
Appeal Decision

Site visit made on 27 September 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 13 November 2017

Appeal Ref: APP/E2734/W/17/3179312

Foxhill Keepers Cottage, Skipton Road, Hampsthwaite, Harrogate, HG3 2LZ

- 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 F Illingsworth against the decision of Harrogate Borough Council.
 - The application Ref 16/03061/FUL, dated 18 July 2016, was refused by notice dated 9 March 2017.
 - The development proposed is conversion of ancillary outbuilding for independent living.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of ancillary outbuilding for independent living at Foxhill Keepers Cottage, Skipton Road, Hampsthwaite, Harrogate, HG3 2LZ in accordance with the terms of the application, Ref. 16/03061/FUL, dated 18 July 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2A-Existing north and west elevations (only); 7-Existing south and east elevations (only); 12-North Elevation, Nov 16; 13-External Walls, Nov 16; 14-External wall/timber/window section, Nov 16; 15-Roof construction, Nov 16; 16-Technical design intent, Nov 16; 17-Proposed site layout, Nov 16; and, 18-Elevations revised (south & east), Dec 16.
 - 3) The external timber wall cladding shall be natural in colour and shall not be stained or painted unless otherwise agreed in writing by the local planning authority.
 - 4) All doors and windows shall be constructed in timber and shall be maintained and retained as such for the lifetime of the development hereby permitted, unless otherwise agreed in writing by the local planning authority.
 - 5) All new doors and windows shall be set back by a minimum of 75 mm from the external face of the walls to form reveals.
 - 6) Prior to the installation of the rooflights hereby permitted details of the design of those rooflights shall be submitted to and approved in writing by the local planning authority. The rooflights shall be installed and
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thereafter maintained and retained in accordance with the approved details.

- 7) The dwelling hereby approved shall not be first occupied until details have been submitted to and approved in writing by the local planning authority to show that the following building performance values have been achieved: a) 'U' values ($\text{W/m}^2\text{k}$) roof ≤ 0.09 ; walls ≤ 0.10 ; floor ≤ 0.10 ; window ≤ 0.60 ; b) Air tightness ($\text{m}^3/\text{hr}/\text{m}^2@50\text{Pa}$) ≤ 0.30 ; and, c) Air (heat) loss (m^3/hr) ≤ 90 .

Procedural matters

2. The Council has confirmed that its decision was based on the following application plans of the existing (submitted 21 July 2016) and proposed development (submitted on 8 March 2017): 2A-Existing north and west elevations (only); 7-Existing south and east elevations (only); 12-North Elevation, Nov 16; 13-External Walls, Nov 16; 14-External wall/timber/window section, Nov 16; 15-Roof construction, Nov 16; 16-Technical design intent, Nov 16; 17-Proposed site layout, Nov 16; and, 18-Elevations revised (south & east), Dec 16. The appellant has indicated that the final set of plans included drawing 12A rather than 12. I cannot be sure that it would not prejudice the interests of others were I to determine the appeal on the basis of the revised plan referred to by the appellant and so I have based my decision on the plans which formed the basis of the Council's determination.

Main Issue

3. I consider that the main issue in this case is whether, having regard to local and national policy, the proposal would amount to sustainable development.

Reasons

4. The appeal site contains a cottage and an ancillary outbuilding which appeared to me to comprise a detached double garage with storage area and a lean-to canopy to one side. The proposal involves the conversion of that outbuilding to a one-bedroom dwelling for independent living.
5. Correspondence between the appellant's agent and the Council's Planning Officer, prior to the determination of the appeal planning application, indicates that the Council would support the conversion of the appeal building for use as an annex to the existing dwelling. However, the appellant has indicated that, not least due to the significant investment involved in the proposed conversion works, a planning permission restricting the use of the converted appeal property to an annex to the existing dwelling, as opposed to a separate dwelling, would not provide him with the flexibility he needs to be able to react to any changes in personal or financial circumstances. Based on the submissions made, I am not convinced that, if this appeal were to be dismissed, the appellant would be likely to seek to convert the appeal building for use as an annex to the existing dwelling. Therefore, I give it little weight as a fallback position.
6. The appeal site, which fronts onto the southern side of Skipton Road, is set apart from other buildings in an area of the countryside which is characterised by a scattered pattern of small clusters of development. The nearest settlement to the appeal site is the village of Hampsthwaite, which the Council has estimated is around 2 miles to the north. The route between the two is

along a generally winding, unlit and footway-free country road, characteristics which would be likely to discourage walking and cycling as modes of transport between the two. The nearest large settlement, Harrogate, is further away to the east. It is likely therefore, that future residents of the proposed dwelling would be heavily reliant on the private car as a means of transport to reach shops, services and facilities. Under the circumstances, I consider that, notwithstanding its position next to an existing dwelling, the proposal would amount to the creation of a new isolated home in the countryside.

7. The Council's reason for refusal does not make reference to any conflicts with Development Plan Policy. Of the Policies drawn to my attention by the Council's '*Delegated Decision By Chief Planner*' report, I consider that the Policy C16 of the *Harrogate District Local Plan, May 2004* (LP) is of particular relevance. It identifies a number of criteria to which all proposals for the re-use and adaptation of rural buildings should have regard. In my judgement, the proposed alterations to the appeal building, which would include, amongst other things, the laying of a slate roof over its existing metal roof, would marginally improve the appearance of the structure. However, views from public vantage points of the building and other parts of the site affected by the proposed works are limited, not least due to the tall hedgerow along the roadside frontage of the site. I consider that, as a result, the effect of the proposed works on the character and appearance of the locality would amount to a minor enhancement, in keeping with the aims of LP Policy HD20 and Policy EQ2 of the *Harrogate Borough Council Core Strategy, 2009* (CS). Furthermore, there is no dispute that the appeal building is in a good state of repair and, in my view, it is capable of conversion without extensive alteration, extension, demolition and/or rebuilding works. There is no evidence before me to show that the appeal building is suitable or needed to meet an identified need for either business premises or affordable housing. Therefore, I consider overall, that the proposal would accord with LP Policy C16. Furthermore, it would not conflict with CS Policy SG3, which supports rural building conversions where the building makes a positive contribution to the landscape character of the countryside.
8. However, LP Policy C16 and CS Policy SG3 are not entirely consistent with the *National Planning Policy Framework* (the Framework), which indicates that isolated homes in the countryside should be avoided unless there are special circumstances. Unlike those local Policies, insofar as the Framework supports the re-use of buildings to create new isolated homes, it is limited to those buildings which are either redundant or disused. Under these circumstances, I give little weight to the compliance of the scheme with LP Policy C16 and CS Policy SG3. Furthermore, I saw that the appeal building is still in use and so the Framework's support for the re-use of redundant or disused buildings would not weigh in favour of the scheme.
9. As regards other examples given by the Framework of special circumstances which would justify new isolated homes in the countryside, the proposal is not intended to meet the essential need for a rural worker to live permanently at or near their place of work. The exceptional quality or innovative nature of the design of a proposed dwelling may also justify a new isolated dwelling in the countryside. However, the Framework indicates that such a design should, amongst other things, significantly enhance its immediate setting. Those particular circumstances do not apply, as I have already found the effect of the proposal on the character and appearance of the locality amount to a

minor enhancement and it follows that it would not significantly enhance its immediate setting.

10. Nevertheless, the appellant has stated that the design would exceed the requirements of Building Regulations and Passivhaus standards with respect to levels of insulation, air tightness and air loss, thereby delivering an energy efficient dwelling and limiting heating costs. Furthermore, he has indicated that there are no examples of similar standards having been achieved elsewhere in Yorkshire. These matters have not been disputed by the Council. It appears to me therefore, that the proposed design would be innovative in nature and, as an example of what can be achieved, it may help to raise standards of design more generally in rural areas, factors to which the Framework indicates great weight should be given.
11. In addition, there is no dispute that the Council is unable to demonstrate a 5-year supply of deliverable housing sites. The proposal would make a contribution, albeit small, towards meeting the shortfall in housing sites in the Borough and this also weighs in its favour.
12. Furthermore, the Framework indicates that, in the absence of a demonstrable 5-year supply of deliverable housing sites, policies for the supply of housing should not be considered up-to-date and it follows that the presumption in favour of sustainable development means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
13. As I have indicated, future residents would be heavily reliant on the private car as a means of transport to reach shops, services and facilities. Therefore, the proposal would perform poorly in relation to accessibility. However, the Framework, whilst promoting sustainable transport, identifies the Government recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Although the trips to and from the appeal site would be most likely to be by private motor vehicles, the driving distance between the site and Hampsthwaite is relatively short and so future residents of the site may well use facilities in that village. Whilst there is no evidence to show that their patronage is needed to maintain the vitality of the rural community, it appears to me that residents of the proposed dwelling would be likely to at least contribute to the viability of existing facilities and the vitality of the rural community. In this respect the scheme would accord the Framework insofar as it indicates that, in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Under the circumstances, I consider that the accessibility of the site weighs moderately against the scheme. However, the proposal would not conflict with the Development Plan, the design would be innovative and the scheme would contribute towards meeting the shortfall in housing sites in the Borough.
14. I conclude on balance that the adverse impacts of the scheme would not significantly and demonstrably outweigh the benefits and the particular circumstances in this case would be sufficiently special to justify granting permission for an isolated new dwelling in the countryside, as proposed. I conclude that the proposal would amount to sustainable development under

the terms of the Framework and it would accord with the Development Plan taken as a whole.

Other matters

15. I understand that appeal decision Ref. APP/E2734/W/16/3149226, which was dismissed, involved the development of a greenfield site elsewhere in the Borough. The circumstances are significantly different from those in the case before me, which involves development within the curtilage of an existing dwelling and the conversion of an existing building. Therefore, I give the previous appeal decision little weight.

Conditions

16. The Council has suggested 7 conditions which it considers should be imposed in the event that the appeal is allowed and planning permission is granted and I have also had regard to the appellant's comments on those conditions. In some instances, it would be necessary to reword suggested conditions, in the interests of precision and enforceability.
17. In addition to the normal commencement condition, a condition would be necessary, in the interests of certainty, to ensure that the works would be carried out in accordance with the approved application plans. In the interests of visual amenity, conditions would be necessary: to control the materials used in the external surfaces of the proposed structures; to ensure that doors and windows would be set back from the external face of the walls to form reveals; and, to control the design of roof lights. I have had regard to the view of the Council that further development within the site under permitted development rights has the potential to harm visual amenity. However, as I have indicated, the prominence of development within the site from the surroundings is limited. Under the circumstances, I consider that, in this particular case, the exceptional circumstances which the national *Planning Policy Guidance* indicates are necessary to restrict future use of permitted development rights do not exist. A condition seeking to restrict those rights would not be justified.
18. In addition, I consider that it would be necessary to impose a condition to ensure that the performance values cited by the appellant, which underpin the innovative nature of the design and my conclusion as regards sustainable development, are achieved. That is the 'U' value, air tightness and air loss values for Foxhill set out in the appellant's appeal statement.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

I Jenkins

INSPECTOR