



Appeal Decision

Site visit made on 21 June 2021 by Darren Ellis MPlan

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2021

Appeal Ref: APP/E2001/W/21/3271089

7 High Street, West Cowick, DN14 9DZ

- 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 Peter Bartle against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/02871/PLF, dated 30 August 2020, was refused by notice dated 10 November 2020.
 - The development proposed described as outbuilding conversion to residential dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the outbuilding conversion to residential dwelling at 7 High Street, West Cowick, DN14 9DZ in accordance with the terms of the application 20/02871/PLF, dated 30 August 2020, subject to the conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. In this respect, I am mindful that neither the appellant nor the Council have made any further submissions regarding the revised Framework. However, in light of this re-consultation, I am satisfied that any references made to the revised Framework within this decision would not be unreasonable to the parties.

Main Issue

4. The main issue in this case is the effect of the development on the living conditions of the occupiers of the existing dwelling, with particular regards to private amenity space and outlook.

Reasons for the Recommendation

5. The appeal site consists of a large outbuilding and part of the garden to the rear of 7 High Street and is accessed through an archway between Nos 5 and
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7. The proposal would see the outbuilding with a small extension converted into a separate dwelling and the existing garden area partitioned to provide private garden areas for both the new dwelling and No 7.
6. Currently, the rear amenity area for No 7 consists of a paved courtyard area immediately to the rear of the dwelling and a large landscaped garden area behind the outbuilding, with a path to the side of the outbuilding that links the courtyard to the garden area. Due to this layout, the garden area has very limited visibility from the main house. The courtyard is currently open on one side, which allows views to and from No 5 and the driveway area between No 5 and the outbuilding.
7. The situation of both the courtyard area and the path to the garden, including the boundary fence with No 9, would remain unchanged as a result of this proposal. The submitted plans show the courtyard would remain open on one side, and as no windows are proposed in the rear or eastern elevations of the new dwelling there would be no additional overlooking of the courtyard area or path. The elevation of the outbuilding that faces the courtyard and the rear of No 7 would be the same size as it is currently and the subdivided garden would still have very limited visibility from the existing dwelling. Therefore, there would be no change in outlook from the courtyard or No 7.
8. The means of access to the rear garden would also remain as existing for the occupiers of No 7. In other words, residents of the property already have to walk around the outbuilding via the passageway to reach the garden which is separated from the courtyard to the rear of the dwelling. The proposed garden would be no less accessible or further away than the present garden. Given that residents will be well used to that arrangement it is not clear how the proposal would be significantly detrimental to their enjoyment of the external space. The rear garden for No 7 would be smaller, however it would still be generous in size and no substantive evidence has been provided that demonstrates that the garden size is insufficient for the property. Whilst the proposed layout may not be a common layout, it would appear to be a logical and suitable subdivision of the site.
9. The location plan on the submitted drawings shows the blue line boundary as going through part of the plot of No 9. However, the existing and proposed block plans clearly show the existing access and that it would not change or encroach beyond the boundary with No 9. In other words, the proposal, as depicted within the red line boundary, does not propose any alteration to neighbouring land and any encroachment shown on the blue line does not impact on my assessments of the merits of the proposed development. Any issue relating to ownership rights sits outside the scope of planning control.
10. For these reasons, the proposal would not cause harm to the living conditions of the occupiers of No 7. The proposal would therefore accord with policy ENV1 of the East Riding Local Plan Strategy Document (April 2016), which requires in part B.4 for development to have regard to the amenity of existing or proposed properties.

Other Matters

11. The Council states that the proposal to provide a new dwelling in the village is acceptable in principle, although in their statement they state that it is not clear and has not been demonstrated that the proposal makes the best use of

the outbuilding whether any other potential use has been considered. However, it has not been shown that such a test is necessary to satisfy planning policies. Providing that the use is acceptable in planning terms I am unaware of any requirement to consider an alternative.

