Horsham District Council

Our ref: DC/24/0033
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Date: 16 July 2024

Dear James Pocock,

APP/Z3825/W/24/3341956- Stumbleholme Farm, Rusper Road, Ifield, West Sussex, RH11 0LQ

Following the submission of the appeal against the refusal of the Prior Notification for Change of use of agricultural building to 5no. dwellinghouses, the Local Planning Authority would refer the Inspector to the Delegated Report, and would like to reiterate the reasons for refusal as follows.

Refusal Reason 1 –

"The proposed development would result in development that would extend beyond the external dimensions of the existing buildings. The proposed development would therefore be contrary to the requirement of Q.1(h) of Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended."

The appeal statement refutes the reason for refusal on the basis that the photos provided as part of the appeal statement indicate that there is sufficient height to the eaves at each end of the barn to allow the proposed accomadation. Whether the eaves height would be an acceptable height to allow for accomadation is not in itself contested in this instance such that this rebuttal does not appear relevant to the reason for refusal and instead the reason for refusal was considered with regards to the proposal extending beyond the external dimensions of the existing building. This is highlighted within the officer's report:

'*The plans submitted seem to indicate that alterations would be made to Barn C which would result in the external dimensions of the building extending beyond the external dimensions of the building. Specifically, the eaves height of this building appears to differ between the existing and proposed elevations plans, and it is therefore considered that the proposal would be in non-compliance with (h). The plans EBNC-2 show the changing land levels such that there is a difference in height between the lowest height of Barn C being 4.26 metres shown on the south elevation and 4.83 metres shown on the north elevation. The ridge height of the proposal would be 4.51 metres is in excess of the existing barn at 4.26 metres such that it would not be in accordance to (h).'*

They have shown a photograph of this barn at an angle from a higher point in topography which makes it difficult to see both the topography of the site and to view both of the end elevation eaves heights. This image does not support their assertion that the assessment within the officer's report is incorrect. The appellant goes on to forward that the Council's own Class Q guidance is misleading in respect of internal works. It is not clear from this how it applies to reason for refusal 1. Nevertheless, an assessment from the plans alone may be sufficient to understand that 4.51 metres height proposed would exceed 4.26 metres height existing.

Refusal Reason 2 –

"The proposal fails to demonstrate, to the satisfaction of the Local Planning Authority, that the building is capable of conversion without the construction of new structural elements and that the proposed building operations would go beyond what would be reasonably necessary for the building to function as a dwellinghouse, as permitted by Class Q. The proposal therefore fails to comply with the requirements of Q.1.(i) of Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended."

The appellant outlines Planning Practice guidance that they appear to have particular regard to in green or in larger than usual font type and underlined. It is understood from this choice of font that the Appellant believes that the assessment made would go beyond the provisions in the Planning Practice Guidance. The appellant draws our attention to the point that internal alterations would constitute reasonably necessary building operations and it acknowledged that for some buildings to function as a dwelling some building operations would be required that would affect the appearance of the building.

The structural survey states that the buildings are in good condition to be converted to residential accomadation but not that the buildings would be converted to the proposed residential dwellings themselves more specifically or what works would be required as part of this. The officer's report outlines concern with the conclusions of the surveyors report whose assessment of the condition of the buildings suggested that it would be capable of functioning as a dwellinghouse as this appeared contrary to the officer's own observations. However, consistent with the Hibbitt v. SSCLG [2016] EWHC 2853, the building must be capable of functioning as a dwelling, require no new structural elements and must be sufficiently strong enough to bear the loading from the external network. It is not the intention of this letter to reiterate the officer's report however the following assessment is relevant in this regard.

'*From the officer site visit it was evident that the roof of Barn C was damaged, and there numerous cracks within the concrete floor such that the foundation may need to be rebuilt. There remains therefore existing concerns with the structure, and there is no indication of loadbearing calculations within the report to evidence that the existing structural elements would be sufficient such that no additional structural elements would be required for the existing to function as a dwelling house.*

In addition, in relation to Barn B, it is noted that the structural report advises that 'A new concrete raft slab could support internal partitions and an insulated external envelope' as the floor comprises of compacted gravel. Though the main supports of the building may well be structurally sound (most likely comprising pad / beam foundations), the extent of works required for a raft slab system would far exceed the buildings ability to be readily capable of conversion.

It is noted that raft slab are foundations used to support the erection of buildings as the foundations are part of what supports the structure and would help support the loading of the internal and external roof structure of a residential dwelling. The Surveyors report outlines that a new concrete raft slab could support internal partitions and an insulated external envelope. The requirement of this indicates that the existing structural elements of the building are not capable of supporting the necessary loading required for the new internal walls and of course the new external works. Of importance is the consideration that the buildings in question must already be capable of conversion, the requirement of additional structural elements to support the loading of walls and roofs would be evidence that the buildings are not already capable of conversion without the additional supports. Nonetheless, the officer's report highlights concerns that there is a discrepancy between the surveyors assessment of whether the building is capable of conversion and what works would be required for conversions as to whether these works would go beyond what would reasonably be necessary under Class Q.

It is indeed necessary that the local planning authority does not impose unnecessarily onerous requirements on developers. Where it is evident from observation that the building would not be capable of functioning as a dwelling and would require new structural elements, it would of course be necessary to question if the building is structurally sound enough to bear the loading from the external network. Particularly when it is not clear which structural supports would be retained and which would be retained. The Appellants statement highlights that the Planning Officer does not have structural surveyor accreditation such that the opinions of the officer would be attributed less weight in decision making at Appeal when compared to a surveyors. The Planning officer makes no claim to be a surveyor and it is noted that there are no provisions within the PPG that requires Planning officer's to have such a qualification such that it is considered that local authorities are capable of making assessments with respect to the requirements of Class Q without the expectation of these additional officer qualifications. Additionally, the permitted development right assumes that the building is already capable of conversion without substantial reconstruction, however it is not clear from what was submitted what structural elements would be retained and which would need to be changed for a conversion and the surveyor had no regard to Class Q requirements in their assessment.

The Appellant has included reference to other appeals such as APP/H0520/W/22/3309257 to ascertain that the council have been inconsistent in terms of what requirements they place on developers. In the case of the appeal referenced, which appeared to be a decision issued by Huntingdonshire District Council, the appellant statement suggests a Building Condition report was submitted as part of the application and the inspector when visiting the site saw nothing to conflict with the assessment made. Whilst appeal cases are considered, applications are determined on their own merits and in the case of Prior approval applications, a buildings condition might vary substantially across application sites. In the case of the appeal referenced above, it might well have been the case that the building was in a good condition.

Refusal Reason 3 –

"Given the location and siting of the building, there is the potential for future occupiers of the dwellings to be adversely impacted by the existing agricultural buildings. As such, it is considered that noise impacts of the development and siting of the buildings make it undesirable to change to residential uses, contrary to the requirement of Q.2(1)(b) and Q.2(1)(e) of Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended."

The appellant letter outlines that the council have granted permissions with the following condition which if applied to this application would overcome the above reason for refusal by removing other agricultural buildings in closest proximity given that these would be able to be demolished under DC/24/0037 and DC/23/0038.

'***Pre-Occupation Condition****: The dwellinghouses hereby permitted shall not be occupied until the buildings to be removed, as identified on the approved plans, have been demolished, including the removal of foundations and all materials arising from such demolition removed from the site.*

Reason: The retention of existing building together with the approved dwellings would not be desirable and in accordance with the National Planning Policy Framework.'

The Location plan submitted 'EOS2' would exclude other agricultural buildings from the red line boundary such that the condition above would not have ensured their removal. The plans submitted were assessed and a the time of writing the report, the buildings subject of DC/24/0037 and DC/23/0038 were present and outside the red line boundary. As such a condition ensuring the demolition of these buildings would not have been enforceable or reasonable as they concern matters outside of the prior notification application. Overall therefore, the proposed condition would not have overcome this reason for refusal.

Other matters – Costs rebuttal

The Appellants appeal statement contains much of the reasoning for their costs claim and so rather than repeating the LPA's reasoning, a rebuttal could be included as part of this letter. Please accept this rebuttal of the claim for costs received. The appellant's statement indicated a claim for full costs on a 'procedural and substantive basis' on the following grounds:

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- The council made incorrect assertions about the proposals impact
- The Council failed to adhere to their Class Q guidance and to the NPPG guidance
- The Council failed to act consistently with regards to other sites, and;
- The Council acted unreasonably in making their assessments by not conditioning the demolition of the agricultural buildings on site.

Under the provisions of the Planning Practice Guidance (PPG) the respective parties in planning appeals are expected to meet their own expenses unless a party has acted unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Paragraph 030 (Reference ID: 16-030-20140306) of the PPG states:

Costs may be awarded where:

- *a party has behaved unreasonably; and*
- *the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.*

Paragraph 031 defines 'unreasonable behaviour' in the context of an award of costs as either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).

Paragraph 032 outlines that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.

As will be evident by the information within this letter which outlines the reasons for refusal and some of the matter considered as part of the assessment, the Council is firmly of the view that it has not behaved unreasonably in its refusal of the proposals submitted. The assessment was made on the basis of the plans submitted and in light of the officer's site visit as to the extent of the operations as a whole and relevant case law. Furthermore, the application for costs requests 'full costs' without demonstrating how alleged unreasonable behaviour has resulted in unnecessary or wasted expense and to the sum that they are expecting.

Conclusion

The Council therefore remain of the view that the scheme as submitted would be contrary to the requirement of Q.1(h) Q.1.(i), Q.2(1), Q.2(b) and Q.2(1)(e) of Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, should the Inspector be minded to approve the appeal, a List of Suggested Conditions is attached to this letter.

Yours sincerely,

Hannah Darley
Senior Planning Officer