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# Appeal Decision

Site visit made on 16 November 2021

**by K Savage BA(Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 December 2021**

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**Appeal Ref: APP/R2520/D/21/3275271**

**Gap In The Hedge, Moor Lane, Potterhanworth, Lincoln LN4 2AT**

- 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 and Mrs Hiatt against the decision of North Kesteven District Council.
  - The application Ref 21/0034/HOUS, dated 11 January 2021, was refused by notice dated 6 May 2021.
  - The development proposed is described as 'removal of existing chicken sheds and construction of new annex accommodation. New building to be same size as existing (footprint & height).'
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## Decision

1. The appeal is allowed and planning permission is granted for the removal of existing chicken sheds and the construction of new annex accommodation to the same size as existing (footprint & height), at Gap In The Hedge, Moor Lane, Potterhanworth, Lincoln LN4 2AT in accordance with the terms of the application, Ref 21/0034/HOUS, dated 11 January 2021, and subject to the conditions set out in the attached schedule.

## Main Issues

2. Based on the Council's reason for refusal, the first main issue to be considered is whether the proposal would amount to the creation of separate dwellings in the countryside. The second main issue is whether the proposal would be suitably located, having regard to the nature of the accommodation proposed and relevant national and local planning policy regarding development in the countryside.

## Reasons

*Whether separate dwellings created*

3. The application describes the proposal as annex accommodation to the existing bungalow on the appeal site. An existing chicken shed, no longer in use as such but functioning as a general garage/storage area at the time of my visit, would be demolished and replaced with a building of the same footprint and overall shape, but located some six metres to the west, to avoid the root protection area of a mature tree. The proposed accommodation would comprise two self-contained, two-bedroom units arranged in a mirrored layout.
4. The appellants set out that the accommodation is intended for occupation by family members who wish to live independently but are unable to afford their own houses. At present, these family members reside in two static caravans on the site, located immediately next to the chicken shed. The appellants argue

that the proposed units are annex accommodation to the main dwelling, and the application does not seek new dwellings in the countryside.

5. It is clear from the submitted plans that the units are capable of meeting the day-to-day needs of the occupants. Although the Council accepts that the provision of ancillary accommodation is not unacceptable in principle, its concern is that the separation of the proposed building from the main bungalow would not provide a close functional and physical relationship that would ensure the annex accommodation remains an integral part of the main dwelling. Thus, the Council has taken the view that the proposals amount to new residential dwellings in the countryside. However, the fact that the proposed units are capable of supporting independent living does not automatically mean that they would form separate planning units to the main dwelling, if shown to be associated with it and not severable.
6. The units would be detached from the main bungalow by around 28 metres. I saw on site that the units would be located to the side of the rear garden, with the driveway of the bungalow extended to provide access to the new accommodation. From my observations, there would be an element of shared facilities in terms of access and use of the rear garden. There would also be intervisibility between the proposed accommodation and the main dwellings. The appellant has also set out that the proposed accommodation would share utilities with the main dwelling, citing the prohibitive costs of installing separate connections for electricity, gas, water and sewage.
7. The Council raises concern that separate access could be provided on the western side of the site, where there is an existing gate. The wider site includes a number of outbuildings associated with the appellants' business, with areas to the western side used for storage of large scale machinery. An access could in theory be created, but this would be at the expense of space used by the appellant's business. Moreover, an access is specifically shown on the plans as being via an extension of the existing driveway. My assessment as to whether the proposal is for ancillary annex accommodation must be based on the submitted information, including access details. Should matters change in the future, then that of course may have implications in terms of whether a material change of use of the land had taken place.
8. Whilst I understand the Council's apprehension, the appeal must be considered on the basis of the development applied for. Based on all I have seen and read, I am content that the proposal seeks ancillary annex accommodation and the proposed units would have some functional relationship with the main dwelling. The annex nature of the units is set out in the description of development and hence would define any planning permission granted. Any subsequent proposal to separate the units from the main dwelling would be a material change of use requiring the submission of a further application to the Council. Therefore, and notwithstanding the location of the site, the proposal would not result in the creation of new, separate dwellings in the open countryside. Consequently, the proposals can be considered as ancillary residential development in association with the use of the dwelling on the site known as Gap In The Hedge.

*Whether suitably located*

9. The Council has relied upon policies relating to the overall spatial strategy and settlement hierarchy of the district, appropriate locations for housing and appropriate development in the countryside, expressed through Policies LP1,

LP2 and LP55 of the Central Lincolnshire Local Plan (April 2017) (the CLLP). The appeal site lies around 900 metres beyond the nearest settlement of Potterhanworth, and is therefore in the countryside for planning purposes, to which Part 8 of Policy LP2 and Policy LP55 are applicable.

