



Appeal Decision

Site visit made on 02 April 2019

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2019

Appeal Ref: APP/Q3305/W/19/3221545

Park View, Dymotts Cottage Access Road, Lullington, Frome BA11 2PG

- 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 Bryan and Lynette Bendell against the decision of Mendip District Council.
 - The application Ref 2018/1793/HSE, dated 16 July 2018, was refused by notice dated 09 November 2018.
 - The development proposed is conversion of existing garage, store and home office to residential annex.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Bryan and Lynette Bendell against Mendip District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - (i) The principle of development, and
 - (ii) Whether the proposal would preserve or enhance the character and appearance of the Conservation Area.

Reasons

4. The appeal site comprises of the main dwelling, Parkview, which is an attractive Grade II Listed cottage constructed in stone with a clay tile roof and its large garden and outbuildings. The outbuildings include a summerhouse and garage building. The garage building is of timber frame construction with open parking bays and internal accommodation featuring a kitchen, toilet and stairs leading to office accommodation within the roof. The garage roof comprises of three varied height gable ends in plain tile. There is also a small fenced area in the garden, within which a septic tank is located. The site slopes from the main dwelling to the rear of the plot, where the garage is sited.
5. The appeal scheme is to extend the garage building with a forward-facing gable end, with floor to ceiling fenestration, and convert the internal accommodation

into an annex including a kitchen, bathroom, utility room and bedroom. The overall height and siting of the building would remain mostly unchanged, though the projecting gable would be a large addition.

Principle of development

6. The reasons for refusal cite that the scheme would be tantamount to the creation of a separate dwelling because it would include all the facilities required for separate occupation. The policies of the Development Plan do not support housing growth in this location and the Council therefore considers the scheme to be unsustainable development which would result in increased use of private vehicles.
7. However, a separate building within the curtilage of a dwelling can normally be regarded as part and parcel of the main dwellinghouse, unless its functional and physical relationship with the main dwelling is separate¹. The use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change of use, which would require planning permission².
8. The proposal as described is for conversion and extension of an existing outbuilding for use in connection with the main dwelling, rather than a material change of use. A grant of planning permission for the proposal as stated would not result in a planning permission for a material change of use to a separate dwelling and as such, the proposal would not conflict with Policy CP1 of the Mendip District Local Plan Part 1 (LP P1) in respect of the principle of the development.
9. Whether or not the proposal goes beyond what the application was stated to be for depends on individual circumstances. The existing building contains a kitchen, bathroom, study, workshop and open parking bays. The scheme would add a bedroom, living/ dining room, additional bathroom, utility room and small coat room. The facilities in the existing and proposed extended building could facilitate separate use, though there is no evidence to suggest the building would have a separate function to the main dwelling. The building is physically detached from the main dwelling and is located at a distance from it. The ground level between the two varies, which somewhat distinguishes the building from the main dwelling to an extent. However, the building would remain in one enclosure with the dwelling and would not be physically severed from it. Therefore, as a matter of fact and degree, the proposal would not amount to a separate dwelling. As such, the proposal would not conflict with Policy CP1 of the LP P1 or Paragraph 79 of the Framework in respect of the principle of the development.

Character and Appearance

10. Lullington is a small rural settlement consisting of mostly historic residential and farm development, nucleated around a few main lanes and with looser development at its edges. The settlement features a mix of dwelling sizes and styles, with a few more recent rural building conversions or large residential extensions in a more modern style balanced with traditional materials.

¹ Uttlesford DC v SSE & White [1992]

² Section 55 (3)(a) Town and Country Planning Act 1990

Lullington Conservation Area washes over the settlement and surrounding open countryside. The open countryside setting, historic buildings, open spaces and varied grain contribute to the character and significance of the Conservation Area.

11. The appeal site contributes to this character by virtue of the attractive main dwelling fronting one of the main lanes, its extensive rear garden and its distance from Dymott Cottage to the south, creating openness at the settlement edge. This openness is particularly evident from the lane and Public Right of Way which passes the south end of the appeal site and leads into open countryside beyond. Whilst located in the open garden area, the existing building does not impose on the open rural character due to its modest appearance, traditional timber framing, open bays and front-facing steep roof slope, which reduce the appearance of its mass.
12. The proposed scheme features a large front-facing gable and bold modern fenestration. The increase in mass and scale, which is highlighted by the gable design and modern vertical emphasis of the windows, would make the building more prominent and would impose on the open edge of settlement character of the site and would fail to maintain the countryside's intrinsic character in wider views. Although serious, the harm to the heritage asset in this case would be 'less than substantial', within the meaning of the term in Paragraph 196 of the Framework. Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
13. The scheme would have the benefit of providing a residential annex for the occupiers of the appeal site and its design takes cues from recent building conversions and large extensions which are located within the settlement. I observed these developments in their individual contexts; their scale and mass are proportionate to surrounding development and their design is in keeping with the host buildings. However, the immediate context for these developments differs from that of the appeal site and the design features are not appropriate to the appeal site context and would cause harm to the character of the countryside and Conservation Area.
14. Due to the variance in ground levels and the distance between the appeal building and main dwelling, the scheme would not dominate or compete with the main dwelling itself or cause harm to its cottage character.
15. For the reasons set out above, the appeal proposal would fail to recognise the intrinsic character and beauty of the countryside and would cause harm to the rural character of the area, which contributes to the character and significance of the Conservation Area. The limited benefits of the scheme would not justify the harm I have identified. The proposal would therefore be contrary to Policies DP1, DP3 and DP7 of the LP P1 which seek, amongst other things, to maintain local character and distinctiveness and the significance of heritage assets, through high quality design.

Conclusion

16. For the reasons stated above, I find that the appeal proposal fail to preserve the character and appearance of the Conservation Area and the intrinsic beauty

of the countryside. The scheme would therefore conflict with Policies DP1, DP3 and DP7 of the LP P1. I conclude that the appeal should be dismissed.

Kim Langford Tejrar

INSPECTOR