The Planning Inspectorate

Appeal Decision

Site visit made on 30 September 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal Ref: APP/N2739/W/20/3256926
Valley House Farm, Moor Lee Lane, Eggborough, Selby DN14 0PX

- 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 S Wright against the decision of Selby District Council.
- The application Ref 2020/0095/FUL, dated 29 January 2020, was refused by notice dated 26 June 2020.
- The development proposed is described as retrospective planning for the erection of streel framed building for use as a garage.

Decision

1. The appeal is allowed and planning permission is granted for development described as retrospective planning for the erection of streel framed building for use as a garage at Valley House Farm, Moor Lee Lane, Eggborough, Selby DN14 0PX in accordance with the terms of the application, Ref 2020/0095/FUL, dated 29 January 2020, and subject to the following conditions:

    1) The development hereby permitted shall be carried out in accordance with the following approved plans, reference 020/06/SPLP/A and 020/06/PP.

    2) Notwithstanding the plans hereby approved, the materials and finishes to be used in the development hereby permitted shall be as they are specified on the planning application form.

    3) The development hereby permitted shall only be used for purposes incidental to the enjoyment of the residential dwelling currently known as Valley House Farm as it is shown on the plans hereby approved to the south of the development hereby permitted and no trade or business shall operate therefrom.

Application for costs

2. An application for costs was made by Mr S Wright against Selby District Council. This application is the subject of a separate decision.

Procedural Matter

3. The appeal scheme is described as seeking retrospective planning permission. Whilst it is the case that a structure on the site has been erected, this is formed by a steel frame that does not yet have a floor slab, doors, a finished roof or any wall coverings. I have considered the development accordingly as

still proposed since it is only, in light of the above, part retrospective. I have proceeded on this basis.

Main Issue

4. The main issue is the principle of the proposed development, having regard to the development plan.

Reasons

5. The appeal site is in the countryside, located well outside any defined settlement. Policy SP2 of the Local Plan[1] sets out the broad aims of the Council's spatial strategy. In so doing, it explains that the majority of new development should be directed towards the towns and more sustainable villages. In a hierarchical manner, SP2 then sets out those areas where new development could be accommodated in accordance with the identified strategy. This starts with the towns, then local services centres and then designated service villages. Some of which are identified as having shared services.

6. SP2 highlights that development in the countryside (outside of these areas and where the appeal site is) will be limited to certain types. One being the replacement or extension of existing buildings.

7. The crux of the case before me appears to rely, in part, on whether the proposed development would be a replacement building. In regard to this, the Council rely on the findings of my colleague in an appeal for the retention of a reconstructed barn and installed Klargester Bio Treatment Unit on land off Stratford Road, Whaddon, Bucks MK17 0ND[2]. The Council explain that, owing to these findings, the appeal scheme must be considered a new build. In their preliminary remarks, my colleague explained that… '*A smaller building on the site was demolished and the building the subject of the appeal, which has already been erected, is apparently intended as a replacement. However, in these circumstances it is well established that there is no permission for any reconstruction in the absence of express authorisation of any such works. Thus, the development must be considered as the erection of a new building.'*

8. I agree that the structure that has been erected on the appeal site is a new building. By definition. It has been, and indeed if it were finished no doubt intended to be, erected as new, afresh and with new materials. That is not to necessarily say that, for planning purposes, it is not a replacement building. Whilst I understand the Council's logic to a point, my reading of my colleague's findings was them establishing that what had been erected would require the benefit of express planning permission by virtue of the fact that it was a new building. As would any building that would be erected regardless of whether it was a replacement or not.

9. There does not appear to be any disagreement between the Council and the appellant that there was, up until the fairly recent past, a shed type building on the site of the current structure. Indeed, there is some evidence to this effect provided by the appellant in the form of photographs and maps. One could therefore legitimately consider the current structure a replacement. I feel that the proverbial waters could be muddied in this respect if say a substantial

[1] Selby District Core Strategy Local Plan 2013
[2] Planning Inspectorate Reference APP/J0405/W/19/3242330

amount of time had elapsed between the demolition of a previous building and the erection of a new one and, for the sake of argument, the land on which it was situated had become subsumed into the landscape but this does not appear to be the case for the appeal scheme. Particularly since a building is present on some very recent ordnance survey base data and aerial photo imagery. The Council do allude to there being limited evidence to suggest that the building was an immediate replacement but I see no mention in policy of a need for a replacement building to be considered so on the basis of any immediacy or indeed fixed timescale of some sort.

10. I agree that the appellant has begun the erection of a new building without the required express planning permission to do so but an application, or in this case appeal, to do so is now under consideration and subject to such under the auspices of the development plan. Of which Policy SP2 is part. For the reasons I have explained, the proposed development would be a replacement building and thus a type of development that SP2 considers as being acceptable in the countryside.

11. SP2 does not set out any further criteria by which replacement buildings will be considered in terms of size, siting or design. It does however also allow the extension of a building and thus there is an inference that a building in the countryside could be made larger. The proposed plans I have seen do show a larger building but the change in size or scale is not significant, to the point I would consider it limited to being slightly wider at best and as such the ridge height marginally lower.

12. Policy SP19 advocates high quality design that has regard to local character, identity and context. Suggesting that account be taken (in new development) of its surroundings and the open countryside. The proposed development would be of a utilitarian design, arguably reflective of the modern agrarian type. It would be low rise, single storey in overall height and on a land level noticeably lower than the surrounding area. The wider land parcel on which it will be sited is surrounded by dense planting and mature trees. Public views of it would be very limited and restricted to fleeting glimpses when passing the gated access to the dwelling. In addition, it would be on the site of a previous building of very similar scale that the evidence suggests was part of the rural landscape for a significant period of time. I therefore feel that the building would sit squarely with the requirements of Policy SP19, subject to an appropriate external finish which I shall come onto later.

13. The Council set out an explanation of the difference between whether a building might anecdotally be a replacement and when that might be confirmed through the granting of a planning permission prior to anything being demolished or built in its place. In the absence of the latter, the Council are of the view that the building is new and not a replacement. I have set out above that any building newly erected would be by definition a new building whether it was a replacement or not. Planning permission would nearly always be required therefore in the majority of cases. Whether a building is a replacement or not is a matter of judgement on the specific circumstances of the case and for the reasons I have given above I consider that the appeal scheme would be. I do not feel however that, also for the reasons I have given, whether such is exclusively dependent on whether a planning permission has been granted.

Conditions

14. I have not set out a timescale for the implementation of the commencement of works given that the appeal scheme is part retrospective. I have however, for clarity and the purposes of enforcement going forwards, set out the approved plans.

15. The Council suggested a condition that all external surfaces should be finished in Juniper Green. Whilst I see the merit of this given the verdant surroundings, I do not see that it would be necessary to make the development acceptable. The details on the planning application form set out that the walls and roof will be finished in a grey profile sheet. Indeed, the roof is already part covered in such a colour. Given the degree of enclosure of the wider site, the lower land level on which the building would sit, the inconspicuous nature of the proposed development itself and the fact that the dwelling nearby has a more obvious rendered finish, I do not feel a grey exterior would be unduly harmful. I have accordingly referred to such details by imposing a second condition.

16. Concerns have been expressed locally to the use of the building going forwards in that it remains one related to the dwelling. I have imposed a condition for such, seeking to ensure it remains for the use of the dwelling and using wording to ensure this would remain the case even if the dwelling changed its name in the future. This reflects the intentions of the appellant, in the interests of the local infrastructure and the living conditions of nearby occupiers.

Conclusion

17. I have considered other matters that have been raised but it is for the reasons and subject to the conditions set out above that the appeal is allowed.

John Morrison

INSPECTOR