

Appeal Decision

Site visit made on 18 October 2021

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th November 2021

Appeal Ref: APP/Y2620/W/21/3274788

Field View, Alby Hill, Alby, Norfolk NR11 7PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Karl Barrett against North Norfolk District Council.
 - The application Ref PF/20/1532 is dated 2 September 2020.
 - The development proposed is erection of detached building for garden room (part retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. At the time the application was submitted in September 2020, the proposal was described as "part retrospective". At the time of my site visit a building has now been constructed on the appeal site. I have assessed the appeal proposal on the basis of the submitted plans rather than what has been built. For the avoidance of doubt, having regard to third party representations and the conditions at the appeal site, this appeal relates only to the detached building for which planning permission was applied for in September 2020.
3. The appeal arises because the Local Planning Authority (LPA) did not issue a decision within the prescribed period. The LPA as part of its appeal statement has submitted three putative reasons as to why, in its opinion, planning permission should not be granted. The appellant has had opportunity to respond to these reasons and I have taken this into account in my decision.
4. The main issues in this appeal are firstly whether the proposed use would be suitable, in principle, at the appeal location and secondly the effect of the proposed garden room building on the character and appearance of the area.

Reasons

Principle of a Garden Room

5. The appeal site is a small parcel of land at the edge of the loose pattern of housing development of Alby Hill. The site remains bounded in large part by established deciduous vegetation including mature trees and hedgerow specimens. Intrinsically, it is part of the prevailing countryside character and characteristic of the patchwork of smaller fields and paddocks found in and around the small rural community at Alby Hill.

6. From the evidence before me, the appeal site appears to have previously been linked to the nearby property of 'Sloe Cottage' (formerly 'Marchlands'). The information provided by the LPA deals with the chronology of the severance of the appeal site from the former host property. This is not disputed by the appellant, who refers to 'Sloe Cottage' being a residential property, with the extrapolation that the appeal site is amenity land formerly associated with this dwelling. Counter to this, is the character and position of the appeal site as described above, together with the clear separation from 'Sloe Cottage' by the established access track serving this part of Alby Hill. From the plans before me, the appeal site does not appear to have been part of any residential curtilage of 'Sloe Cottage'. Furthermore, I cannot discount the previous planning history to the site in the 1990s, as summarised by the LPA, in which the appeal site was referred to by previous applicants as either 'poor quality farmland' or 'redundant farmland' and the small building that stood on the site as a 'piggery'.
7. The appeal site is not an area of garden or amenity land now associated with the occupation of any of the residential properties at Alby Hill. In principle, I do not consider the proposed garden room use would reflect the character or land use of the appeal site and as such the functional purpose of the building (for shelter and sanitation) would not be justified on this parcel of countryside.
8. The appellant submits that the LPA has accepted that the appeal site is amenity land through various enforcement correspondence and by the validation of the planning application. In the enforcement letters before me, it is clearly stated by the LPA that their opinion is "...the land has an agricultural classification"¹. Whilst the LPA's letter of 2 July 2020 addresses the appellant's assertion (31 May 2020) that the appeal site is amenity land, the LPA is consistent in its correspondence that no permitted development rights exist at the appeal site. Similarly, whilst the LPA validated the application as a proposal for a 'garden room', this appears to simply reflect what the appellant applied for. I cannot read into the LPA's letter of 30 October 2020 an acknowledgement that the status of the appeal site should be amenity land.
9. I therefore conclude that the proposed use, which would be an ancillary building for a residential use, would not be suitable, in principle, at the appeal location. It would be contrary to Policies SS1 and SS2 of the North Norfolk Local Development Framework Core Strategy 2008 (*the NVCS*) which state that development in the countryside will be limited to that which needs a rural location.

Character and appearance

10. Alby Hill comprises of a scattering of established dwellings within a verdant setting interspersed by numerous trees and small pockets of open land, including paddocks and pasture. There is a notably loose pattern to the small number of dwellings and outbuildings, such that Alby Hill has a distinctively rural character. This can be appreciated from various public rights of way, including a footpath which passes directly to the west and north of the appeal site.
11. From the submitted plans and photographs provided by the appellant, the building that existed on the site was a modest and simple brick structure,

¹ Letter of 14 May 2020, LPA Reference ENQ/20/0066

characteristic of small traditional rural outbuildings. The plans of the 'existing' partial building show few openings other than a doorway on the southern (front) elevation and that despite the wider original footprint, only a modest, partial central section of the building remained generally above floor level. This is corroborated in the photographs provided by the appellant.

12. Whilst what is proposed is generally on the footprint of a previous structure, it would nonetheless be a sizeable building, significantly larger than the remaining central section shown on the 'existing' plans and in the photographs. Generally, there is limited evidence to demonstrate the scale, massing and appearance of what was previously there. Moreover, what is proposed is a building with an overtly residential character including two domestic style door openings and three domestic window openings. There would be openings on elevations of the building which from the 'existing' plans appear to have been very simple, plain walls. This includes the rear and western side elevations facing out towards adjoining countryside and visible from the rural footpath described above. In contrast to the available evidence of the humble, utilitarian building that existed on the site, the appeal proposal would result in a building of conspicuous domestic appearance that would harmfully erode the prevailing rural, open character at this edge of Alby Hill.
13. The appellant refers to similar structures throughout the North Norfolk countryside, but I have not been directed to any specific examples. I observed other ancillary structures elsewhere in this part of Alby Hill but noted they are generally of a simple appearance, characteristic of rural outbuildings, in notable contrast to the residential appearance of the appeal proposal. As set out above, in many perspectives, the appeal building would appear as a domestic development, harmfully consolidating the loose pattern of dwellings in this peripheral part of Alby Hill.
14. I therefore conclude that the proposed garden room building would result in significant harm to the rural character and appearance of the area. It would therefore be contrary to Policy EN4 of the NNCS which requires, amongst other things, that development respects the character of the surrounding area and is suitably designed for the context within which they are set. This is consistent with the National Planning Policy Framework (NPPF) at paragraph 130 which advises that development should add to the overall quality of the area, be sympathetic to local character, including their setting and maintain a strong sense of place.
15. Policy EN4 further states that design which fails to have regard to the local context and does not preserve and enhance the character and quality of an area will not be acceptable. This is consistent with the NPPF which at paragraph 134 affirms that development which is not well designed should be refused.

Other matters

16. Whilst I recognise the appellant's frustration regarding the length of time taken resulting in this appeal for non-determination, the appeal site presents a complex case. Whilst the LPA have confirmed they were content "as long as works to the small brick building are repairing and re-building what is there", the submitted plans would clearly involve new elements beyond the small, partial, central element of the remaining building along with a considerable number of new openings. As such, I am unable to conclude that the LPA has

sanctioned the appeal proposal or that what is proposed would be identical to whatever detached building existed on the site. Overall, there is nothing in the way in which the LPA has handled circumstances at the appeal site, which would amount to a material consideration weighing in favour of allowing the appeal proposal.

Conclusion

17. On the two main issues in this appeal, I have found the proposal would be contrary to the relevant development plan policies. I have carefully considered all points raised, but there are no material considerations in this case which indicate a decision other than in accordance with the development plan. Accordingly, the appeal is dismissed for the reasons given.

David Spencer

Inspector.