
Appeal Decision

Site visit made on 12 December 2016

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 24 January 2017

Appeal Ref: APP/W0340/W/16/3158537

East Thurle, Rectory Road, Streatley, Reading RG8 9QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Wendy Grogan against the decision of West Berkshire Council.
 - The application Ref 16/00493/FUL, dated 18 February 2016, was refused by notice dated 26 April 2016.
 - The application sought planning permission for garage conversion, detached carport and store and detached refuse store without complying with condition 2 attached to planning permission Ref 15/01834/FUL, dated 21 September 2015.
 - The condition in dispute is No 2 which states that: the development hereby permitted shall be carried out in accordance with the Absolute Architecture drawing numbers listed below: 143-PL-400A; 143-PL-401A; 143-PL-402A; 143-PL-405; 143-PL-406 and 143-PL407.
 - The reason given for the condition is: for the avoidance of doubt and in the interest of proper planning.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Wendy Grogan against West Berkshire Council. This application is the subject of a separate Decision.

Procedural matters

3. The appellant explains that a revised drawing, No. PL 402 D which is before me was forwarded to the Council prior to the submission of the planning appeal and has subsequently been submitted in support of the appeal. I have no comments from the Council on this drawing and therefore to accept it would prejudice the interests of parties. For this reason I have not accepted the drawing; the appeal is determined on the information considered by the local planning authority at the time it made its decision on the planning application.
 4. In seeking permission to not comply with condition 2 of planning permission 16/00493/FUL, the appellant proposes revised drawings which show a change in the internal layout of the building for use as ancillary living accommodation, and alterations to the height of the building and its fenestration. These changes lead to a different form of development from that approved.
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Notwithstanding the materiality of the changes, the Council considered the amended drawings and decided the application accordingly. Based on the details before me I shall consider the proposal in the same manner.

Main Issues

5. These are:

- (i) whether the revised plans would result in sustainable development given the location of the appeal site;
- (ii) the effect of the revised plans and development proposed on the character and appearance of the area and on the North Wessex Downs Area of Outstanding Natural Beauty (AONB); and,
- (iii) the effect of the revised plans and development proposed on the living conditions of the occupiers of Rectory Farm, with particular regard to privacy and outlook.

Reasons

Sustainable development

- 6. The living accommodation proposed would have its own vehicular and pedestrian access, off a driveway that leads from Rectory Road into the grounds of Thurle Grange. Together with the accommodation being a distance from the apartment, East Thurle, it would be physically separated from the latter.
- 7. The evidence before me does not explain the intended connection between the proposal and East Thurle to substantiate the claim that the accommodation would be used for ancillary purposes. The accommodation would be sufficient in size and with facilities to meet the daily needs of an occupier; the WC area with toilet, wash basin and shower is adequate for washing and the kitchen a reasonable area for catering. Together with its separate access, the living accommodation, could be functionally separated from East Thurle.
- 8. The predominant area below the accommodation would be storage for domestic purposes which would not result in undue noise and disturbance that could preclude someone living in the unit as their main residence. In the same way, the lack of a designated garden would not prevent someone living in the premises long term.
- 9. I accept that the ancillary accommodation would improve the value and marketability of East Thurle apartment, however, accommodation that could be marketed separately would also be a favourable proposition. There is nothing within the evidence before me to suggest that ancillary accommodation above a separate unit of accommodation is a fundamental requirement or essential to the viability of East Thurle. Similarly it is not evident why the creation of a separate unit would be unacceptable to current or future occupiers of East Thurle.
- 10. Whilst I appreciate the appellant's intention to use the accommodation for ancillary purposes, based on the evidence before me I have found that it is highly probable that the premises could be occupied as a permanent residence and therefore not solely for purposes incidental to the enjoyment of East Thurle.

