



Appeal Decision

Site visit made on 13 September 2022

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal Ref: APP/E2734/C/22/3294021

Braithwaite Barn, Beckwith, Harrogate HG3 1QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr David Hayton against an enforcement notice issued by Harrogate Borough Council.
- The enforcement notice, reference RHB/039049, was issued on 2 February 2022.
- The breach of planning control as alleged in the notice is as follows: the erection of a stone and timber framed glazed structure as outlined in yellow on the attached plan.
- The requirements of the notice are as follows: demolish the stone and timber framed glazed structure and remove all the materials used in its construction from the land.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on grounds (f) and (g) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
- **Costs Application**
An application for costs has been made by Harrogate Borough Council against Mr David Hayton. This is the subject of a separate decision.

Decision

1. The appeal is dismissed. See formal decision below.

Background information

2. The stone and timber glazed appeal building, referred to as a '*garden room*', is located to the west of Braithwaite Barn, within its residential curtilage and adjacent to the highway almost immediately behind a stone boundary wall. The barn is a stone built former agricultural building that has been converted to residential use. It is located in the open countryside within the Oak Beck Valley Special Landscape Area (OBVSLA). The barn and its other outbuildings are typical of this rural area which is characterised by fields, paddocks and vernacular agricultural buildings.

3. The appeal '*garden room*' is located on the site of a larger, former vernacular, stone and timber-built outbuilding and I have noted the photographs submitted as part of the appellant's appeal documents, as well as its outline on a submitted plan. This plan also shows the location of an approved (LPA Ref: 20/00041/FUL), '*garden room*' of the same design in a location on the northern boundary. This was set back from the highway boundary and was aligned with the existing buildings leading from the barn.

4. From the highway the 24m² appeal building is clearly visible over the top of the stone wall. It has stonework to its rear (east) elevation and solid looking glazed timber framing to its roadside (west) elevation and its side (south) elevation. It has a stone slated roof and is 2.4m in height to the eaves and 4m in height to the ridge. The modern design of the timber framed structure is not typical of other vernacular detailing in the locality.

5. Following the erection of the appeal building, a retrospective application (20/03727/FUL) was submitted for an amendment to re-site the 'garden room' approved by planning application 20/00041/FUL. This was refused on 1 December 2020 and an appeal (APP/E2734/D/20/3265929) was dismissed on 23 February 2021. In that case the Inspector, despite acknowledging the quality of the materials, concluded that the building resulted in an adverse effect on the character and appearance of the area and that it was contrary to Policies NE4 and HP3 of the Harrogate District Local Plan 2014-2035 (HDLP).

6. In this appeal, although references have been made to the policies of the development plan, the merits of the case are not before me. There is no ground (a) appeal, and the deemed application has lapsed. I am only empowered to consider the appeal on the basis of grounds (f) and (g). As well as setting out proposed lesser steps in the ground (f) appeal, it is indicated that the appellant is also open to any suggestions by '*both the Inspectorate or the LPA*' to resolve the matter to avoid the repositioning of the structure. However, this is not an option I can consider and I now turn to the two grounds as pleaded.

The appeal on ground (f)

7. An appeal on ground (f) is made on the basis that the requirements of the notice are excessive and that lesser steps would overcome the objections. In effect various mitigation measures are put forward on behalf of the appellant.

The gist of the case for the Appellant

8. In support of the appeal '*mechanisms that amount to lesser steps*' are submitted which, it is claimed, would overcome the harm identified by the Inspector in the previous appeal (APP/E2734/D/20/3265929). These mitigation measures are considered to be appropriate mechanisms that will remedy the harm to the character and appearance of the rural characteristics of the immediate area and the limited visual impacts on the wider landscape character.

9. References are made to the S78 appeal decision whereby it was found that the current position of the 'garden room' offers a different visual impact above and beyond the extant permission by virtue of increased prominence being visible above the existing stone boundary wall. Reference is also made to the overly domestic glazing details, to the western elevation facing the lane, as being intrusive to the rural characteristics of the locality.

10. It is stressed that one of the evident features along this section of the lane is the open land to the west, whilst to the east there is a linear run of tree planting behind the boundary wall. It is also indicated that the boundary wall on this side of the lane differs from that to the dry-stone walling on the opposite side and there is a distinct difference of appearance from one side of the lane to the other through boundary arrangement and the extent of openness.

11. The first proposed '*lesser step*' is to continue the theme of planting behind the stone wall similar to that which forms a strong visual characteristic along the

eastern side of the lane. It is considered that the planting on the eastern side forms the setting of the site from the public realm. It is indicated that there is sufficient space between the 'garden room' and the boundary wall that could be cultivated in order to establish a verdant screen that follows the characteristics of the eastern side of the lane and that this would reinforce the character of the rural environment as well as offering bio-diversity enhancements for wildlife.

12. It is contended that this mitigation would act in two ways. First of all it is considered that this would reinforce the rural characteristics and verdant features of the area. Secondly it would screen the western elevation and surround the 'garden room' so that from the public realm, the lane, little of the structure would be visible. It is indicated that with an eaves height of height of 2.4m and a roof which pitches away, a planting scheme could be implemented and left to grow to at least 2m in height leaving only limited sections of the building being able to be seen from the lane.

13. A second 'lesser step' option is proposed whereby the western elevation glazing is translocated to other elevations, although this is a less palatable option. It is also considered that the concerns also raised by both the Council and the previous Inspector can also be overcome by undertaking some cladding on the western elevation that is predominately glazed. It is indicated that the elevation could be partially clad up to the access doors and that further cladding would overcome the harm raised by the service of the enforcement notice.

The gist of the case for the Council

14. The Council's response is that the 'lesser steps' offered do not remove the incongruously sited appeal building and would also introduce additional visual clutter adjacent to the highway. It is stressed that the siting of the building is the central issue and that the former structure was agricultural in character and of a relatively temporary simple, utilitarian construction. It is stated that it did not appear as a permanent feature out of keeping with the rural character of the area, unlike the more visually prominent appeal building.

15. Reference is made to the previous Inspector's decision and that *'the position of the appeal scheme immediately facing towards the road appears as a visually prominent structure over the stone wall forming the main front boundary of the appeal site. This contrasts with the more recessed position as previously approved on the northern boundary within the existing alignment of outbuildings.'*

16. The Council indicates that, having reviewed the landscaping scheme that has been offered, it is not considered that *'the potential for wedging in of hedgerows and trees as screening would adequately mitigate the visual impact of the stone structure'*. The adverse effect on the character and appearance of the area would remain and the proposal would introduce yet more inappropriate features, creating an odd separate and ornamental garden area.

17. It is stressed that there is no high hedging behind the adjacent walling of the agricultural field, and the trees are large mature specimens, in contrast to proposed planting. It is also argued that the potential to move or clad the glazing would also not solve the central issue of the siting of the building. The original approval specifically involved the locating of the garden room in the recessed position alongside the outbuildings on the northern boundary. The Council's view is that this is considered to be the only acceptable position.

18. It is the view of the LPA that the steps required to comply with the requirements of the notice are the minimum necessary to address the harm caused by the stone and timber framed glazed structure. The suggestion by the appellant that the planting along the boundary and altering fenestration would remove the visual impact is not accepted. The solid nature of the 'garden room' would remain, with the additional massing of inappropriate vegetation. The structure would still appear as a stark and obtrusive feature due to its inappropriate materials and siting not reflecting the prevailing character of the streetscape in this prominent location adjacent to the highway.

19. The LPA shares the views of the previous Inspector and does not accept the arguments made by the appellant that any 'lesser steps' could prevent the Inspector's conclusion that *'the development results in an adverse effect on the character and appearance of the area, including a limited visual impact on the wider landscape character.'*

20. The appeal on ground (f) on the basis advanced by the Appellant is insufficient to address the issues regarding the effect on character and appearance. It is considered that such arguments would be more appropriate for an appeal on ground (a). However, given that the siting of the structure in this location has been refused by the LPA and then dismissed at appeal there is no sensible argument that would justify the granting of planning permission on ground (a).

My assessment

21. Having inspected the appeal building and having seen it from both near and distant viewpoints, I share the LPA's and the previous Inspector's concerns regarding its impact on the character and appearance of the immediate area, as well as its visual impact on the character of the wider landscape. I consider that, due to its overall design and its location adjacent to the highway, it is perceived as an alien and out-of-place structure.

22. Turning to the 'lesser steps' suggestions put forward on behalf of the Appellant, I accept that any form of planting/greenery would be beneficial in itself in helping to screen this inappropriate new building. To a small extent, therefore, a landscaping scheme might mitigate against the overall negative visual impact of this inappropriately designed and located 'garden room'.

23. However, having seen the space between the stone wall and the structure I consider that any adjacent planting would exacerbate, rather than improve the overall appearance and perception of the structure. It is not clear exactly what form the new planting would take, but whatever could be planted in this narrow strip could not possibly overcome the visual impact and massing of this non - vernacular looking structure so close to the lane.

24. Similarly, I cannot envisage that any attempt to change the glazing or the panelling would overcome the identified harm caused. In my view such an attempt would only make what is currently an unacceptable design and location location even more inappropriately obtrusive. In my view it cannot be justifiable to simply attempt to 'cover up', or 'hide', an inappropriately located building.

25. It follows that I do not accept that the mitigation measures suggested would overcome the harm caused. I agree, therefore, with the Council that the requirements set out in the notice are the minimum measures necessary to address the harm caused by the stone and timber framed glazed structure. Whilst understanding that this will entail much work in re-siting the building to the

approved location, I consider that this is necessary to overcome the harm caused by this unauthorised 'garden room'. The appeal fails, therefore, on ground (f).

The appeal on ground (g)

26. The appeal on ground (g) is made on the basis that the time given to comply with the requirements of the notice (6 months) is too short.

27. On behalf of the Appellant it is stated that, should the appeal fail on ground (f), the structure will need to be re-located to the position adjacent to the northern boundary which benefits from the planning permission for the initial scheme. It is indicated that this would be an extensive and costly exercise and that, although part of the foundations is in position, the remainder will be required to be laid and the structure moved. It is indicated that further time is therefore required to undertake this work. However, no suggested timeframe is put forward. The LPA considers that the 6 months period is adequate.

28. Having seen the 'garden room' in its present location and also having noted the foundation works already carried out on the approved site, I acknowledge that relocating the building could be a relatively costly exercise. However, in terms of a building construction project, I consider that it would be a relatively simple and straightforward operation. The remaining foundation works should be able to be completed within a very short time and most of the other components are on site in the form of the 'garden room' as built.

29. Thus, whilst accepting that a contractor would need to be sought and appointed, there is no 'lead-in' time regarding the ordering of the basic components that make up the structure. These are already on site. If there were to be issues regarding finding a contractor, then the LPA is not precluded from being flexible in relation to the compliance period of 6 months.

30. For the above reasons, therefore, I conclude that the 6 months period should remain as specified in the notice and the appeal also fails on ground (g).

Other Matters

31. In reaching my conclusions I have taken into account all of the matters referred to by the parties. These include the initial submissions; the appeal statements; the officer report, the previous appeal decision and all of the photographic submissions. However, none of these carries sufficient weight to alter my conclusions on the grounds pleaded and nor is any other factor of such significance so as to change my decision.

Formal Decision

32. The appeal is dismissed, and the enforcement notice is upheld.

Anthony J Wharton

Inspector