



Appeal Decision

Site visit made on 9 November 2022

By A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 7TH December 2022

Appeal Ref: APP/W0530/W/21/3286285

2A North Brook End, Steeple Morden, Royston, Cambridgeshire SG08 0PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval permission for the works notified.
 - The appeal is made by Mr Arnold Gilpin against the decision of South Cambridgeshire District Council
 - The application Ref:21/03864 dated 23 August 2021, was refused by notice dated 18 October 2021
 - The development proposed is change of use of an existing building including external and internal alterations as a self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter:

2. The planning application states that the proposed dwelling would be a self-build dwelling for the applicant, although the Council do not address this point. Planning practice guidance sets out circumstances where the status as a self-build dwelling would carry weight in favour of the proposal, however the appellant does not make such a case. Further, even if the appellant had produced a convincing argument it would be necessary have a planning-legal agreement to ensure the basis of grant sustained the principles of self-build and occupancy. In the absence of such considerations the appeal falls to be determined on the main issues set out.

Main Issues:

3. The main issues are:
 - whether the residential use of the building would, having regard to the effect of the proposal on character and appearance of the area, be a suitable reuse of a building in the countryside;
 - the effect of the proposal on the living conditions of adjoining users, specifically by reason of outlook and access proposed.
 - the effect of the proposal on biodiversity.

Reasons:

Character and appearance

4. The proposal is for the conversion of an existing rural building within a grouping of 5 dwellings fronting North Brook End and Bogs Gap Lane at the northern end of the largely linear settlement of Steeple Morden. Although the Council refer to encroachment onto open countryside, the appeal site, seemingly at some previous date being within a residential or similar curtilage, rounds off this residential grouping within a well-defined and rectangular parcel of land. The recent addition of 2 dwellings along Bogs Gap Lane to the original 3¹ has tended to further enclose the appeal site as being within an area bounded by an established hedgerow perimeter that clearly distinguishes and separates it from the surrounding open and largely flat farmland. Consequently, to the observer, the appeal site appears to form part of the settled area of Steeple Morden rather than the surrounding open agricultural land.
5. The appeal site and neighbouring dwellings are located just outside the development framework of the settlement and so within open countryside for the purposes of planning policy where development is strictly limited to that which is necessarily located in the countryside or allocated within a neighbourhood plan. Consequently, the proposal falls for consideration under Policy H/17 of the South Cambridgeshire Local Plan 2018 (SCLP) which provides for residential conversion of rural buildings according to five criteria.
6. The appellant has previously, but unsuccessfully, sought permission for redevelopment of the existing building². Unlike that proposal what is before me retains the footprint, scale and massing of the existing building, albeit with some modifications to external appearance. Subject to conditions as to use of suitable materials and other matters, the proposal would amount to a conversion which reuses an existing rural building and would satisfy the criteria set out in Policy H/17.
7. Noting these points and the existing established residential access, my observations indicate that, notwithstanding the removal of some perimeter trees and the introduction of residential activity with its associated chattels, the proposal would, through the careful selection of materials and with appropriate landscaping conditions (including to reinforce boundary planting) associate well with the existing mix of built forms and residential users. In my judgement, the conversion would neither disrupt nor significantly change the character and appearance of Steeple Morden and its setting. There would, on that basis, be no conflict with policies S/7 or H/17 of the SCLP which seeks to restrict development in the countryside but permits the reuse of redundant rural buildings for residential use. Nor, subject to the use of suitable external material and planting, would the proposal conflict with policy HQ/1 which seeks high quality design.

Living Conditions

8. The appealed proposal follows previous decisions by the Council and also an appeal decision which the Council refer to in their second refusal reason³. No.4 North Brook End (No.4) is a two-storey dwelling with a modest area of garden at its rear. The dwelling overlooks land which is not currently in active use and the proposal would introduce change which raises concerns by occupiers as to

¹ As referred to in appeal decision APP/W0530/W/20/3250047 dated 7 September 2020

² Ref:21/01485

³ APP/W0530/W/20/3250047

- the impact on privacy and of disturbance from the use of the access. The proposal would introduce a garage next to the boundary with No.2 North Brook End (No.2) albeit on the northern side of that property and therefore unlikely to affect access to daylight, nor, from its location, would it be visually intrusive.
9. Policy HQ1 of the South Cambridgeshire Local Plan 2018 (SCLP) sets out design principles for development including (at 'n') a requirement to protect the health and amenity of occupiers and surrounding users from development that is overlooking, overbearing or results in a loss of daylight or other 'unacceptable impacts'.
 10. Whilst it is not before me to consider the lawful use of the appeal site which is currently in a neglected and overgrown condition, unfortunate positioning of a habitable room window in the flank wall of No.4 on a boundary with land over which, it would appear, the occupier has no control, creates a particular sensitivity. Whilst I note the decision of Inspector Reed⁴, the presence of temporary fencing adjacent to the flank wall of No.4, (which was not mentioned in that decision) indicates there is little basis for presuming the current low levels of activity on the appeal site would continue indefinitely or that problems such as the obstruction of daylight currently gained over the adjoining access to the appeal site would never occur. An absence of development permission does not necessarily prevent problems arising where land is not in beneficial use.
 11. The existing access is relatively wide and, noting the appellant's proposals, the introduction of some planting along the flank wall to No.4 and, secondly, the proposed buffer area of fruit tree planting and screen walling to its rear would increase the actual and perceived separation of No.4 from the appeal site. Whilst I note preceding decisions, my assessment⁵, is that by carefully and sensitively designed measures, the potential for nuisance from car headlights or the other residential activity would be significantly reduced without necessarily impairing access to daylight for the flank window.
 12. I note that the Highway Authority have no concerns as to access but recommend a number of conditions including a set-back from the road for any gates. Careful design and positioning of such gates could also reduce the impact from vehicles using the access.
 13. Overall, I attach significant weight to the benefits of the scheme of screening and planting proposed and the result could be little different to that found in many similar configurations found in established residential areas. I conclude that, subject to appropriate conditions as suggested, the proposal would not conflict with policies H/17 and HQ/1 of the SCLP in relation to the matters raised in the second refusal reason.

Biodiversity

14. The appellant suggests, in response to the third reason for refusal, that a 'preliminary ecological assessment' is not necessary. However Planning Practice Guidance⁶ makes clear that decision-takers are under a duty to have regard, in the exercise of their functions, to the purpose of conserving

⁴ APP/W0530/W/20/3250047

⁵ subject to suitable conditions that would preserve that buffer characteristic, for instance as to planting, maintenance of screening and to prevent active use of the buffer areas

⁶ paragraph 009, Reference ID: 8-009-20190721

biodiversity. Further, section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 applies to a range of species, and I have nothing before me to confirm that the species addressed by the NERC Act would not be impacted by the proposed development.

15. The Council refer to an outdated⁷ Preliminary Ecological Appraisal (PEA) submitted with previous applications. It appears that that a bat entry/emergence survey was recommended at that time has not been undertaken; in addition the passage of time and the extent of overgrowth on the site does indicate a risk as to the presence of (or incursion by) protected species which cannot be ruled out without appropriate evidence. On that basis the proposal would clearly conflict with policy NH/4 of the SCLP which requires an adequate level of survey information as to the potential for impact upon protected species.

Conclusion

16. I have found that, subject to suitable conditions, the proposal could be made acceptable in planning terms in relation to the first and second refusal reasons. However, such matters of judgement cannot outweigh the deficiencies in the proposal as to statutory requirements to have regard to the protection of biodiversity. This is a matter to which I attach significant weight. I therefore conclude that, overall, the proposal would not accord with the provisions of the development plan and in consequence, for the reasons given and taking all matters raised into account, the appeal cannot succeed.

Andrew Boughton

INSPECTOR

⁷ Dated February 2018