



Appeal Decision

Site visit made on 15 November 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2022

Appeal Ref: APP/E2001/W/22/3302657

Springfield, Turpit Lane, Paull HU12 8AG

- 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 Andrew Nicholson against East Riding of Yorkshire Council.
 - The application Ref 21/04103/PLF, is dated 2 November 2021.
 - The development proposed was originally described as replacement of existing horse stable to the rear of the property to form a new Annex building.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal is against the non-determination of a planning application. The Council's submission sets out that they would have refused planning permission. The Council consider that the residential accommodation proposed, resulting from the change of use of the land, would be tantamount to the erection of a new dwellinghouse (and creation of a new planning unit) within the countryside which would cause harm to the character and appearance of the host dwelling and area. As the development would be tantamount to the erection of a new dwellinghouse, it would not be acceptable in terms of flood risk, living conditions of future and existing occupiers.
3. The Council has also set out that if the appeal is to be judged as providing annex accommodation ancillary to Springfield (as a single residential dwelling and single planning unit) then the proposed development would cause harm to the character and appearance of the host dwelling and area.

Main Issues

4. The main issues are:
 - Whether the proposal would constitute a separate residential unit, rather than an ancillary use; and if so, whether this would be contrary to both local and national policy in relation to new dwellings in the countryside and the effect of the proposal on: the living conditions of the occupiers of the resultant and host dwellings and flood risk; and
 - The effect of the proposed development on the character and appearance of the host dwelling and surrounding area.

Reasons

Whether a separate residential unit

5. The appeal site contains an extended 1.5 storey detached dwelling situated within a large plot. It includes extensive hard standing, outbuildings, a paddock and large allotment area. The site is located within the countryside for planning purposes.
6. The proposal seeks to demolish the former horse stable building and erect a 1.5 storey replacement building which would be attached to the existing building by a single-storey link extension. The proposed annex would provide accommodation for the appellant's mother, and to cater for her personal needs.
7. There is disagreement between the main parties relating to whether the correct type of planning application was submitted, the residential curtilage and whether the scheme constitutes a separate dwellinghouse. In relation to these matters my attention has been drawn to legal judgements¹ and the permitted development rights for householders: Technical Guidance (2019) document. Furthermore, the appellant has drawn my attention to an appeal decision and an extract from a planning committee report. I consider these are relevant considerations to the appeal before me and I have taken them into account in making my decision.
8. The proposed accommodation would be smaller than the main house but would be large compared to the average sized annex and would be capable of providing facilities required for day-to-day living to enable it to operate independently from the main dwelling. This is because it would include two bedrooms (with ensembles), an open plan dining, living, kitchen area and utility facilities. Furthermore, the annex would have its own entrance which would allow separate access from the main dwelling. There are also no windows (other than rooflights) facing towards the host property and the scheme includes a decked area not overlooked by the main dwelling.
9. However, mindful of the legal judgement² drawn to my attention, in my view, these considerations alone would not necessarily mean the proposed accommodation would become a separate planning unit from the host property. The judge considered that even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree.
10. The Council suggest that the amenity space could be separated or reconfigured by way of an intervening boundary fence and a planning condition removing permitted development would be neither precise nor meet the test of reasonableness. They also state that it would not be possible to ensure that the development is carried out in its entirety, to ensure that the link extension is carried out or is not adapted in the future.

¹ Including *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207, *Methuen-Campbell v Walters* [1979] 1 QB 525, *Sinclair-Lockhart's Trustees v Central Land Board* [1950] 1 P&CR 195, *Skerritts of Nottingham Ltd v SSETR (No.1)* [2000] EWCA Civ 60, [2001] JPL 1025, *Lowe v FSS & Tendring DC* [2003] EWHC 537 (Admin), *Gravesham BC v SSE & O'Brien* [1983] JPL 306, *Hiley v The Secretary of State for Levelling Up, Housing and Communities & Anor* [2022] and *(Hampshire County Council) v Secretary of State for Environment, Food and Rural Affairs* [2022].

² *Uttlesford DC v SSE & White* [1992]

