require building operations beyond those which fall within the category specified in Q.1 (i) of the GPDO. The main issue is therefore whether the proposal meets the pre-conditions in Q.1 (i) of the GPDO for it to be capable of being permitted development.

Reasons

4. Q.1(i) of the GPDO indicates that development is not permitted if the development under Class Q (b) of the GPDO would consist of building operations other than the installation or replacement of (aa) windows, doors, roofs or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling.
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5. Furthermore, the Planning Practice Guidance provides advice¹ on the interpretation of Class Q (i) of the GPDO and advises that Class Q of the GPDO assumes that the agricultural building is capable of functioning as a dwelling. Furthermore, it makes clear that it is not the intention to include the construction of new structural elements for the building. Thus, notwithstanding the works listed under Class Q.1(i) of the GPDO necessary for the building to function as a dwelling, the starting point for those considerations is that the existing building is capable of conversion and functioning as a dwelling.
6. The appeal building is a four bay, mono pitch steel framed structure. Its roof is covered with corrugated steel sheeting as are two sides of the building. There are timber purlins and the floor appears to be concrete although it appears in relatively poor condition. There is also a small lean-to corrugated steel structure with a raised concrete floor.
7. The proposal would involve the retention of the existing steel frame. The timber purlins and the bolts holding the steel frame together would be replaced. A new slab floor would be laid and four new non load bearing external walls erected which would be rendered and timber clad and a new standing seam zinc roof installed.
8. Even though the appellant has stated that no additional foundation strengthening is necessary, paragraph 3.06 of the structural report² states regarding the existing foundations for this type of structure we would expect the stanchions were cast into a concrete pad, effectively providing fixity. We would expect existing pads to be exposed for verification. Whilst I find no reason to disagree that the existing steel frame is structurally sound and capable of carrying the load of the proposed works there is nothing before me to indicate that verification of the structural integrity of the foundations and their juncture with the steel frame has taken place and as such the overall structural integrity of the existing building could be compromised.
9. I acknowledge that the Council's Principal Building Control Surveyor commented that the proposal probably falls within Class Q.1 (i) of the GPDO. However, I find that given the existing building is open on two sides, only the steel structure and floor would remain, the scale of works are extensive and as such are tantamount to the construction of a new building to function as a dwelling and could not reasonably be described as a conversion of the existing building. Furthermore, on the basis of the evidence before me, I am not satisfied the existing building is capable of carrying the load of the proposed works without the construction of new structural elements for the building in the form of foundation strengthening.
10. In reaching these conclusions I have considered the appeal decisions³ where Inspectors have found the conversion of agricultural buildings to dwellings to be permitted development. However, the full details of those cases are not before me, particularly the full details of the buildings which would be converted and the work necessary for their conversion. Thus, they are not directly comparable and I have afforded them limited weight.

¹ Paragraph 105 Reference ID 13-104-20150305

² Review of the Structure, Agricultural Building Highfield Farm, Structural Design Associates, February 2016

³ APP/N2739/W/15/3003584, APP/D0840/W/16/3147174, APP/P0240/W/15/3005436 APP/U1240/W/15/3006037 & APP/Q1825/W/15/3006087

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11. Nonetheless, I have considered this case on its merits with regard to bespoke site specific circumstances and overall I conclude that the proposed works would fall outside of the limitations of paragraph Q.1 (i) of the GPDO and would go substantially beyond works reasonably necessary to convert the building. I am also not satisfied that the proposal would not involve the construction of new structural elements for the building.
 12. Consequently, the building is not capable of conversion within the scope of the permitted development rights under Class Q of the GPDO and the proposed works would amount to development for which an application for planning permission would be required. Thus, the proposal would not therefore meet the pre-conditions in Q.1 (i) of the GPDO for it to be capable of being permitted development.

Other Matters

13. I note that the appellant is dissatisfied with the Council's handling of the case. However, this is a matter which would need to be pursued with the Council. I confirm that I have had regard only to the planning merits of the proposal.

Conclusion

14. I have found that the proposed works would fall outside of the limitations of paragraph Q.1 (i) of the GPDO and would go substantially beyond the building works reasonably necessary to convert the building to function as a dwellinghouse. Therefore, for the reasons given and with regard to all other matters raised, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR