



Appeal Decision

Site visit made on 7 January 2020

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 24 January 2020

Appeal Ref: APP/E2734/W/19/3239074

Three Wells Farm, Menwith Hill, Harrogate, North Yorkshire HG3 2RN

- 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 Harrogate Architectural Ltd against the decision of Harrogate Borough Council.
 - The application Ref 19/01621/FUL, dated 11 April 2019, was refused by notice dated 24 July 2019.
 - The development proposed is conversion of existing garage to form a holiday cottage. Erection of carport and porch. Replacement of UPVC conservatory with an oak frame structure and alterations to doors and fenestration.
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Decision

1. The appeal is dismissed insofar as it relates to the conversion of existing garage to form a holiday cottage. The appeal is allowed insofar as it relates to erection of carport and porch, replacement of UPVC conservatory with an oak frame structure and alterations to doors and fenestration and planning permission is granted for erection of carport and porch, replacement of UPVC conservatory with an oak frame structure and alterations to doors and fenestration at Three Wells Farm, Menwith Hill, Harrogate, North Yorkshire HG3 2RN in accordance with the terms of the application, Ref 19/01621/FUL, dated 11 April 2019, so far as relevant to that part of the development hereby permitted and subject to the conditions set out in the attached Schedule of Conditions.

Procedural Matters

2. I have adopted a slightly revised wording for the development description in the banner heading and decision above, which follows the wording set out on the Council's decision notice and in subsequent submissions by both parties. I am satisfied that in so doing the nature of the development for which permission is sought remains unaltered and neither party would be disadvantaged by my doing so.
3. The Council reached a split decision on the planning application. It is clear from the Council's officer report, notice of decision and the subsequent submissions of both parties that the Council do not (and did not) object to the erection of carport and porch, replacement of UPVC conservatory with an oak frame structure and alterations to doors and fenestration at Three Wells Farm.
4. Section 79(1)(b) of the Town and Country Planning Act 1990 (as amended) (the Act) allows that on appeal under section 78 of the Act the Secretary of State 'may deal with the application as if it had been made to him in the first instance'. I have not been presented with any evidence which would lead me

to reach an alternative conclusion and note that this remains an area of agreement between the main parties. Neither party therefore seeks to address the elements of the application which relate to the erection of carport and porch, replacement of UPVC conservatory with an oak frame structure and alterations to doors and fenestration in their appeal submissions.

5. I have carefully considered the submitted plans in their entirety, the appellant's Statement of Case and the Council's officer report. For the reasons I set out below, I find the proposed erection of carport and porch, replacement of UPVC conservatory with an oak frame structure and alterations to doors and fenestration to be acceptable. These elements of the proposal are clearly severable both physically and functionally from the proposed conversion of the existing garage to a holiday cottage and I therefore also intend to issue a split decision in this instance.
6. Reference is made to the emerging Harrogate District Local Plan (2019) (eHDLP), and specifically policies NE3 and HP4. Although it has reached an advanced stage of preparation and the examining Inspector's report is awaited, its policies and provisions cannot yet be afforded full weight. The weight that I can give its policies is limited accordingly.

Main Issues

7. The main issues are whether or not the proposed development, with particular regard to the conversion of the existing detached garage to holiday cottage, would:
 - Make appropriate provision for protected species; and
 - Provide appropriate living conditions for future occupants of the proposed holiday cottage, with particular regard to internal living space and external amenity space and noise and disturbance.

Reasons

Protected species

8. The existing building is of stone construction under a stone-slab tiled roof. Although the building is assessed as having a low potential risk of supporting bats, the appellant's 'Bat, breeding bird and barn owl scoping survey' (survey¹) notes the presence of many crevices in its stonework, confirmed by photographs within the survey and from my observations of the building from my visit to the site. Although presenting a low risk of supporting bats, the presence of void and crevice dwelling bats could nevertheless not be ruled out.
9. The report goes on to recommend that an evening emergence survey would be required to be carried out during the active bat season to determine whether or not such crevice and void areas did support bats. The installation of two habitat features were recommended as a precautionary measure to provide 'suitable mitigation' should bats be found to be present.
10. The proposed conversion of the garage building involves the raising of the roof level affected all four elevations. Thus, the gables would be increased in height on both end elevations, as would the window heads and eaves levels on the

¹ 'Bat, breeding bird and barn owl survey: Garage at Three Wells Farm – September 2019' – MAB Environment & Ecology Ltd (Ref 2019-808)

north and south elevations. These are areas where the survey indicates the presence of crevices which may support protected species.

11. The use of conditions to secure further survey work in respect of protected species should only be considered in exceptional circumstances². The Council's suggestion of such a condition as part of their wider list of conditions should be viewed in the overall context of their Statement of Case which clearly sets out the significance of protected species in the consideration of planning applications. The Circular is clear that the presence or otherwise of protected species, and the extent to which they may be affected by a proposal, is established prior to the granting of planning permission. The evidence before me, as it was before the Council, does not establish those matters.
12. The use of the suggested condition would not be appropriate and I have not been presented with any compelling evidence which would lead me to conclude that exceptional circumstances exist that would justify such an approach. It has not therefore been demonstrated that the proposal would avoid harm to, or that proposed mitigation measures would be adequate to mitigate any harm arising from this element of the proposal, to protected species. It has not therefore been demonstrated that the proposal would minimise impact on, or provide net gains for, biodiversity and as such the proposal would be in conflict with the provisions of the National Planning Policy Framework (the Framework) in this respect, with particular reference to paragraphs 170 and 175 thereof. Although not determinative due to the reduced weight that may be given to its provisions, the proposal would also be in conflict with policy NE3 of the eHDL P as it has not been demonstrated that the proposal would provide a net gain in biodiversity.

Living conditions

13. It is proposed that the converted building would be occupied as a holiday cottage. It would provide a modest level of accommodation, with an open-plan living area, one bedroom, a bathroom and storage. Externally, a south-facing patio and seating area would be provided directly in front of the glazed screen and double patio doors.
14. As holiday accommodation, which I am satisfied could be adequately controlled by planning condition, I find nothing exceptional about the quantum of accommodation provided internally. It may fall below the nationally described space standards for a one bedroom/two person dwelling, but I do not consider that to be fatal as applied to a holiday cottage. As the appellant notes, holiday accommodation comes in many shapes and sizes to cater for a range of needs, expectations and budgets. Nor do I consider that the limited external space would provide insufficient outdoor space, particularly in an area where outdoor recreation and leisure would be a significant draw for potential tourist occupants of the building.
15. These areas, both internal and external, face due south and have a reasonably open aspect beyond the hedge, opposite. There are no imposing features that restrict either daylight or sunlight to these spaces, and neither the low wall nor the adjacent drive would compromise the living conditions of occupants of the building as a holiday cottage.

² Circular 06/2005 – paragraph 99

16. The outdoor area, and indeed the windows to the living area, would look directly out over the access drive which serves Three Wells Farm and a neighbouring residential property. The drive is narrow along its length from the main road to the east but opens out in front of the garage building to a turning area and gated accesses to both properties.
17. The Council are concerned that the proximity of the building to those gated accesses would be such that occupiers of the holiday cottage would experience noise and disturbance from vehicles waiting to access those properties, or from other vehicles turning around. That may be so, were the access drive to be heavily trafficked and serving a larger number of properties. However, I have no evidence before me which would lead me to conclude that that would be the case.
18. For the level of access associated with the limited number of nearby properties, residents would be likely to have remote access to the gates and so waiting times would be limited, if at all. Visitors may have to wait for a short while whilst using an intercom-type arrangement, but I cannot foresee a circumstance where such periods would be so long, so noisy, or so frequent that the living conditions of occupiers of that holiday cottage would be materially and harmfully compromised.
19. The presence of the agricultural building to the rear of the garage is noted. Although presently used for storage, I am advised that there is no reason why it could not be used for livestock at some point in the future. However, I have to determine the application on the basis of the circumstances as they presently exist, not what might happen at some point in the future. Nonetheless, the proposed holiday cottage would be a single aspect building, with main windows / access facing south, away from the neighbouring building.
20. For the reasons I have set out above, I am satisfied that the proposed conversion of the garage to a holiday cottage and its subsequent occupation could be appropriately managed by a suitably worded planning condition. As such, I am also satisfied that the converted building would provide an appropriate level of accommodation, both internally and externally, commensurate with a one bedroomed holiday cottage. There would be no conflict with Harrogate Core Strategy (HCS) policy SG4, Harrogate Local Plan (HLP) policies HD20 or H15 or eHDLP policy HP4.
21. In addition, I have noted that the Council raise no objection to the external design of the conversion scheme and the proposed increase in roof heights would also avoid conflict with these policies. I agree with this conclusion and also find the proposal acceptable in this respect. However, whilst I have concluded that the proposal would be acceptable in terms of living conditions of occupiers of the proposed holiday cottage, that does not outweigh my findings in respect of biodiversity.

Other Matters

22. The proposal includes works of alteration and extension to the main dwelling at Three Wells Farm and the construction of a detached triple carport. From the evidence before me, I concur with the Council's views regarding these aspects of the proposal and I am satisfied that these works would be in accordance with the provisions of HCS policy SG4, HLP policies H15 and HD20 and eHDLP policy HP4 which together seek to ensure that all development makes a

positive contribution to the character and distinctiveness of the surrounding countryside.

Conditions

23. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. Where necessary I have amended the conditions in the interests of precision. Although the Council reached a split decision in respect of the proposed development, the provisions of section 79(1)(b) of the Act are such that the application falls to me in its entirety as if first made to the Secretary of State. I have therefore considered the conditions as set out on the section of the Council's decision notice which deals with elements of the proposal other than the holiday cottage conversion.
24. I agree that a time limit condition is necessary, albeit that I have phrased it in a more conventional manner avoiding a specific date of commencement. Both it, and a plans condition insofar as those plans relate to the element of the appeal which is allowed, are necessary in order to provide certainty. The materials conditions suggested are necessary in the interests of character and appearance.

Conclusion

25. As I set out at the outset, I am satisfied that a split decision can be made in this instance. Thus, for the reasons given above, I conclude that the appeal should be allowed insofar as it relates to erection of carport and porch, replacement of UPVC conservatory with an oak frame structure and alterations to doors and fenestration.
26. With regard to the proposed conversion of the existing garage to form a holiday cottage I conclude that the proposal would provide accommodation of an acceptable quality and quantity, and that the proposed works of conversion in raising the roof of the building would respond positively to the character of the existing building and the surrounding area. However, as it has not been adequately demonstrated that the proposal would avoid harm to, or that proposed mitigation measures would be adequate to mitigate any harm arising from the proposal to, protected species I conclude that the appeal should be dismissed insofar as it relates to the conversion of the existing garage to form a holiday cottage.

Graeme Robbie

INSPECTOR

Schedule of 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 not be carried out otherwise than in strict accordance with the submitted details as set out below:
Drawing No. 01 – Existing plan, elevations and location plan;
Drawing No. 02 Rev C - Proposed plan and elevations and Drawing No. 03 Rev D - Existing and Proposed Site Plans for Proposed Triple Car Port Proposed Elevations
- 3) The external materials of the extension hereby approved shall match those of the existing house.
- 4) The window frames of the development hereby permitted shall be constructed in timber and no other materials shall be used without the prior written consent of the Local Planning Authority.