

Application No: [W 24 / 0476](#)

Town/Parish Council: Wasperton
Case Officer: Jack Lynch
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Registration Date: 09/04/24
Expiry Date: 04/06/24

Nos. 1,2,3,4,5,6,7,8 Farriers Court, Wasperton, Warwick, CV35 8EB
Application for Removal of Condition 3 of planning permission W/90/1026
(Removal of permitted development rights) FOR Mr Amos

This application is being presented to Planning Committee as a Councillor resides in one of the dwellings within the site.

RECOMMENDATION

Planning Committee is recommended to refuse planning permission.

DETAILS OF THE DEVELOPMENT

This application is made under section 73 of the Town and Country Planning Act 1990.

In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition that is the subject of the application. In this case the applicant is seeking the removal of Condition 3 of planning permission W/90/1026. That planning permission related to, W/90/1026 - Erection of 8 dwellings and garages/car ports with new vehicular access (amendment to W881272) at Bradshaw Farm, Wasperton, and the condition in question reads as follows:

“Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, no development shall be carried out which comes within Parts 1 and 2 A and B of schedule 2 of this order, without the prior permission of the District Planning Authority”

In practice that condition required that within this development, planning permission is required for development such as extensions to the side and rear of dwellings, front porches and erection of outbuildings, which would be usually be permitted development.

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted which in this particular case is whether the permitted development rights restricted by the condition should continue to be so restricted.

THE SITE AND ITS LOCATION

The application site is host to dwellings no. 1 – 8 Farriers Court, accessed off a private road in the Village of Wasperton. The dwellings are characterised as a traditional brick-built agricultural townhouse building with surrounding barn style dwellings. The dwellings have open landscaped frontages with parking spread appropriately within the plot.

The application site is in the Wasperton Conservation Area.

PLANNING HISTORY

W/90/1026 - Erection of 8 dwellings and garages/car ports with new vehicular access (amendment to W881272) at Bradshaw Farm, Wasperton. Granted.

W/88/1272 - Erection of 8 dwellings and associated garaging including installation of private sewage treatment unit at The Piggery, Bradshaw Farm, Wasperton. Granted.

SUMMARY OF REPRESENTATIONS

Barford, Sherbourne and Wasperton Joint Parish Council – No objection.

RELEVANT POLICIES

National Planning Policy Framework

Warwick District Local Plan 2011-2029

- BE1 – Layout and Design
- BE3 – Amenity
- HE1 – Protection of Statutory Heritage Assets
- HE2 – Protection of Conservation Areas

ASSESSMENT

The basis of justification for removal of Condition 3 from the historic consent set out within the application is an assertion that the condition does not meet the 6 tests for Planning Conditions set out within the National Planning Policy Framework (NPPF) and preceding national legislation.

Paragraph 55 of the NPPF states that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations imposed on a planning permission.

Paragraph 56 sets out the relevant tests for imposing planning conditions, which is as follows:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

Condition 3 of the historic consent is as follows:

'Notwithstanding the provisions of the Town and Country Planning General Development Order 1988, no development shall be carried out which comes within Parts 1 and 2 A and B of schedule 2 of this order, without the prior permission of the District Planning Authority.' Reason: 'To retain control over future development of the premises in the interests of amenity'.

The works that can be completed within these parts of the GPDO include extensions to the side and rear of dwellings, the erection of a front porch, erection of outbuildings, installation of fences and means of enclosures, among other works.

The application site is characterised as a traditional brick-built agricultural townhouse building with surrounding barn style dwellings. The traditional character, form, layout and appearance of the properties was a specific design feature at the time that planning permission was granted and is largely unchanged since their erection.

The condition the subject of this application would have been imposed to safeguard the wider amenity of the area by bringing under control types of development that would impact upon the character and design of the wider development, and by extension the amenity of the area.

The importance of safeguarding that amenity and character has not changed in the intervening period particularly as the overall development the subject of the permission remains relatively unchanged. It is considered that the condition meets all 6 of the tests described above and that there is no material change in circumstances sufficient to revise that view.

In the application form the applicant has stated, "The condition is no longer required because Farriers Court is Part of the Wasperton Conservation Area created in 2002, and the restrictions that apply to permitted development rights in the Conservation Area provide a publicly consulted and appropriate level of permitted development rights that should apply to Farriers Court too."

Though the area has been washed over by a conservation boundary restriction, since the time of the development, should permitted development rights be restored, the properties could still complete significant works that would impact the traditional design of these dwellings and impact the amenity of the area , without the prior permission of the LPA.

It is therefore considered that the circumstances for continuing to restrict Part 1 and Part 2, A and B permitted development rights remain in this case.

Maintaining this condition will ensure that the traditional character of these dwellings is retained in the future as well as retain control over the future development of the premises in the interests of amenity.

CONCLUSION

In view of the above, it is considered the condition is sufficiently precise and necessary to protect the appearance and future development of the premises in the interests of amenity and therefore the recommendation is one of refusal.

REFUSAL REASONS

- 1 The basis of justification for removal of Condition 3 from the historic consent set out within the application is an assertion the condition does not meet the 6 tests for Planning Conditions set out within the National Planning Policy Framework (NPPF) and preceding national legislation.

Paragraph 55 of the NPPF states that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

Paragraph 56 sets out the relevant tests for imposing planning conditions, which is as follows:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

The dwellings in Farriers Court are characterised as a traditional brick-built agricultural townhouse building with surrounding barn style dwellings. The traditional character, form, layout and appearance of the properties is largely unchanged since their erection.

It is therefore considered that there remains to be circumstances for continuing to restrict Part 1 and Part 2, A and B permitted development rights in this case. No evidence has been submitted to the Local Planning Authority that would suggest otherwise.

The proposals are therefore considered to be contrary to the NPPF.

