
Appeal Decision

Site visit made on 20 June 2017

by Chris Preston BA(Hons) BPI MRTPI

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

Decision date: 11 July 2017

Appeal Ref: APP/T2405/C/16/3165179

30 Main Street, Kilby, Leicestershire LE18 3TD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Russell Sciville against an enforcement notice issued by Blaby District Council.
 - The enforcement notice, numbered E15/0129/BOCRES, was issued on 14 November 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the outbuilding shown coloured green on the attached plan, from ancillary residential accommodation to the main dwelling, to use as an independent residential dwelling.
 - The requirements of the notice are: Cease the use of the existing ancillary residential accommodation, as shown coloured green on the attached plan, as an independent residential dwelling.
 - The period for compliance with the requirements is 6 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the outbuilding at 30 Main Street, Kilby, Leicestershire LE18 3TD, as shown in green on the plan attached to the notice, for use as an independent dwelling subject to the following conditions:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or additions to the approved dwelling or the provision of any additional buildings or structures (including fences and walls) within its curtilage shall be erected without the prior permission of the Local Planning Authority having been granted in respect of an application submitted in that regard.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, dormer windows, doors or openings shall be constructed within the southern, eastern and western elevations of the dwelling without the
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prior permission of the Local Planning Authority having been granted in respect of an application submitted in that regard.

The Appeal on Ground (a)

2. From the information before me I consider that the main issues in the determination of the appeal on ground (a) are:
 - i) The effect of the development on the living conditions of neighbouring residents and whether the use of the building as an independent dwelling would result in a satisfactory living conditions for any residents of the property itself;
 - ii) Whether adequate car parking and turning provision is available to serve the development and the adjacent dwelling known as the Old Bakehouse; and
 - iii) Whether the access arrangements are suitable to serve more than one dwelling having regard to the width of the access and the effect on highway safety.

Living Conditions

3. The building to which the appeal relates is a converted outbuilding, previously associated with the Old Bakehouse, a substantial dwelling comprising a range of former cottages situated on Main Street, Kilby. The outbuilding and the entrance to the Old Bakehouse open onto a shared courtyard, presumably the former farmyard, which is accessed from a short driveway leading to the main highway which passes through the village.
4. The windows of the outbuilding face onto the courtyard, as do a number of windows in the dwelling opposite. The width of the courtyard is estimated to be 15 metres by the appellant and I have no particular reason to doubt that figure. Whilst that distance may be less than one may expect to find between elevations containing primary windows in a modern estate it is not unusual in an historic village such as Kilby where dwellings often face each other across the street in close proximity. Moreover, the ground floor windows within The Old Bakehouse that are directly opposite from the windows in the converted outbuilding serve an entrance hall and a passageway as opposed to primary living accommodation.
5. In addition, the windows within both buildings are small, reflecting the age of the structures. Having stood within the converted property and looked across at the Old Bakehouse I was unable to see into the neighbouring dwelling to any significant degree. Similarly, the design of the windows in the converted property was sufficient to restrict views into that dwelling from the courtyard area. Consequently, I am satisfied that the separation distance and the arrangement and design of windows is such that adequate levels of privacy are maintained for the residents of both dwellings.
6. The courtyard has effectively become a shared circulation space within which to park vehicles and enter the respective properties. The more private garden area is to the rear of The Old Bakehouse. In my experience, it is not uncommon for residential properties to share courtyards for those purposes, particularly in rural villages where farm buildings or other utilitarian structures

- may have been converted. Thus, the fact that both dwellings overlook the communal area is not unusual or indicative of a lack of privacy.
7. The open aspect of the courtyard and the attractive vernacular design of the Old Bakehouse provide an attractive outlook for any residents within the converted building and the living conditions are not unduly compromised by the fact that the dwelling has a single aspect. Each of the rooms has a window providing an outlook onto the courtyard and I found the property to be adequately lit without the need for artificial lighting.
 8. The scale of the property is modest and the combined comings and goings associated with the use and the use of the adjacent dwelling would not be substantial or at a level that would cause undue harm to living conditions by way of noise or disturbance. As noted, the garden area of The Old Bakehouse is situated to the rear. It appears that an informal arrangement exists whereby the tenant within the converted building is permitted to utilise space within the garden. However, no formal arrangement exists and there is no guarantee that the arrangement would continue into the future.
 9. Notwithstanding the above, I remain of the view that the conversion has provided satisfactory living conditions for residents. As noted by the appellant, a public park is in close proximity, accessed through the garden gate, and the village is set in a rural location with ample opportunity to access the countryside and associated greenspace. The courtyard itself provides an area where residents could sit out at the front of the property. The property is of modest size and is more likely to attract single occupants or couples who may not have specific need for dedicated amenity space.
 10. The Council has raised concerns that the current informal arrangement of sharing garden space may have implications for the privacy enjoyed by residents. Communal amenity space and gardens are common in flatted developments and such arrangements commonly occur without any apparent detriment to the residents of such accommodation. Whilst somewhat unusual in a non-flatted scenario, it is not a matter that appears to be of concern to the people involved and I am satisfied that the arrangement does not harm the living conditions of the residents of either property.
 11. Therefore, when considered in the round I find that the accommodation provides a well-equipped self-contained unit with adequate privacy, outlook and easy access to open space and recreation areas. In my view it provides suitable and attractive living conditions for any residents. In addition, the use as an independent unit of occupation has not had an undue impact on the living conditions of the residents of the adjacent dwelling at The Old Bakehouse. For those reasons, the development complies with the requirements of saved policy R1(i) and (ii) of the Blaby District Local Plan (1999) and one of the core principles set out at paragraph 17 of the National Planning Policy Framework (the Framework) which is that planning should seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Car Parking