12. During the original application, the neighbour at No 5 expressed concerns that the use of the courtyard area would cause a loss of privacy to No 5. However, the situation of the courtyard would remain unchanged and, furthermore, the use of the courtyard as an amenity space could occur at any time regardless of whether this proposal is allowed or not.

Conditions

13. The Council suggested a number of conditions, which I have considered in the light of the advice in the National Planning Policy Framework and Planning Practice Guidance. In some cases, I have edited the suggested conditions for clarity and enforceability.
14. I have imposed the standard time limit condition and in the interests of certainty specified the approved plans.
15. A condition requiring the exterior materials to match the existing building is necessary to ensure the development does not cause harm to the appearance of the area.
16. In the interests of privacy for the occupiers of the existing and proposed dwellings, conditions requiring details of boundary treatments and for the proposed rear rooflight to have obscure-glazing are necessary. For the same reason, it is necessary to remove permitted development rights for any additional windows or openings in the rear elevation or roofslope.
17. The Council suggested a condition, in the interests of highway safety, that no dwelling shall be occupied until the vehicular access and parking provision has been provided as shown on the approved drawings. However, the submitted drawings do not show the proposed parking layout for the existing or proposed dwellings. Furthermore, it would be unreasonable for the condition to require the existing dwelling to be unoccupied until any new parking provision is in place, as the dwelling is already occupied. The Council also suggest that the parking spaces should be positioned such that vehicles may enter and leave the site in a forwards gear. However, I note that the Highway Authority raised no objection to parking provision which involves a vehicle reversing onto the highway, given the 30mph speed limit and as other neighbouring properties have a similar arrangement. Based on the evidence before me I have no reason to disagree with the Highway Authority's position. For these reasons, a condition shall be attached which requires details of vehicular access parking to be submitted to and approved by the Council and subsequently implemented prior to the occupation of the converted dwelling.
18. In the interests of wildlife and ecology, it is necessary to impose conditions requiring the development to be carried out in accordance with the recommendations in section 9 of the submitted Bat, Breeding Bird and Barn Owl Survey (MAB Environment and Ecology Ltd, October 2020) and for bird boxes to be installed as per section 10 of this survey.
19. It is necessary to attach a condition that requires details of a foul and surface water drainage scheme as detailed in section 4 of the submitted Design and

Access Statement are implemented, in order to provide a satisfactory means of drainage.

Conclusion

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and planning permission granted subject to the conditions in the attached schedule.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the recommendation. On that basis the appeal is allowed and planning permission is granted subject to the conditions in the schedule below.

Chris Preston

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing & Proposed Plans & Elevations & Block Plan drawing no. BAR-599-01-001.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The converted dwelling hereby permitted shall not be occupied until boundary treatments around the perimeter of the site have been erected in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to the occupation of the development hereby permitted the rooflight in the south-west facing roof slope shall be glazed in obscure glass (to a Pilkington Privacy Level of at least 3) and be retained thereafter.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, rooflights or dormer windows other than those expressly authorised by this permission shall be constructed on the south-western elevation.
- 7) The converted dwelling hereby permitted shall not be occupied until the vehicular access and car parking spaces to serve the existing dwelling at No 7 and the converted dwelling have been provided in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 8) The development hereby permitted shall be carried out in accordance with the recommendations in section 9 of the submitted Bat, Breeding Bird and Barn Owl Survey (MAB Environment and Ecology Ltd, October 2020).
- 9) Prior to the occupation of the development hereby permitted two bird boxes shall be installed in accordance with section 10 of submitted Bat, Breeding Bird and Barn Owl Survey (MAB Environment and Ecology Ltd, October 2020) and the manufacturer's installation recommendations, and shall be retained thereafter.
- 10) The development shall not be brought into use until the approved foul and surface water drainage details have been fully implemented in accordance with the submitted details. The surface water drainage system shall be managed and maintained in accordance with the approved details.