



Appeal Decision

Site visit made on 16 December 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/E2001/D/20/3260560

Raby Lodge, 26 Cave Road, Brough HU15 1HL

- 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 Sally Kelly against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/00129/PLF, dated 9 January 2020, was refused by notice dated 12 August 2020.
 - The development proposed is new building to provide a family home office & pool house & ancillary recreational spaces.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the appellant given on the appeal form is different from the name given on the planning application form. However, the original applicant has confirmed that she is progressing the appeal and this is reflected in the banner heading above.
3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

4. The main issues are the effect of the proposal on:
 - The character and appearance of the host property and the area; and
 - A protected tree.

Reasons

Character and Appearance

5. The appeal site consists of a large detached dwelling set within an extensive garden area which includes a number of mature trees. This is characteristic of the wider area which includes of a number of individual dwellings in spacious

- plots, as well as subservient curtilage buildings. The site is located outside of the development limits defined in the Local Plan 2016 (the Local Plan), and is therefore considered to be within the countryside for planning policy purposes.
6. The appeal proposal is for a 2-storey detached outbuilding of a significant scale, located within the large garden. As well as enclosing an existing outdoor pool, it would include other elements such as a home office, gym, kitchen/dining area, dance studio and games room.
 7. Due to the scale of the proposal, the building would be an incongruous feature which would not appear as a subsidiary outbuilding even within the context of this substantial plot. The building would be visible from Cave Road, albeit fleetingly between existing trees. The proposal would also appear as an over-prominent feature in views from the nearby golf course, and this impact would be exacerbated due to the raised level of the appeal site. The comments in support of the proposal from a representative of the golf course do not lead me to a different conclusion based on my own observations.
 8. The Council's Design Guide for Home Extensions (the Design Guide) advises that outbuildings should be sympathetically related to the main dwelling in respect of proportion, amongst other things. The Design Guide also indicates that 2-storey outbuildings may be acceptable in particularly large gardens, as is represented by the appeal site.
 9. However, the Council contends that the proposal would appear tantamount to the creation of a new dwelling, although I have determined this appeal on the basis that the proposal is for an ancillary outbuilding. That said, even though the proposed building would not be as high as the existing dwellinghouse, it would be a substantial building which would compete with the scale of the existing dwelling and would detract from its appearance as the main building within the site. I acknowledge that large dwellings may have extensive outbuildings, but even allowing for the setting of the area the proposal would appear as an incongruous feature.
 10. The proposal would not meet any of the criteria set out in Policy S4 of the Local Plan where development in the countryside will be supported. The supporting text for Policy S4 indicates that this policy is not intended to exclude extensions to dwellings of an appropriate size and respectful to the character of the area. The appellant submits that the Local Plan makes no reference to 'outbuildings'; however, whilst that may be so, this does not mean that the Local Plan supports proposals of this nature.
 11. I conclude that due to its scale and location, the proposal would lead to significant harm to the character and appearance of the host property and the area. The proposal would therefore be contrary to policies S4 and ENV1 of the Local Plan in respect of achieving high quality design in the countryside. The proposal would also be contrary to the National Planning Policy Framework (the Framework) with regards to achieving well-designed places.

Protected Tree

12. The proposed building is located in the vicinity of a mature beech tree which is one of a number of trees protected by a Tree Preservation Order (TPO). The appellant has submitted an Arboricultural Report¹ which concludes that many of

¹ BS5837: 2012 Arboricultural Report, Key Tree Solutions, 10 March 2020.

the trees are considered to be of high value and an asset to the site, and the development takes this into consideration by making the beech tree a focal part of the development.

13. The Arboricultural Report indicates that the development appears to impact on the Root Protection Area (RPA) of the beech tree. However, it refers to a retaining wall to the north of the existing pool which has been built on deep foundations, and it considers that it is highly unlikely that roots will have extended to the south of this wall. The Report concludes that no extra protection for retained trees is necessary and provided that all building works can be undertaken from south of the pool wall, the need for an arboricultural method statement is not considered to be necessary at this point.
14. I saw that there is a low brick wall which runs from one corner of the pool pump house building. Based on the submitted plans, it is clear the ground floor of the building would project beyond the line of this wall. If this is the 'pool wall' referred to in the appellants evidence then the proposed building works would extend into the RPA of the protected tree, with potential harm to its survival.
15. However, I am mindful that the retaining wall may be a subterranean structure which is not readily apparent on site and which may not follow the line of the brick wall. That said, the evidence submitted in respect of the nature and extent of this retaining wall is limited. For example, existing foundations are shown on Section C-C² through the building, but not on Section A-A³. I consider that the evidence provided by the appellant is not sufficiently robust in respect of the nature and efficacy of the retaining wall in preventing harm to the RPA of the protected tree.
16. I conclude that it has not been demonstrated that the proposal would not harm a tree protected by a TPO. The proposal would therefore be contrary to policies ENV1 and ENV2 of the Local Plan in respect of high quality design which retains important trees. The proposal would also be contrary to the Framework regarding conserving and enhancing the natural environment.

Other Matters

17. The appellant refers to planning permissions granted elsewhere, including a dwelling and a 2-storey workshop. However, I have not been presented with sufficient details of these schemes to determine if they represent a direct parallel to the appeal proposal, including matters of design and planning policy. In any event, I have determined this appeal on its own merits.
18. I note the frustrations expressed by the appellant in relation to the advice from the Council and the decision process leading to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross INSPECTOR

² Drawing Number: (03)_002 Rev P2

³ Drawing Number: (03)_001 Rev P2