



Appeal Decisions

Site visit made on 27 May 2015

by **Cullum J A Parker BA(Hons) MA MRTPI AIEMA**

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

Decision date: 05 June 2015

Appeal B Ref: APP/V2255/W/15/3002827

The Stables, 2 Gosmere Farm Barns, New House Lane, Sheldwich, Kent ME13 9PR

- 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 and Mrs Humphrey against the decision of Swale Borough Council.
 - The application Ref 14/501292/FUL, dated 25 June 2014, was refused by notice dated 28 November 2014.
 - The development proposed is described as 'we propose to convert part of the existing garage into a shower/utility room. As part of this we propose to shorten an existing door to fit in with the new floor level.'
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Appeal A Ref: APP/V2255/Y/15/3002847

The Stables, 2 Gosmere Farm Barns, New House Lane, Sheldwich, Kent ME13 9PR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Humphrey against the decision of Swale Borough Council.
 - The application Ref 14/501293/LBC, dated 25 June 2014, was refused by notice dated 28 November 2014.
 - The works proposed are described as 'we propose to convert part of the existing garage into a shower/utility room. As part of this we propose to shorten an existing door to fit in with the new floor level.'
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Decision

Appeal A - APP/V2255/W/15/3002827

1. The appeal is allowed and planning permission is granted for the conversion of part of the existing garage into a shower/utility room, including shortening an existing door to fit in with the new floor level at The Stables, 2 Gosmere Farm Barns, New House Lane, Sheldwich, Kent ME13 9PR in accordance with the terms of the application, Ref 14/501292/FUL, dated 25 June 2014, subject to the conditions set out in appendix A.

Appeal B - APP/V2255/Y/15/3002847

2. The appeal is allowed and listed building consent is granted for the conversion of part of the existing garage into a shower/utility room, including shortening an existing door to fit in with the new floor level at The Stables, 2 Gosmere Farm Barns, New House Lane, Sheldwich, Kent ME13 9PR in accordance with
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the terms of the application Ref 14/501293/LBC dated 25 June 2014 subject to the conditions set out in appendix B.

Application for costs

3. An application for costs was made by Mr and Mrs Humphrey against Swale Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

4. This decision refers to two appeals; Appeal A is for planning permission and Appeal B is for listed building consent. For ease of reading, I have dealt with both in this single decision. Where necessary, I refer to the different aspect of planning controls. However, each appeal has been considered on its own merits.
5. The proposed description of development and works is given in the first person. As the permission and consent sought relate to building and land rather than a specific person, I have omitted the first person references. It would therefore read as 'the conversion of part of the existing garage into a shower/utility room, including shortening an existing door to fit in with the new floor level'. As this essentially does not alter what permission and consent is sought for, I have used it for the description of what permission and consent have been granted.

Main Issues

6. The main issues are:
 - The effect of the proposed development on the character and appearance of the locality.
 - Whether the works preserve the special architectural and historic interest of the Grade II listed building.

Reasons

Character and appearance

7. The appeal building is located within a collection of former farm buildings, which have been converted to residential use. During my site visit, I was able to see that these buildings are surrounded by a number of gravelled parking and turning areas, with examples of either garages or car ports. They are also served by landscaped garden areas, with farmland beyond. In particular, the appeal building is served by an area for parking in front of the garage doors which can accommodate three cars in a parallel arrangement. I also saw that there is an area for tandem parking to the front of the elevation served by the front door and proposed utility room door.
8. The proposed development would reduce the internal size of the garage by means of an internal partition. The Council is concerned that the retained garage space, of about 4 metres by 3.8 metres, would be insufficient for the parking of a car. Moreover, the inability to park nothing but a small car for a family sized dwelling would lead to pressure for a detached garage. However, I saw that the garage is not presently used for the parking of cars, instead being used for the storage of paraphernalia such as bicycles.

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9. Furthermore, it would be possible to park a small car or motorbikes in the garage should occupiers wish to. In either case, whilst the capacity would be diminished, it would not prevent the parking of motor vehicles in the garage. It is also important to note that cars are already parked in the areas indicated above, and outside other dwellings in the complex. The parking of one additional car, if indeed that is the potential effect of reducing the size of the garage, in the grounds of the farm complex is unlikely to detract from its character and appearance. This is due to the fact that cars would be transient in nature and there is no evidence that a loss of part of the garage would mean that an extra car would be parked in the grounds.
10. In terms of demands for a detached garage, there is no evidence before me that suggests that such a garage is sought. Moreover, there is little in the submitted cases that suggests that the conversion would result in an increase in parking demand in the farm complex. I am also mindful, as pointed out by the appellant, that the erection of any outbuildings would require further consent or permission, which would be within the control of the Council to consider at the appropriate time. In the absence of any such scheme and the acceptability of the retained parking provision I therefore conclude that the proposed development would not have an unacceptable impact on the character and appearance of the locality. It would therefore accord with policy E1 of the Swale Borough Local Plan 2008 (SBLP), which, amongst other aims, seeks to protect and enhance the natural and built environment.
11. Policy RC6 of the SBLP has been cited in the Council's reason for refusal. However, as it relates to the re-use of rural buildings, when the appeal building is already occupied residentially, its relevance is limited. In any case it does not alter my findings in respect of the first main issue.

Special architectural and historic interest

12. The appeal building is attached to Gosmere Farm Barn, which is a timber framed barn with elements dating from the 16th and 18th Centuries, and is Grade II listed. The appeal part of the building is attached to this building, and although not mentioned in the listing description, is listed by virtue of its physical attachment. In terms of its significance, this derives from the inherent aesthetic qualities as an example of a traditional rural Kent building. The appeal part of the building appears to date from around the Victorian period, and its significance derives from the fact that it is an example of the evolution of farm complexes, such as that at Gosmere Farm, where later uses have resulted in the erection of additional buildings and extensions. Externally, the building exhibits features such as mullion windows in the existing garage element, brick walls, tiled roof and timber doors. Internally, there is a concrete floor, with an internal dividing wall between the garage and the residential living area constructed of breeze blocks. There is currently no access between the two areas.
13. Internally, the proposal would see the raising of the floor level so that it would be level with the living area of the dwelling. This would also require the adjustment of the single door cill, which opens inwards, by about 125mm. Neither the removal of part of the internal partition wall nor the reduction in the size of the single external door would harm the significance of the listed building, nor its setting. Having given considerable importance and weight to the desirability of preserving the listed building or its setting or any features of

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historical interest, as required under Section 16(2) of the above Act, I do not find that the proposed works would result in harm to the listed building.

14. I therefore conclude that the proposed works would preserve the special interest of the Grade II listed building known as Barn about 30 metres south of Gosmere Farmhouse. Accordingly, the proposal would accord with Policy E14 of the SBLP which amongst other aims, indicates that proposals will only be permitted if the building's special architectural or historical interest and its setting are preserved. It would also accord with the policies of the National Planning Policy Framework (the Framework), which includes the core planning principle to conserve heritage assets in a manner appropriate to their significance.

Conditions

15. No conditions have been suggested by the Council. I have had regard to the Planning Practice Guidance and Paragraph 205 of the Framework relating to the use of planning conditions. Conditions requiring the development/works to be carried out in accordance with the submitted drawings are necessary and reasonable in the interests of proper planning, and in order to preserve the special interest of the listed building. A condition requiring the development to be carried out with matching materials is reasonable in the interests of the character and appearance of the appeal building.

Conclusion

16. For the reasons given above, I conclude that Appeal A should be allowed and that Appeal B should succeed.

Cullum J A Parker

INSPECTOR

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Appendix A – List of conditions APP/V2255/W/15/3002827

- 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: 14-31-01, 14-31-02 and 14-31-03.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Appendix B – List of conditions APP/V2255/Y/15/3002847

- 1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: 14-31-01, 14-31-02 and 14-31-03.



Costs Decisions

Site visit made on 27 May 2015

by **Cullum J A Parker BA(Hons) MA MRTPI AIEMA**

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

Decision date: 05 June 2015

**Costs application A, in relation to Appeal Ref: APP/V2255/W/15/3002827
The Stable, 2 Gosmere Farm Barns, New House Lane, Sheldwich, Kent,
ME13 9PR**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Humphrey for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission described as 'we propose to convert part of the existing garage into a shower/utility room. As part of this we propose to shorten an existing door to fit in with the new floor level.'
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**Costs application B, in relation to Appeal Ref: APP/V2255/Y/15/3002847
The Stable, 2 Gosmere Farm Barns, New House Lane, Sheldwich, Kent,
ME13 9PR**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Humphrey for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of listed building consent for works described as 'we propose to convert part of the existing garage into a shower/utility room. As part of this we propose to shorten an existing door to fit in with the new floor level.'
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Procedural Matter

2. Two applications for costs have been submitted. Application A in respect of planning permission and application B in respect of listed building consent. To avoid duplication and given the similarity in matters raised, I have dealt with both cost applications in this single costs decision letter.

Reasons

3. The application for costs was made and responded to on the basis of the Planning Practice Guidance issued on 6 March 2014 (the Guidance). The Guidance, advises that costs may only be awarded against a party who has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process.

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4. The applicant considers that the Council has acted unreasonably by refusing permission and consent based upon an assumption that a garage may be sought in the future elsewhere on the site which would harm the character and appearance of the locality and the setting of the listed building. However, the proposed alterations do not involve the erection of a new building, nor significant external structural changes to the listed building. The Council point to the fact that the loss of some of the internal garage area would mean that cars would have to park around the site. However, this fails to take into account the existing areas for parking. Moreover, the decisions themselves fail to identify the specific harm arising from the proposed development to the listed building or its setting. Instead, a very general assertion is made that the loss of garage space would mean that cars would park around the building or that the appellant may want a garage in the future.
5. Whilst Policies from the Swale Borough Local Plan 2008 (SBLP) have been cited, there is little detail in the officer's delegated report that explain concisely how the proposal is contrary to these policies. It is well-established planning practice that proposals which accord with the development plan should be permitted unless other material considerations indicate otherwise. No such material considerations have been suggested in this case. In failing to properly explain the harm arising from the proposals, and how it would be contrary in terms of the development plan, the Council failed to provide reasonable planning grounds for taking the stance it did. Given the absence of such reasoning and justification, I find that the Council did act unreasonably in refusing both planning permission and listed building consent. Furthermore, the unreasonable behaviour of the Council left the applicant with little choice but to appeal the decision, resulting in unnecessary or wasted expense in terms of the appeal process.
6. The applicants' original application submitted to the Council was detailed enough for a reasonable decision to have been made. However the Council failed to properly articulate and then justify and evidence its reasons for refusal. The costs involved in addressing the key issues of the refusals do represent an unnecessary expense for the appellant. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified in both cases.

Costs Order – For application A and B

7. In exercise of the powers under section 250(5) of the Local Government Act 1972, Schedule 6 of the Town and Country Planning Act 1990 as amended, Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Swale Borough Council shall pay to Mr and Mrs Humphrey, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to Swale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Cullum J A Parker INSPECTOR