12. Car parking is available for the occupants of the dwelling within the courtyard that is shared with The Old Bakehouse. The Old Bakehouse also benefits from a substantial open fronted garage to the rear. In combination, the courtyard and the area to the rear provide more than sufficient space to accommodate

the parking needs of the two dwellings. Moreover, the courtyard is of ample width to enable vehicles to turn such that they can enter Main Street in forward gear. The unit is already occupied and no evidence is before me to indicate that any parking problems have arisen. Even if parking were not available on site there are no parking restrictions on Main Street which is closely adjacent and there is no reason to suppose that residents or guests would be unable to park within a reasonable distance of the property. Consequently, on the information before me, the Council's assertion that the increased intensity of use is likely to result in undue pressure on local parking is unsubstantiated.

Highway Safety

13. The enforcement notice refers to figure DG20 of Leicestershire County Council's *6Cs Design Guide* which states that an unadopted shared drive serving two to five dwellings should have a minimum effective width of 4.25m for a minimum distance of 5m behind the highway, with an additional 1m added if the driveway is bound on both sides with a fence, wall or other boundary enclosure as is the case in this instance. The Council has not provided figure DG20 but did include a copy of the County Council's *Standing Advice for Planning Officers on Minor Development Proposals That Have an Effect on the Highway* (2011). Table W1 of that document provides the same advice with regard to access geometry.
14. Having read the foreword of both documents it is clear that they are intended as guidance or advice as opposed to setting absolute requirements. The introduction to the standing advice notes that it cannot be expected to offer strategies to suit all situations. In this case, the width of the driveway is approximately 4m at the closest point to Main Street which is not sufficient to allow two cars to pass comfortably. Consequently, should two cars meet at the entrance it would require one of them to reverse, either onto the highway or back into the courtyard.
15. Given that only two properties are served from the access and that one of those is the modest converted property, I would not expect the level of traffic to be substantial. As such, the likelihood of two cars meeting at the entrance to the site is low. On the occasions that it did occur the drivers would not be forced to reverse onto the highway and the option to reverse into the courtyard would be available. It seems to me that option would be a straightforward manoeuvre and one that most drivers would be likely to use.
16. Even in a scenario where a driver was required to reverse onto the highway there is nothing to suggest that it would have any significant highway safety impacts. The road leading through the village is relatively straight and subject to a 30mph limit, such that oncoming vehicles or pedestrians would be likely to see a vehicle exiting the site and take action accordingly. Therefore, based on the configuration of the access, the likely level of use and the nature of the surrounding road network I am satisfied that the access arrangements, including the width of the driveway are adequate to serve the two properties at the site without detriment to highway safety.

Conditions

17. Four conditions have been proposed by the Council in the event that I were to allow the appeal. Given my conclusions that the parking arrangements are acceptable in their present form and that the property provides acceptable

living conditions for the current and future occupants I find that conditions seeking to provide dedicated off-street provision and to sub-divide the garden are unnecessary to make the development acceptable in planning terms. Consequently, those conditions would not meet the test of necessity set out at paragraph 206 of the Framework and I shall not impose them.

18. The building is within the curtilage of The Old Bakehouse which is a grade II listed building. The conversion of the property to ancillary accommodation was carried out in line with a previous approval and no external alterations have been required to facilitate the use as a separate dwellinghouse. The Council do not allege that the change of use has failed to preserve the setting of the listed building and, on the information before me, I see no reason to take a different view.
19. However, were I to grant planning permission for the use, the property would benefit from permitted development rights for extensions and alterations established under the Town and Country Planning (General Permitted Development) Order 2015, as amended. If not controlled, any alterations or extensions could be carried out in an unsympathetic manner with the potential to cause harm to the setting of the listed building and the character of the converted property itself. Therefore, I am satisfied that a condition is necessary to remove permitted development rights for any extensions, additions and for the erection of any walls or fences.
20. Equally, the insertion of additional windows, doors or openings could result in overlooking of neighbouring properties, including those to the east, and it is necessary to remove permitted development rights for such alterations in the interests of maintaining acceptable living conditions for neighbouring residents.

Overall Conclusion

21. For the reasons given I conclude that the appeal on ground (a) should be allowed and I shall quash the enforcement notice and grant planning permission for the development described in the alleged breach, subject to the imposition of conditions.

Chris Preston

INSPECTOR