



Appeal Decision

Site visit made on 13 January 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2020

Appeal Ref: APP/P3040/W/19/3239857

Saw Mills, Scarrington Road, Hawksworth NG13 9DA

- 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 Ms Kate Storey against the decision of Rushcliffe Borough Council.
 - The application Ref 19/01183/FUL, dated 14 May 2019, was refused by notice dated 19 September 2019.
 - The development proposed is the construction of an outbuilding to provide ancillary accommodation to the existing house.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of an outbuilding to provide ancillary accommodation to the existing house at Saw Mills, Scarrington Road, Hawksworth NG13 9DA in accordance with the terms of application REF 19/01183/FUL dated 14 May 2019, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out and completed in accordance with plans reference: 2263/1 rev C proposed site plan and proposed floor plans and elevations 2263/2 rev A.
 - 2) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 2263/2 rev A and as listed on the accompanying application form.
 - 3) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Saw Mills and shall not be sold or let separately.

Procedural matters

2. The Rushcliffe Borough Non-Statutory Plan has been replaced by the Rushcliffe Local Plan Part 2 (2019)(LP). The Council has submitted policy 22 of the LP, which identifies its current approach to development within the countryside. I have taken this policy into account without prejudice to any party.
3. The application form refers to the change of use of an existing garage to additional ancillary accommodation. However, the Council's Decision Notice relates to the retrospective construction of an outbuilding to be used as additional ancillary accommodation. The Appellant has declared, on the appeal form, that the description has not been changed, yet she has adopted the Council's description. Furthermore, her Statement of Case is titled 'construction

of outbuilding'. In evidence, the Council refers to the proposal as relating to the erection of the building. Whereas, the Appellant states that the appeal building was constructed under the 2015 planning approval¹ and is materially complete. However, the Appellant has not provided any evidence to show the completed garage, prior to the ground floor changes taking place.

4. It is therefore disputed whether the construction of the garage was undertaken as a separate building operation to the retrospective works associated with the proposal, or the works were combined. If combined, the correct approach would be to consider the entire structure as being proposed as the changes made are material alterations. I will take the latter approach as this aligns with the more recent description of development and accords with the balance of evidence. I have also removed from the description reference to it being retrospective as this is not a description of development.

Main Issues

5. The main issues are:

- the effect of the proposed outbuilding on the character and appearance of the surrounding countryside, and
- whether the proposal would constitute the creation of a separate dwelling and if so whether this would accord with local policies and the National Planning Policy Framework (The Framework).

Reasons

Character and appearance

6. The appeal site consists of a comparatively large dwelling within extensive grounds. The outbuilding, the subject of this appeal, is beyond a gravel driveway to the side of the dwelling with a large garden behind. Apart from the main garden, small garden areas are also located to the front, side and rear of the main house. The driveway connects to the highway via a single access point. The front boundary is defined by a hedge. The adjacent site is also in the appellant's ownership and includes stabling and a riding arena to the rear. The site is also adjacent to a neighbouring dwelling. The dwelling on the appeal site is within a small group of dwellings to the south of the village of Hawksworth. The site provides distant views of the open countryside to the front and rear. The site consequently makes a positive contribution to the character and appearance of the area.
7. The outbuilding is set back from the highway, behind the rear building line of the main dwelling and substantially smaller in footprint and height. Consequently, it is subservient in scale to the dwelling. Its impact on the surrounding area is therefore limited. The 2015 approval included extensions to the main dwelling which appear to have been constructed. Accordingly, the approved garage is an extant element of that approval and represents a significant fall-back position. Parties agree that the proposed outbuilding is similar in size and shape to the approved garage. Furthermore, on my visit I observed that the outbuilding and internal works were largely completed, requiring minor cladding to complete it.

¹ Planning Application Reference: 15/01657/FUL

8. The approved garage included integral parking for two vehicles, a store to the rear and an internal staircase linking to a first-floor office. The Council's officer report concurs that the proposal is a similar footprint, size and form to the approved garage. Therefore, externally the proposal only differs from the approved garage by enclosing the garage doorway openings and the addition of three sets of patio doors. The location of the garage doorways would be finished with cladding to match the rest of the building. The outbuilding has taken on a more residential character through these changes. However, as an annexe to the main dwelling this is not in itself harmful to the rural character of the site or its appearance in the wider area.
9. The appeal site includes the dwelling, outbuilding and a relatively large garden to the rear of the outbuilding. The outbuilding is set back from the highway behind the rear building line of the dwelling. The building is therefore subservient to the main dwelling. It consists of materials that soften its impact on the surrounding countryside. Furthermore, the building is read in context with the existing group of buildings and therefore has only a limited impact on wider views. As such, although the proposal would represent an alteration from the originally approved building, it would have a limited visual impact on the area. Accordingly, the building would make a positive contribution to the character and appearance of the surrounding countryside.
10. The proposal would therefore accord with policy 22 of the LP, which seeks development in the countryside to conserve the appearance and character of the landscape.

New dwelling

11. The internal space at ground floor has been reconfigured from that approved in 2015. The ground floor includes a fitted kitchen to the rear, a bathroom adjacent to the stairwell and a bedroom and ensuite to the front. The first-floor space is proposed to be retained as a home office. The layout provides the majority of facilities at ground floor required for an independent dwelling. However, the proposal is presented as an annexe, rather than the creation of a separate dwelling. The appellant asserts that the annex would provide accommodation for visiting family and friends and would be ancillary to the main dwelling. Ancillary uses are not distinguished by scale, although that may be relevant. There should be some functional relationship between the ancillary use and the primary use. That functional relationship should be one that is normally found; it is not based on the personal choice of the person carrying out both activities together. For a material change of use to occur the annex must be capable of being fully severed from the primary residential use.
12. Furthermore, even if the accommodation provided facilities for independent day-to-day living it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree. A "granny" annexe, even in a separate building, would normally be regarded as part and parcel of the main dwellinghouse use rather than ancillary to it. Accordingly, there is no reason in law why the outbuilding should become a separate planning unit from the main dwelling. The annexe is within the side garden of the dwelling and in front of its main garden. The dwelling has limited external garden space other than the main rear garden. Furthermore, the driveway and access provide a single point of vehicular access onto the highway. The main house also includes many side windows and an outlook towards the driveway

and annexe. This creates a strong visual link and relationship between the dwelling and the outbuilding. As such, the proposal would not be readily severable from the main dwelling and to do so would deprive the dwelling of a significant portion of its corresponding plot.

13. Consequently, although having a comparatively large footprint, the building would have a functional dependency on the main dwelling and would therefore be ancillary. Although, a boundary division could be erected, this alone would not sever the planning unit or alter the functional dependence of the outbuilding. As such, a material change of use would not occur. However, due to the size of the building, I am satisfied that a condition would be necessary to link it to the dwelling. This would provide clarity as to how it can be occupied and to ensure that it would not become a separate dwelling.
14. I have found the proposed use of the building would be ancillary to the dwelling as a matter of fact and degree. I have therefore not been required to consider whether the proposal would be a suitable location for a new dwelling in consideration of local or national policies. Accordingly, as I have found the proposal to an ancillary use to the dwelling, policy 3 of the Rushcliffe Local Plan Part 1: Core Strategy (2014) is not relevant.

Other matters

15. Representations have raised concerns that the site was marketed for sale and at the time excluded the annexe, showing the owners intention to sever the outbuilding from the main dwelling. However, this is anecdotal evidence and has no real bearing on the main issues. Furthermore, the disposal of parts of a planning unit would not negate the need for separate planning permission to use the annexe as a separate dwelling. Moreover, the imposed condition places a necessary tie between the annexe and dwelling.

Conditions

16. I have considered the use of conditions in line with the Government's Planning Practice Guidance (the Guidance). The Guidance identifies that planning conditions can enable development to proceed where it would otherwise have been necessary to refuse planning permission². A condition is imposed that would ensure that the annexe remain ancillary to the main dwelling. This would be necessary and reasonable to prevent the creation of a separate dwelling. This condition was suggested by the Council and offered by the appellant. Also, on my visit I noted that some external cladding was incomplete. As such, I have added two further conditions that were not suggested by the Council. The first relates to compliance with the approved plans and the second to matching materials. These are required to ensure the satisfactory completion of the development and to provide certainty. I do not consider that any party would be prejudiced by my inclusion of these two additional conditions.

Conclusion

17. For the above reasons the appeal is allowed, and planning permission given.

Ben Plenty

INSPECTOR

² Planning Policy Guidance: 001 Reference ID: 21a-001-20140306