



Appeal Decision

Site visit made on 19 July 2022

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2022

Appeal Ref: APP/C9499/W/22/3294386

**Oxnop Ghyll, Lane to Oxnop Ghyll and Hill Top Lodge, Gunnerside
DL11 6JN**

- 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 Dr Charles Yeats against the decision of Yorkshire Dales National Park Authority.
- The application Ref R/06/202C, dated 20 May 2021, was refused by notice dated 10 September 2021.
- The development is described as 'use of building (previously approved as garage/store R/06/202A) as ancillary accommodation to the main dwelling'.

Decision

1. The appeal is allowed and planning permission is granted for the use of building (previously approved as garage/store R/06/202A) as ancillary accommodation to the main dwelling at Oxnop Ghyll, Lane to Oxnop Ghyll and Hill Top Lodge, Gunnerside DL11 6JN in accordance with the terms of the application, Ref R/06/202C, dated 20 May 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Y006-01 Drg No.6; Y006-01 Drg No.5; Y006-01 Drg No.3 rev C.
 - 2) The change of use hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Oxnop Ghyll, Lane to Oxnop Ghyll and Hill Top Lodge, Gunnerside DL11 6JN.

Preliminary Matters

2. On my site visit I observed that the building was in use as domestic accommodation. Notwithstanding any reference by the parties to the application being made retrospectively, I have dealt with the appeal on the basis that planning permission is being sought for the development, which is reflected in the description of development, and in accordance with the drawings submitted.

Main Issues

3. The main issues are:
 - Whether the use of the building amounts to a new, separate and self-contained dwelling; and
 - The effect of the development on the character and appearance of the immediate setting of the appeal property and the Swaledale and Arkengarthdale Barns and Walls Conservation Area (CA).

Reasons

Whether or not a new, separate self-contained dwelling

4. The building to which the appeal relates is attached to a property known as 'Stotter Gill' (spelling taken from the house name plate) and is separated from the main dwelling at 'Oxnop Ghyll' by a short distance. In the context of the landscape setting there is a clear relationship between the main house and the appeal building and the attached dwelling known as 'Stotter Gill' which is in separate ownership and used as a holiday let.
5. The appeal building was previously a garage and store for 'Oxnop Ghyll'. On my site visit, however, I observed that internal work had been carried out and the building contained an area which was being used as a laundry and storage area with a sink, washing machine and drying rack. A further room on the ground floor contained a range of cupboards, a small desk and a sofa, off which was a shower room. Within the eaves of the building were two rooms, one of which contained a double bed. Outside was an area which had been fenced containing a grassed area and two paved areas. There is no evidence before me which suggests that the building was being used at that time as an independent dwelling.
6. Despite the separation of around 30 metres from the appeal building to the main house, buildings within this small group have an intimate relationship with one another within the expansive landscape setting of the dale. The only access is via a long, narrow track which serves 'Oxnop Ghyll', and 'Stotter Gill', terminating in an informal turning area between the two buildings. The intention for the building would be for it to be used as accommodation ancillary to the main dwelling for family members to use to work from home in and for personal visitor accommodation, as well as domestic storage and laundry. The Council has referred to a separate curtilage being created. However, a fenced area similar to which I observed on site is shown on the originally approved plans for the garage building in 2015.
7. The Authority are concerned that the building may be used in the future as an independent dwelling and has referred to unreferenced case law relating to this. Whilst the building could be capable of residential occupation, the lack of cooking facilities within it and the limited head height across the majority of the floorspace of the rooms in the eaves are such that it would not lend itself easily or be desirable for permanent independent occupation. Nor do the plans and details submitted suggest that that would be the case, or indeed is that what the appellant has applied for. A suitably worded condition, in addition to a plans condition, would provide sufficient certainty to ensure that this would remain the case. Indeed, if a material change of use were to occur in the future to create an independent dwelling, a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission was not granted.
8. Policies C1 and SP3 of the Yorkshire Dales National Park Local Plan (the Local Plan) sets out the Authority's approach to housing and new development. The aim of which is to direct residential development towards existing settlements. Development outside of settlements are subject to a number of criteria which proposals are required to meet. Criteria c) of Policy C1 requires that development be ancillary to an existing use at the site.

9. However, as I have concluded that the change of use of the building would not be occupied as a separate self-contained dwelling, there would be no conflict with either Local Plan Policy C1 or SP3. Nor would there be any conflict with Paragraph 80 of the National Planning Policy Framework (the Framework).

Character and Appearance

10. The appeal building is situated in the open countryside within a CA. The area is characterised by valleys and dales containing an intricate pattern of drystone walls and traditional stone-built farm buildings. The appeal property is typical of the local area. The appeal building and 'Oxnop Ghyll' are visible at a distance from the lane to Oxnop Top and Hill Top Lodge.
11. The significance of the CA is described in the '*Swaledale and Arkengarthdale Barns and Wall Conservation Area Appraisal*' (2015) and is derived from its past development around isolated farmsteads within a unique topographical setting and the historical pattern of drystone walls representing different phases of enclosure and land management.
12. Planning permission was granted for a garage and store building in 2015 on the same footprint as the appeal scheme, which at the time was described by the Council as a modest development. Externally, the scheme before me is very similar, with only minor variations, including a small increase in the eaves height, the details of the garage doors and the rooflight location within the lean-to roof slope. The building retains a barn/garage like appearance and the minor alterations do not affect how the building is read or understood within the landscape.
13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the decision maker to have regard to the desirability of preserving or enhancing the character or appearance of the CA. In considering the effect of the proposal on the CA the impact must be weighed against the harm it would have on the heritage asset.
14. The limited scale and appropriate design and use of materials are such that the building assimilates well with its surroundings and does not result in harm to the special interest of the CA as identified above. Rather it results in a neutral effect on the character and appearance of the CA as a whole, which would be preserved.
15. I therefore conclude that the building is not out of keeping or out of character with the prevailing area and does not adversely affect the character and appearance of the site or the surrounding area. As a result, there is no conflict with Local Plan Policy SP4 or paragraph 130 of the Framework which seek to ensure that development is of high quality and responds and is sympathetic to the local character of the area.

Other Matters

16. I note concerns over party wall issues. This is not for me to consider under a Section 78 planning appeal and is covered under legislation not within my remit. In the determination of the appeal, I can only have regard to the planning merits of the case.
17. I also note comments relating to the views from the property at Stotter Gill. I note that the build out at the rear of the building was granted permission as

part of the development for the garage/store building in 2015. Nevertheless, the right to a view is not a material consideration I can give any significant weight to in the determination of the appeal. Furthermore, as the appeal scheme is not for an independent dwelling there is no requirement to provide car parking within the site, nor can I take into account the likelihood of there being any car parking requirement arising from its occupation.

18. The Council have responded to the appellant's reference to a Supplementary Planning Document relating to development in another National Park elsewhere. This has had no bearing on my determination of the appeal before me.

Conditions

19. I have considered the Council's suggested conditions in the light of the Framework and the Planning Practice Guidance. As the development has already taken place a time limit for commencement is not necessary. A plans condition is considered necessary and reasonable for enforcement purposes. I also consider it necessary and reasonable to impose an occupancy condition in order to ensure that it is occupied and used as proposed.

Conclusion

20. For the reasons set out and having considered the development plan as a whole and all other material considerations, I conclude that the appeal is allowed subject to the conditions set out above.

K L Robbie

INSPECTOR