11. Although I recognise that the link extension would not be dissimilar to a communal hallway, the annexe would share garden space, vehicular access, parking and postal deliveries. All services would be taken from the host dwelling such as gas, electricity and water. Sliding doors within the link extension would provide access to the shared amenity space. The annex would also be in the same ownership as the main dwellinghouse. Whilst the annex contains two bedrooms, given the justification for the annex and requirement for a 24/7 carer in the future, I do not consider this to be unreasonable in this case.
12. If there was not a familial connection between the occupants of the two buildings, then it is unlikely that the sharing arrangements would provide acceptable living conditions for occupants of both the units of accommodation. For example, it is likely that there would be conflict between the uses which would result in a lack of privacy as well as noise and disturbance issues (including vehicle movements and light spill). This is due to the siting of the proposed building, as well as the main dwellinghouse and parking area.
13. The appellant specifically states that there is no plan or desire to create a separate planning unit within its own curtilage and this has never been the intent despite the Council's assumptions. I acknowledge the Council's concern that the building could be used as a separate dwelling, but that is not the proposal before me. If the structure is not built or used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted. Moreover, I am satisfied that the use and occupancy of the building could be controlled by a suitably worded planning condition which would ensure the use of the annex would be ancillary to the main dwelling.
14. On my site visit I observed that there was a lack of a discernible curtilage. Although the building was previously used as a stable it now appears to be used as a domestic store. There were no horses at the appeal site when I visited. The distance between the former stable building and the main dwellinghouse is small and separated by an enclosed gravel area. The stable building, and proposed annex, are reasonably well grouped with the existing built forms on the site.
15. The main garden space is to the front of the host property. There are also smaller areas of private amenity space to the east and north of the host property (adjacent to the former stable building). The former stable building is accessed through a timber gate which physically separates the building with the main dwellinghouse. I observed on my site visit that the various parts of private amenity space (towards the south, north and east) as well as the driveway were all enclosed in some form such as through gates, fences and vegetation. Therefore, although the main dwellinghouse and the stable building are separated through the timber gate, that is not out of character with other parts of the appeal site which clearly form part of the residential curtilage of the dwelling.
16. In my view, and based on the evidence submitted, the annex would be within the residential curtilage of Springfield, would have a functional connection with the main dwelling and the occupant would be a dependant relative of the occupants of Springfield. The link extension would provide a physical link

between the main dwelling and annex. Accordingly, based on the information before me and having considered the siting, layout and scale of the proposed accommodation, the proposed development would not result in the creation of a separate residential unit. It would provide annex accommodation ancillary to the main dwelling, and therefore within the same planning unit.

17. Consequently, the proposed development would be an appropriate form of development in the countryside and, in this regard, would comply with Policies S4 and ENV1 of the East Riding Local Plan 2012 – 2029: Strategy Document (2016) (LP). These seek, amongst other matters, to restrict development within the countryside. It would also comply with the National Planning Policy Framework (the Framework) which states to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
18. As I have found that the proposed development does not comprise the erection of a new dwellinghouse, there is no need for me to consider the proposal in terms of the living conditions of the occupiers of the resultant and host dwellings and flood risk. This is because the Council has highlighted if such a conclusion is made then the development would be acceptable in relation to these matters.

Character and appearance

19. The appeal site is situated on Turpit Lane which comprises a private road with six dwellings. The dwellings vary in form, scale and design. Springfield is set within generous grounds and is large compared to other nearby dwellings. The site is adjacent to agricultural fields and close to the main built-up area of Paull. The existing building reads as a subordinate building which design, and former use are in keeping with the countryside location.
20. The proposed development would not be conspicuous from public vantage points due to its set back from Turpit Lane, siting behind the main dwellinghouse and existing outbuildings. I recognise that the annex has been designed to replicate the external façade of the former stable block and to provide a high standard of living for the appellant's mother.
21. The annex would use the footprint of the former stable building. However, it would be of a notably greater height and massing due to the proposed first floor. The proposed accommodation is large and would compete with the scale and massing of the host property. This is because of the proposed scale, mass and height of the building which would be of a considerable size and dominant addition which would not appear subservient.
22. The proposal would also contrast and detract from the relatively modest, rural, character of the existing outbuildings which currently respect their rural context. It would not respect or be sympathetic to the character of its countryside location. There is no robust evidence before me to demonstrate that a reduced form of development would not meet the needs of the appellant's relative.
23. For these reasons, the proposed development would cause harm to the character and appearance of the host building and surrounding area due to the proposed scale, massing and height of the proposed building. Consequently, it would conflict with policies S4 and ENV1 of the LP. These seek, amongst other

matters, to ensure developments respect the intrinsic character of their surroundings and are of an appropriate scale, massing and height. It would also conflict with paragraph 130 of the Framework which seeks to ensure development are sympathetic to local character.

Other Matters

24. The Humber Estuary is designated as a Special Area of Conservation (SAC), Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar Site, and is approximately 300m from the appeal site. The Council has not raised concerns relating to this matter. If I was allowing the appeal, it would be incumbent upon me as the competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the SAC, SPA, SSSI and Ramsar Site. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.
25. The Council has highlighted issues with the location plan which does not extend to the adopted/public highway. I have not considered this matter further as it would not be determinative to my decision.
26. I have considered the other matters raised by the appellant, including that the proposal complies with various parts of the Framework and benefits of the proposal. The absence of harm and compliance with local and national planning policies does not amount to a positive factor in favour of the scheme. The benefits associated with the proposal would carry very limited weight given the small scale of the development. The other matters raised do not outweigh the harm identified.

Conclusion

27. As set out above, the proposed development would not result in the creation of a separate residential unit and would provide annex accommodation ancillary to the main dwelling, but it would cause harm to the character and appearance of the host building and surrounding area, to which I attach significant weight. The other matters raised, would not justify or outweigh the harm identified.
28. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR