
Appeal Decision

Site visit made on 14 October 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2020

Appeal Ref: APP/E2734/W/20/3256601

Book End Farm, Timble LS21 2NN

- 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 & Mrs Lumley against the decision of Harrogate Borough Council.
 - The application Ref 20/00068/FUL, dated 7 January 2020, was refused by notice dated 3 March 2020.
 - The development proposed is described as the conversion of agricultural building to one dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Harrogate District Local Plan 2014-2035 (HDLP), which was in draft at the time the Council refused planning permission, 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 Harrogate District Local Plan 2014-2035.

Main Issues

3. The main issues are 1) the effect of the proposed development on the character and appearance of the area with particular regard to the Nidderdale Area of Outstanding Natural Beauty (AONB), 2) whether the existing building is capable of conversion to residential use, and 3) the effect of the proposed development on the living conditions of future occupants.

Reasons

Character and appearance

4. The appeal site is located in the Nidderdale AONB where the primary purpose of the AONB designation is to conserve and enhance the natural beauty of the area. The appeal property is an existing steel-framed agricultural building. The main front elevation is predominantly open with the remaining elevations

- comprising pre-cast concrete panels and open slat timber cladding. It has a corrugated sheet roof.
5. The appeal property runs parallel with a track leading from the village that provides access to agricultural and residential buildings. This track is also a Public Right of Way. There is an established hedge, interspersed with mature trees on the strip of land between the track and the building. The southern elevation of the building enjoys commanding views of the surrounding open countryside on a slightly elevated position.
 6. I find that, notwithstanding the proposed use, the elevational treatment in terms of the use of traditional materials, albeit in a modern design would not harm the character and appearance of the area. That said, the development must be considered as a whole, where the proposed use is a fundamental factor in considering the impact on the character and appearance of the area, particularly the AONB.
 7. The creation of a residential use with associated curtilage inevitably brings domestic outdoor paraphernalia such as; parked cars, bins and bin storage, washing lines, play equipment, garden furniture, planting containers and a garden landscape. This would significantly change the character and appearance of the site, having an urbanising effect upon it, which would be visible from the Public Right of Way. The proposal amounting to new development in the open countryside and the AONB would not maintain the intrinsic character and beauty of the area.
 8. I acknowledge that the existing use inevitably brings a degree of agricultural related paraphernalia, some of which was evident on my site visit. Such equipment is however characteristic and unavoidable in rural settings such as this and I therefore draw little comparison between that and the nature of the appeal proposal.
 9. The appellant has commented that such domestic paraphernalia is not proposed. I accept that no such features are shown on the proposed plans but consider it highly unlikely that over the lifetime of the proposed property, such items would not be common features as they are almost inevitable features for residential properties. Particularly in this case where it would benefit so meaningfully from such amiable views and be aimed, albeit if not immediately, at family occupation.
 10. Although I find that, in isolation, the design of the development would not harm the character and appearance of the AONB, I find that when taken as a whole, the development, comprising a residential property and associated curtilage, would significantly harm the special character and appearance of the AONB. It would be contrary to Policies GS6 and HS6 of the HDLP which require, amongst other things, that development should not detract from the natural beauty and special qualities of the Nidderdale AONB and that for proposals such as this, the building and its curtilage can be developed without an adverse effect on the character of the local landscape.
 11. The development would fail to conserve and enhance landscape and scenic beauty within an AONB as required by the National Planning Policy Framework (the Framework).

Capable of conversion

12. Policy HS6 of the HDLP considers the conversion of rural buildings for housing. Outside defined settlement development limits the conversion and/or re-use of existing buildings to residential use from other uses will be supported where, amongst other things, the building is of permanent and substantial construction, structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction.
13. The proposal would retain the existing concrete panels and timber boarding. The existing structural steel frame would remain in place. The majority of the existing roof would be replaced with a new roof covering. The proposal would include the installation of new walls and some new timber cladding. It would include new windows, doors, internal walls, a new floor slab and a first floor which can be supported by new cross walls.
14. The Courts have held that in instances such as this it is a matter of judgment, for the decision maker, to establish in each case where the line is drawn, by considering the type and extent of the works proposed in terms of whether a proposal amounts to a conversion rather than a re-build.
15. The structural report finds that the existing building is in good condition and of sufficient size to accommodate a dwelling. It concludes that it is suitable for conversion to a dwelling although the new roof would need to be of a similar weight to the existing.
16. I have no reason to dispute the findings of the structural report as it relates to the condition of the existing building. However, from the evidence before me, the dwelling appears to take a very minimal level of help from the existing building, with the proposed dwelling effectively sitting inside the shell of the existing building. The proposals, including a significant level of works, including the provision of new walls, glazing, roof, concrete floor and first floor, would amount in effect to the creation of a new building. The extent of the works needed means that the proposal would not be a conversion. The retention of the existing building, that does not appear to bear any additional loading, which should actually be placed on new structural walls, is such that the works needed to alter the use to a dwelling are of such magnitude that in practical reality what is being undertaken exceeds a conversion.
17. Taken as a whole, I consider the existing building would not be able to function as a dwelling. The works required would be significant and result in the substantial re-building of the pre-existing structure and cumulatively, the extent of the works required would extend beyond the building operations reasonably necessary to convert the building to residential use.
18. I therefore conclude that the existing building is not capable of conversion to residential use without significant works being undertaken that would amount to the creation of a new building. The proposal would be contrary to Policy HS6 of the HDLP which requires, amongst other things, that the conversion of rural buildings to housing must, amongst other things, be without the need for substantial alteration or reconstruction.

Living Conditions

19. In order to address the impact of light from the dwelling, the development proposes the installation of large sliding timber doors to cover the larger glazed

sections. The appellant has outlined that these would be closed during evening and night-time hours and would be open during daylight hours. The Council consider that such an arrangement would fail to provide acceptable levels of amenity for future occupants.

20. I find that their use, as put to me, would not have an unacceptable impact on the living conditions of future occupants. Their impact would be no greater than internal blinds or curtains and when used as proposed there would not be an unacceptable impact on levels of light or outlook.
21. Thus, I find that the proposed development would not have an unacceptable impact on the living conditions of future occupants. It would comply with Policy H4 of the HDLP which requires, 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.

Other Matters

22. The appellant considers that were it not for being located in the AONB, the proposal would constitute permitted development. Although I have had regard to the factors that are relevant to such proposals under the prior approval procedure, the ultimate fact that the site is within an AONB where such permitted development rights do not apply is paramount. The development plan has primacy in cases such as this, and given that the permitted development does not represent a fallback by any means, I give this argument little weight.
23. In support of the proposal, the appellant has referred to other new dwellings that have been created in the area. I do not have full details of these cases. Of the examples that are not located within an AONB, due to the difference in the nature of the location, I give these limited weight. With regard to the example that is located within an AONB, this pre-dates the current development plan and Framework. It does not persuade me that the appeal proposal is acceptable against the harm I have identified. I have in any event determined the appeal on its own individual planning merits.

Conclusion

24. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR