



Appeal Decision

Site visit made on 15 March 2022

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 April 2022

Appeal Ref: APP/B2355/D/21/3285280

Rake Foot Farm Holcombe Road, Rossendale BB4 4AS

- 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 Simon Nuttall against the decision of Rossendale Borough Council.
 - The application Ref 2021/0382, dated 17 June 2021, was refused by notice dated 15 September 2021.
 - The development proposed is described as: 'enlargement of an existing domestic garage/store for use as a domestic annexe'.
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Decision

1. The appeal is allowed, and planning permission is granted for the enlargement of an existing domestic garage/store for use as a domestic annexe at Rake Foot Farm, Holcombe Road, Rossendale BB4 4AS in accordance with the terms of the application, Ref 2021/0382, dated 17 June 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: SN.29-05-21 and SN.04-06-21.A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.
 - 4) The proposed development shall be constructed fully in accordance with the submitted Bat and Bird Survey, undertaken by Verity Webster, dated October 2021 (the survey), incorporating all recommendations, including the installation of 3no. bat boxes and a minimum of 2no. bird boxes, which shall be installed prior to first use and occupation of the proposed development.
 - 5) The residential accommodation hereby approved shall not be occupied at any time other than as a residential annexe, ancillary to the residential use of the adjacent main house, known as 'Rake Foot Farm'.

Applications for costs

2. An application for costs was made by the appellants against the Council. That application is the subject of a separate Decision.

Preliminary Matters

3. For clarity, I have taken the name of the appellants from the appeal form as it is more accurate.

4. Since the Council made its decision on the planning application, which is subject of this appeal, on 15 December 2021 the Rossendale Local Plan 2019 to 2036 (LP) was adopted. Consequently, the policies contained within the Council's Core Strategy Development Plan Document 2011 have been superseded. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. The Council have confirmed in correspondence that they now rely upon LP Policies SD2, HS9, HS12, ENV1, ENV3 and ENV4. Both parties have had the opportunity to submit comments on this matter.

Main Issues

5. The main issues of this appeal are:
- whether the proposed development would form the creation of a separate dwelling rather than ancillary annexe accommodation;
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and,
 - the effect of the proposed development upon protected species, with specific regard to bats.

Reasons

Whether or not a separate residential unit

6. The site is located in proximity of the existing access and within the residential curtilage of the main house, which is notable in size. The site is accessed off Holcombe Road along a single access road, which crosses the Holden Wood Reservoir. This road then returns around the head of the reservoir, changing in character to an unadopted track, enclosed by a field gate. Whilst the gradient has gently increased from Holcombe Road, the levels increase notably after the head of the reservoir and then even more so, from the entrance to the private drive, which leads to the site.
7. The proposed development would comprise a 1.5 storey building with accommodation located within the roof. The proposed development would occupy the same footprint as the existing building, involving the raising of the eaves by approximately 0.96m and the raising of the ridge by approximately 2.4m, forming a single dual pitched roof. The ground floor would comprise of a utility room, WC, kitchen dining room, lounge, an entrance, 2no. storage areas. The first floor would comprise of a bedroom, study and bathroom. The proposed development would be for the son of the appellants, who works with his father within the family business.
8. The existing residential curtilage would not be divided as a consequence of the proposed development and I accept that the parking arrangements would likely be on a less formal basis than that shown on the submitted drawings, utilising the wider site, where there is ample space. Nonetheless, I accept that the proposed development is not connected to the main house and that it requires additional works to create the proposed roof space, which conflicts with the guidance contained within the Council's Alterations and Extensions to Residential Properties, A Supplementary Planning Document 2008 (the SPD). Additionally, LP Policy SPD2 seeks for development to enhance the rural character of the area. However, I consider that the proposed development

would have an overall neutral effect in this regard, given the presence of the host building and its existing domestic use.

9. The appellant has drawn my attention to a number of planning applications and a plethora of appeal decisions, which I have noted. My attention has also been drawn by the appellant to a judgment¹ (the judgment). I consider these to be relevant in the determination of this appeal, and form material considerations. The judgment is of particular relevance as it found, amongst other things, that where accommodation is suitable for independent living, it would not necessarily become a separate planning unit from the main dwelling.
10. In this instance, the description of development cannot be ignored, nor can the type of planning application for Householder Development, which the proposed development has been submitted under. The proposed development was advertised and determined on the basis of the above. If in the future it was decided that the proposed development should form a separate planning unit, then this would require a separate planning permission in its own right.
11. The appellant has suggested a condition in this regard. In this instance, I consider that otherwise unacceptable development could be made acceptable through the imposition of a suitably worded condition that would define the ancillary nature of the scheme. I have also noted the concerns from the Council surrounding the potential use of the proposed study at first floor of the proposed development as a bedroom. In any event, even if this did occur, it would not alter the ancillary status of the proposed development, when compared to the main house.
12. Therefore, I conclude that the proposed development would form ancillary residential accommodation to the main house at Rake Foot Farm and not create a separate residential dwelling. Consequently, the proposed development accords with the aims for new development within LP Policy SD2. Whilst there would be minor conflict with Section 3.10 of the SPD, I consider that the proposed development complies with its overall aims and objectives. It would also comply with the requirements of the National Planning Policy Framework (the Framework).

Character and appearance

13. The proposed development would occupy the same footprint as the existing building and would be 1.5 storeys in form, following enlargement of the roof, where the first-floor accommodation would be located. Even if the proposed development amounted to an increase of 39% in size of the existing building, which is in excess of that stipulated in the SPD and LP Policy HS12, I do not consider the proposed development would be excessive in scale, bulk or massing.
14. In any event, the conflict with the SPD and LP Policy HS12 would be minor in this instance and would not be sufficient to withhold permission, especially when considering the compliance with the overall objectives of the SPD and LP Policy HS12. Furthermore, whilst LP Policy HS9 has been cited by the Council, it has regard to house extensions. Thus, I have taken this policy in the broadest sense, as the proposed development amounts to the extension of a domestic building within the residential curtilage of the main house.

¹ Uttlesford DC v SSE & White [1992] (the Uttlesford judgement) and Burdle and Another v SoSE and Another [1972] 3 All E.R. 240

15. The upwards extension of the existing building to form a dual pitched roof, along with increasing the height of the ridge and the eaves are sympathetic additions. Furthermore, the additional alterations proposed through the insertion of various windows and openings would not detract visually from the rural design of the existing building. Additionally, the proposed development would still maintain a subordinate relationship with the main house and would be located in an area of the residential curtilage where a copse of trees would be located in proximity to the site, located at a higher level and forming a notable backdrop to the scheme.
16. Therefore, I conclude that the proposed development, would not create any significant harm to the character and appearance of the appeal site and surrounding area. Consequently, the proposed development accords with the design, character and appearance aims of LP Policies SD2, HS9, HS12, ENV1, ENV3, the SPD and the requirements of the Framework, particularly paragraph 130.

Protected species

17. Bats are a protected species, and the existing building is in a location where bats could be present. As a result, the existing building could be providing a place of shelter. One of the Council's reasons for refusing planning permission related to the absence of a survey to establish whether bats were present and whether steps were necessary to protect them should permission be granted. At appeal stage the survey was submitted. The Council has been given the opportunity to comment on the survey, but no comments have been received.
18. On the basis of the findings within the survey, and in the absence of substantive evidence to the contrary, I am satisfied that bats are not present in the host building. Therefore, I conclude that this reason for refusal has been addressed. Consequently, the proposed development complies with the ecological and biodiversity aims of LP Policies HS12, ENV1, ENV4 and the requirements of the Framework.

Conditions

19. I have considered the suggested conditions, making amendments, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the Planning Practice Guidance.
20. I attach a condition specifying the approved plans, for certainty. A condition to ensure that the facing materials would match those present on the existing building has been included as it is reasonable and necessary in the interests of character and appearance. A condition for the proposed development to be undertaken in accordance with the survey is reasonable and necessary in the interests of biodiversity and protected species. Finally, a condition to limit the permission to ancillary accommodation is reasonable and necessary to define the permission and to prevent the scheme being used as a separate dwelling.

Conclusion

21. For the reasons given, I conclude that the appeal should succeed.

W Johnson

INSPECTOR