



Appeal Decision

Site visit made on 14 July 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/P0119/W/20/3251036

The Old Mill, 32 Mill Lane, Frampton Cotterell, Bristol, BS36 2AA

- 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 T Draisey against the decision of South Gloucestershire Council.
 - The application Ref P19/18728/F, dated 13 December 2019, was refused by notice dated 28 February 2020.
 - The development proposed is change of use of ancillary accommodation to separate dwelling (C3 use).
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council state that the existing building is unlawful because the original permission¹ for conversion of the adjoining barn into houses included a condition that removed planning permission granted by Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) for the erection of buildings within the curtilage of a dwellinghouse. The appellant argues that the 2017 planning permission was superseded by a second permission², which through omission of the former condition, re-instated these permitted development (PD) rights. On this basis, the appellant constructed the building subject of this appeal for a purpose incidental to the enjoyment of the dwellinghouse on Plot 1 of the barn conversion.
3. It is not for me to determine under a s78 appeal if the building is lawful or not. There is a separate process for that under s191 of the 1990 Act. However, this issue was the basis for the Council's first reason for refusing planning permission to convert the appeal building and it is therefore a main issue, which I shall consider below. My decision does not preclude the appellant from applying for a Lawful Development Certificate to establish the legal status of the building.

¹ PT17/1135/F (November 2017)

² PT18/0440/F (July 2018)

Main issues

4. The main issues are:

- The degree of certainty regarding the lawfulness of the ancillary building;
- Whether or not the proposed development would constitute inappropriate development in the Green Belt with regard to development plan and national planning policy;
- The effects of the proposal on the character and appearance of the area.

Reasons

5. At the site visit the ancillary building was observed to be substantially complete. It is a standalone, flat-roofed, single-storey structure, with an approximately rectangular footprint of nearly 100 m². The front elevation was finished with timber to match the adjacent barn conversion and the remainder was unfinished concrete blocks. The structure has no windows, a single door and was observed to be used for minor storage of small items.

Lawfulness of the existing ancillary building

6. To be 'incidental', the building must be genuinely and reasonably required in order to accommodate the proposed activity. The building was initially to be used for storage, and then potentially as an office and workshop in the future. However, given that the footprint of the building is large enough to be converted to a bungalow, it appears unusually large for these purposes. There is no other information to justify why a building of this scale was required.
7. It is also suggested that the building could have been used in the future as visitor accommodation. If it were to contain a bedroom, the building would be defined as primary living accommodation³ and would therefore not meet the requirements for incidental use under Class E.
8. Moreover, construction of the ancillary building began after the 2018 permission had commenced, but it is not clear from the information provided that the necessary dwellinghouse was substantially complete at the point when building works on the ancillary structure began. Permitted development rights cannot be claimed retrospectively.
9. In the above context, there is a significant degree of uncertainty regarding the lawfulness of the ancillary building.

Appropriateness of location for development

10. The site is in the Bristol and Bath Green Belt. Policies CS5 and CS34 of the South Gloucestershire Local Plan: Core Strategy (adopted 2013)('CS') and PSP7 of the South Gloucestershire Policies Sites and Places Plan (adopted 2017)('PSPP'), together require that proposals in the Green Belt are not inappropriate and comply with the requirements of the National Planning Policy Framework (2019). If the building is lawful, it is of permanent and substantial construction and given that it would not increase in size, it would preserve the openness of the Green Belt. Consequently, the proposal meets the

³ Permitted development rights for householders: Technical Guidance (September 2019),

requirements of paragraph 146 d) of the Framework and the relevant development plan policies.

Character and appearance

11. I recognise that the form of the building with its long flat roof would not be representative of other more traditionally designed single storey dwellings in the area. Nevertheless, in the context of highly varied local architecture, a single storey building would not be harmful in principle. In addition, although not explicitly stated, the plans imply that finishing materials would take cues from the barn conversion, resulting in a coherent appearance across the buildings on the appeal site. Consequently, the character and appearance of the area would be safeguarded. The scheme would accord with the design aims of Policies CS1 of the CS, and PSP1 of the PSPP, which aim to secure high standards of design to protect character and landscape.

Other matters

12. There would be benefits from increasing housing supply and the contribution this would bring to the local economy, but as this is only a single dwelling these benefits would be small. I have noted support from local third parties, citing benefits from an increase in security, continued evolution of the community and the addition of family housing locally.
13. Paragraph 118 of the Framework provides support for development of under-utilised buildings. Based on the information provided, I consider it far from clear that this provision would apply to the building.
14. I have noted discussion regarding location in the open countryside and flood risk at the site. As I am dismissing the appeal for other reasons, it has not been necessary for me to consider these matters further.
15. I have also noted that the appellant is willing to provide an affidavit stating that the building was being used for ancillary purposes, but this is not before me and, in any case, would not address the questions regarding the lawfulness of the building outlined above.

Conclusions

16. If the building is lawful, it would not be inappropriate development in the Green Belt and would not harm the character and appearance of the area. However, if the building is unlawful and the scheme is therefore tantamount to the erection of a new building, the Green Belt assessment, in particular, could be very different. In view of this, I attach significant weight to the concerns that the building may be unlawful, which outweighs my findings of no harm in relation to the other two issues. Consequently, having regard to all other matters raised, I conclude that the appeal should be dismissed.

B Davies

INSPECTOR