10. Part 8 of Policy LP2 restricts development in the countryside to specific types, none of which would apply to the appeal scheme. Policy LP55 supports various forms of development where certain criteria are met. The Council has applied the criteria under Part D of the policy relating to new dwellings in the countryside, which are supported only where they are essential to the effective operation of rural operations listed in Policy LP2, and demonstrated as such through the submission of specific evidence of need.
11. No evidence to this effect has been adduced by the appellants, nor is it argued that the accommodation is required in association with the existing business on the site. However, the pertinent point is that the appellants have not pursued the application as being for new standalone dwellings in the countryside, and as such the proposals do not fall squarely under any of the categories of Policy LP55. Were the proposals submitted in the form of an attached extension to the bungalow, Policy LP55 would not be engaged, and given the specific nature of the proposal before me, which essentially seeks a detached extension of the living accommodation, I find that Policy LP55 is not directly relevant to the appeal scheme. The thrust of Policy LP2 similarly relates to new standalone development, rather than domestic extensions, and therefore I find no conflict with this policy.
12. The Council further argues that the location of the proposal is unsustainable in that occupants would be reliant on the private car to access local services and facilities. However, given that the intended occupants are indicated to already reside on the land, it is unlikely that the proposals would lead to a material increase in car usage over the current situation. Moreover, as separate dwellings are not proposed, the guidance of the National Planning Policy Framework relating to the creation of isolated homes in the countryside would not be applicable.
13. There would be little discernible difference in visual impact, given the position of the existing chicken shed to the rear of the site, hidden from view from the road by other buildings on the site. There are no immediate neighbours and therefore no views from other sides, but even if seen from the south, the building would be viewed in context with the development already on site. There may be an increase in domestic paraphernalia, but this would again be located in a secluded part of the site away from public view, and the effect would be negligible given the substantial machinery stored on the land and the overall developed nature of the site. As such, I find that the proposals would have no harmful effect on the rural character and appearance of the area, and no conflict would arise with the aims of Policy LP26 of the CLLP to achieve high quality sustainable design that contributes positively to local character and landscape.

#### *Conclusions on Main Issues*

14. For these reasons, I conclude that the proposed annex accommodation would be suitably located, and no conflict would arise with the aforementioned aims of Policies LP1, LP2, LP26 or LP55 of the CLLP.

## **Other Matters**

15. I have had regard to other points raised, including concern that the proposal would result in dwellings being secured 'by the back door', or that it would set an unwelcome precedent for similar development. It is a well-established principle that each case should be considered on its own planning merits. As set out above, were the proposed annex units to be used separately to the main dwelling, this would require a further application to the Council, to be considered on its own planning merits against the development plan in force at the time. In addition, my judgement in this case is based on the particular evidence and site circumstances before me, which will differ in each case depending on a site's location and the nature of its use. Therefore, I do not consider that a decision to allow the appeal would establish a precedent which would undermine the overall spatial strategy for the district.

## **Conditions**

16. In addition to the standard time limit, a condition setting out the approved plans is necessary, in the interests of certainty.
17. A condition is necessary to ensure the use of the accommodation remains ancillary to the residential use of the main dwelling, to define the permission as sought and to prevent separate use which would amount to the creation of new dwellings in the countryside.
18. To prevent additional accommodation being formed beyond that sought by the application, and to safeguard the visual amenity of the area, a condition requiring the removal of the existing static caravans on the land is necessary. Conditions specifying the materials to be used in the construction of the building, and requiring implementation of a landscaping scheme are also necessary to ensure a satisfactory appearance.
19. It is necessary to require works affecting trees and hedgerows to be carried out in accordance with details submitted, and to prohibit certain activities near existing trees and hedgerows to ensure they are not harmed.
20. Finally, in view of the evidence advanced that the wider site may hold archaeological interest as a former wartime prison camp, it is necessary that a Scheme of Archaeological Works is undertaken in accordance with a Written Scheme of Investigation. Given the undertaking of works would inherently jeopardise any surviving archaeological records, such a condition is required to be pre-commencement, and is necessary in the interests of recording items of archaeological or historic interest. The appellant has set out their agreement in writing to this pre-commencement condition.

## **Conclusion**

21. For the above reasons, and subject to the indicated conditions, I conclude that the proposal would be acceptable, taking into account the development plan as a whole. Therefore, the appeal should be allowed.

*K Savage*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ST-445/01 Rev C (Location Plan and Block Plan, dated January 2021); ST-445/02 REV P1 (Proposed Elevations and Floor Plans, dated January 2021); Site Layout (Unnumbered); Design & Construction of Tree Protection Fencing (Unnumbered).
- 3) The annex accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Gap In The Hedge, Moor Lane, Potterhanworth, Lincoln LN4 2AT.
- 4) Within 3 months of the first occupation of the annex accommodation hereby permitted, the existing static caravans shall be removed from the site.
- 5) The development hereby permitted shall be constructed entirely of the materials details which are shown on drawing ST-445/02 Rev P1, dated January 2021, and shall thereafter be so maintained.
- 6) All works/development shall be carried out in full accordance with the tree/hedgerow protection details shown on drawings ST-445/01 Rev C and Design & Construction of Tree Protection Fencing (Unnumbered). In addition, the following activities must not be carried out under any circumstances:
  - a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
  - b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site,
  - c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
  - d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
  - e. No soakaways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
  - h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

- 7) The approved landscaping scheme shall be carried out within 6 months of the first occupation of the building or the completion of the development, whichever is soonest, unless otherwise agreed in writing with the Local Planning Authority. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted where first agreed in writing by the Local Planning Authority.
- 8) Prior to the commencement of any ground works associated with the development hereby permitted, the developer shall commission a Scheme of Archaeological Works according to a Written Scheme of Investigation which has first been submitted to and approved by the Local Planning Authority. The programme of work shall be carried out strictly in accordance with the approved specification.

END OF SCHEDULE