11. Policy ADPP1 of the Core Strategy¹ and Saved policy HSG1 of the Local Plan² seek to prevent houses outside existing settlements. As a separate unit of accommodation in the location proposed, outside the settlement of Streatley, the proposal would be contrary to policy.
12. It was apparent from my observations on site that the appeal site is some distance from a range of services and facilities to support the daily needs of future occupiers. Consequently the effect of allowing such a development in a functionally isolated location would result in unsustainable journeys, contrary to a core land use planning principle of the National Planning Policy Framework (the Framework) which seeks to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. Furthermore, given the distance of the proposal from a settlement, the development would not meet Paragraph 55 of the Framework which requires housing in rural areas to be located where it will enhance or maintain the viability of rural communities.
13. I have had regard to planning permission 15/01821/FUL which granted consent for, amongst other things, a studio building ancillary to Thurle Grange. The two are physically separated in the same way the proposed development would be. However the floor area of the studio is smaller than the current proposal and with no cooking facilities would not meet an occupier's daily needs to serve as a separate unit of living accommodation. This is a material difference compared with the current proposal and therefore permission 15/01821/FUL carries little weight by way of precedent.
14. Permission for an ancillary use is often given subject to a planning condition restricting the use of the premises in this way. However, under a Section 73 application, new conditions are acceptable provided that they *do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier permission*. A condition restricting the use to ancillary accommodation would materially alter the development that was the subject of the original permission; from a garage conversion, detached car port and store to a unit of living accommodation. It would not be reasonable, therefore, to attach a condition to any planning permission to restrict its use.
15. In light of the above, therefore, I find that the revised plans would result in an unsustainable form of development which would be contrary to the development plan and the Framework as indicated.

Character and appearance and AONB

16. Thurle Grange is a large detached property set within extensive grounds and within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The appeal site, within these grounds, is set back from Rectory Road and surrounded by dense Yew hedging and Yew trees. Surrounding Thurle Grange are a number of residential buildings, including Rectory Farmhouse which adjoins the appeal site.
17. Beyond the immediate confines of Thurle Grange, the landscape extends into a large open landscape with hills that provide long distance views. The Framework gives great weight to conserving and enhancing the natural beauty

¹ West Berkshire Local Plan, West Berkshire Core Strategy (2006-2026), Version for adoption, July 2012

² West Berkshire District Local Plan (1991-2006) September 2007

of AONB's. Policies ADPP5 and CS19 of the Core Strategy provide protection to the diversity and local distinctiveness of such landscapes, along with policy CS14 of the Core Strategy which seeks development that respects and enhances the character and appearance of the area.

18. The principle of a building within the location proposed has already been accepted with the grant of planning application 16/00493/FUL. Section 73(2) makes it clear that for a S73 application, the question of the conditions subject to which planning permission should be granted shall only be considered. In seeking to not comply with condition 2, the appellant seeks to alter the height and external fenestration of the building. The Council raised no objection to the external fenestration and in light of the evidence before me, I find no reason to take a different view.
19. The increased height of the building would be a modest 0.5 metres. Given the position of the building, partly screened by hedges and trees and incorporated amongst existing buildings, this increase in height would not result in a building that would be unduly dominant in, or overbearing on, its surroundings.
20. I find, therefore, that the revised plans would not result in a development that would have a harmful effect on the character and appearance of the area or on the scenic beauty of the AONB. As a result the proposal would not be contrary to policies ADPP5, CS14 and CS19 of the Core Strategy or the Framework.

Living conditions

21. Velux windows are proposed within the roof of the building, overlooking the garden of Rectory Farm. The windows would be obscure glazed and therefore, whilst directly overlooking the garden of the Farm, would not result in an invasion of privacy that could be considered harmful to the living conditions of the occupiers of Rectory Farmhouse.
22. The increase in the ridge height of the building would be a distance from the shared boundary with, and the garden of, Rectory Farm. Together with the mature landscaping on the shared boundary which would in part, obscure the development from views within the adjoining garden, I find that the increase in height would not be overbearing on and therefore would not be harmful to the outlook from the garden at Rectory Farm.
23. I find, therefore, that the revised plans would not result in a development that would have a harmful effect on the living conditions of the occupiers of Rectory Farm, with particular regard to privacy and outlook. As a result the proposal would not be contrary to policy CS14 of the Core Strategy or the Framework which seek to secure a good standard of amenity for all.

Conclusion

24. I have found that the development proposed by virtue of the revised plans proposed would be an unsustainable form of development. Whilst the proposal would not be harmful to the character and appearance of the area or the scenic beauty of the AONB, nor have a harmful effect on the living conditions of the occupiers of Rectory Farm, this does not overcome the harm found in relation to the use of the building. For this reason I conclude that the appeal should be dismissed and condition No 2 retained in its present form.

R Walmsley INSPECTOR