
Appeal Decision

Site visit made on 3 August 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2020

Appeal Ref: APP/E2734/W/20/3252361

Colthouse Barn At 412062 469784, Ramsgill, North Yorkshire

- 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 Mrs Judith Middlemiss against the decision of Harrogate Borough Council.
 - The application Ref 19/04976/FUL, dated 16 April 2019, was refused by notice dated 11 February 2020.
 - The development proposed was originally described as internal alterations to convert agricultural barn into dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address provided on the decision notice differs from that given on the appeal and application forms. I have used the address provided on the decision notice as this provides an accurate easting and northing for the barn.
3. The Harrogate District Local Plan 2014-2035 (HDLP) was formally adopted on 4 March 2020. This replaces both the Harrogate District Local Plan (2001, as altered 2004) and the Harrogate District Core Strategy (2009), such that the policies of those plans cited on the decision notice are no longer part of the development plan and have no weight. I have therefore determined the appeal having regard to the relevant policies within the HDLP.
4. Given that the HDLP was adopted prior to the submission of the appeal, the main parties have had the opportunity to comment on any implications. As such, no party has been prejudiced in the appeal process by its adoption.
5. The plans submitted with the planning application have formed the basis of my consideration of the appeal. However, the appellant has put forward amendments to increase the natural daylight into the building. This seeks to address the Council's concerns regarding the living conditions associated with the proposed development.
6. I am conscious that the appeal process should not be used as a means to progress alternatives to a scheme that has been refused. However, where amendments are proposed, regard should be had to whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity.

7. In this case, the amendments would alter the external appearance of the building. This relates to one of the reasons for refusal, but it has not been subject to public consultation through the application process. Taking this into account, I cannot be certain that there would not be any prejudice to any party should I accept an amended design at this stage. As such, in the interests of fairness and natural justice, I have considered the appeal based on the plans which formed the basis of the Council's decision.

Main Issues

8. The main issues are:

- The effect of the proposal on the character and appearance of the surrounding area having particular regard to the location of the site within the Nidderdale Area of Outstanding Natural Beauty;
- The effect of the proposal on protected species;
- Whether the proposal would provide acceptable living conditions for future residents with particular reference to natural light; and
- Whether or not adequate arrangements are made for access and drainage.

Reasons

Character and appearance

9. The appeal site is a stone-built field barn located on a hillside above a car park near Gouthwaite Reservoir within the Nidderdale Area of Outstanding Natural Beauty (AONB). The barn is modest in scale and not prominent from the road along the reservoir. However, it is clearly visible in long distance views and from shorter views from the car park and picnic area. Positioned within a stone bounded field on the hillside, it reads clearly as a rural building designed for agriculture and is a typical component of this landscape. In this respect, it makes a positive contribution to the heritage and landscape values of this part of the AONB.
10. The design has sought to minimise alterations to the barn and intends for the fenestration to appear agricultural. However, a garden and associated domestic paraphernalia and parked cars, even set behind stone walling, would result in a domesticated appearance within the countryside. This would be in stark contrast to the present arrangement which maintains an agricultural character. Light spill from the building and the proposed access drive would accentuate this contrast.
11. The appellant considers that the barn may fall into disrepair if left, but there is nothing before me to suggest that its condition is anything but robust. Moreover, dilapidated barns are not necessarily deleterious within this rural landscape in any event.
12. I did observe other farmhouses and dwellings on the hillside and a farm, which I'm told was previously associated with the barn, is relatively close. However, it sits on a lower ground level, separated by the stream and tree belt, such that the appeal building appears as an isolated structure in the landscape. I also note that there have been conversions of traditional rural buildings in the area.

However, I have not been provided with the details and can not therefore be certain that the circumstances are the same.

13. In any case, I have considered the proposal on its own merits, having regard to the isolated location and position on the hillside of this particular barn. These elements, when combined with the effects from the domestication of the building and access drive, would significantly harm the special character and appearance of this part of the AONB.
14. I therefore find that the proposal would conflict with the requirements of Policies GS3, GS6 and NE4 of the HDLP. These policies stipulate, amongst other things, that the natural beauty and special qualities of the Nidderdale AONB will be conserved and enhanced. Although not specifically referred to in reason 1 of the decision notice, the proposal would also conflict with the requirements of Policy HS6 in this regard. This stipulates, amongst other things, that the conversion of existing buildings to residential use will be supported where the building and its curtilage can be developed without an adverse effect on the historic environment, the character of the local landscape or its setting.
15. The proposal would also conflict with the requirements of the National Planning Policy Framework (the Framework), which states, at paragraph 172, that great weight should be given to conserving and enhancing the landscape and the scenic beauty of an AONB.

Protected species

16. The Habitats Regulations¹ transposed into UK law, the Habitats Directive². The Habitats Regulations include a strict system of protection for European Protected Species which includes bats. Amongst other things, they place a duty on decision-makers to have regard to the requirements of the Habitats Directive in the exercise of their functions.
17. The Framework says (paragraph 175) that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This is reinforced in Policy NE3 of the HDLP.
18. Circular 06/2005³ (the Circular) states that the presence of protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it '*...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision*' (paragraph 99). Consequently, it advises that surveys should only be required by a condition on a planning permission in exceptional circumstances. This is reinforced in advice within the Planning Practice Guidance.
19. In considering the evidence, I have taken account of the appellant's personal circumstances in seeking to reduce up-front costs, the location of the stream and trees, the barns position on the hillside away from any protected ecological site and the potential use of a condition. I'm told that the building was

¹ The Conservation of Habitats and Species Regulations 2017

² the European Union Directive 92/43/EEC

³ Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System

surveyed, and no evidence of bats was found. However, I have no substantive evidence of such a survey or any evidence that this was undertaken by a suitably qualified individual.

20. In my view, given the location of the barn and access drive near the trees, stream and open fields and as a redundant barn there is the potential for the presence of protected species such as bats. The circumstances in this instance are not of such an extraordinary nature as to warrant a different course of action to that outlined in national policies and advice. As such, in the absence of any survey work to understand the potential effects on protected species, I am unable to conclude that the proposal would not have a harmful effect on such species. The proposal would therefore conflict with the requirements of Policy NE3 of the HDLP and the Framework in this regard.

Living conditions

21. Neither party has provided any substantive evidence regarding the extent of the likely levels of natural light which would be achieved internally. The main living room and kitchen would be open plan and would benefit from multiple windows and although these are small, the number and location on 3 walls is such that light would penetrate the room from different directions at different times of the day.
22. The bedrooms are a reasonable size, spanning the width of the barn. Given the size of the openings proposed they could have poorer access to daylight and sunlight than may ordinarily be expected. However, the design approach has sought to reuse existing openings in order to maintain the appearance of the original barn. This would be an approach supported by the objectives of Policy HS6 of the HDLP.
23. Moreover, the Framework advises that, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).
24. In this respect, I am satisfied that the proposal would provide acceptable living conditions for future residents with particular reference to natural light. I have reached this conclusion having regard to the non-habitable nature of the rooms with no windows, the number and location of windows in the main kitchen/living/dining room and having regard to the living conditions as a whole.
25. I therefore find that the proposal would accord with the requirements of Policy HP4 of the HDLP. This states, amongst other things, that development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers. On this matter, the proposal would also accord with the requirements of paragraphs 124 and 127 of the Framework which seek, amongst other things, to ensure good standards of living conditions.

Access and drainage

26. The Council have not referred to any technical impediment to accessing the barn from the existing car park, although I note upgrades are likely to be required. The appellant has signed the relevant declarations stating that they

are owners of the appeal site. Whilst I have no firm evidence of this, any disputes in respect of land ownership are a private legal matter.

27. The submitted drainage scheme would involve discharging to a stream which falls outside of the land ownership of the appellant. However, I have no substantive evidence that an alternative drainage scheme would not be feasible within the appellant's landownership.
28. The Council have not referred to any conflict with any planning policy on these matters. Having regard to the above, I have no substantive evidence before me that either the access or drainage details could not be reasonably secured by way of conditions. I therefore find that adequate arrangements can be made for access and drainage were I minded to allow the appeal.

Other Matters

29. The proposed development would result in an additional dwelling and would make an efficient use of the building which is an objective supported by the Framework. Although I note the suggestion that this would be an affordable starter home, I have no substantive evidence that this would be the case. Nonetheless, there would be social and economic benefits from providing an additional home in the locality, but as a single dwelling, such benefits would be limited.

Conclusion

30. The proposal would result in an acceptable standard of accommodation in terms of natural light and I have no substantive evidence that access and drainage could not be secured. Although I note the dispute regarding landownership, such matters are private legal matters. However, I have concluded that the proposal would significantly harm the special character and appearance of this part of the AONB. Moreover, I am unable to conclude that the proposal would not have a harmful effect on protected species such as bats.
31. I have taken account of all the other matters raised including the benefits of the proposal. However, none changes the balance of these findings and the harm I have identified above. As such, the appeal is dismissed.

Robert Walker

INSPECTOR