



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/21/3279798

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 planning permission.
 - The appeal is made by Mr Arnold Gilpin against the decision of South Cambridgeshire District Council
 - The application Ref:21/01485 dated 10 May 2021, was refused by notice dated 6 July 2021
 - The development proposed is conversion and adaption of a building in the Countryside to a self-build dwelling.
-

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 proposal, having regard to the extent of works proposed and the effect upon the character and appearance of the area, be a suitable reuse of a building in the countryside, and
 - the effect of the proposal on the living conditions of adjoining users, specifically by reason of outlook and access proposed, and
 - the effect of the proposal on biodiversity.

Reasons:

Character and appearance

4. The appeal site completes an enclosed, rectangular, parcel of land occupied by 5 dwellings fronting North Brook End and Bogs Gap Lane at the northern end of the largely linear settlement of Steeple Morden. This grouping lies just outside the development framework of the settlement and is therefore within open countryside for the purposes of planning policy where development is limited to that which is necessarily located in the countryside or allocated within a neighbourhood plan. Consequently, such provisions absent, 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. This policy sets no requirement as to preceding use but identifies five criteria for conversion to residential use.
5. As paragraph 7.63 makes clear, Policy H/17 is intended to facilitate the repurposing of redundant rural buildings to residential use 'as an opportunity without the impact that new buildings have on the landscape'. Criteria (c) and (d) of Policy H/17 requires there to be an enhancement of the immediate setting and that the design and materials used in the conversion (including any extensions) are 'sensitive to the character and appearance of the building and locality'.
6. The proposal, however, goes significantly further than reuse, or conversion, of the existing building. The appellant indicates the proposed dwelling would overlap the existing building footprint, but what is actually proposed would be significantly larger than the original building and tantamount to a new building with very little of the existing building structure incorporated. For that reason the proposal would fall outwith the provisions of Policy H/17 of the SCLP and its objectives, having the appearance of a new dwelling in countryside where such development is strictly controlled. Having reached that conclusion there is no need to consider the other criteria H/17 and it follows that the proposal would not accord with the relevant strategic policies of the development plan. This weighs significantly against the proposal.

Living Conditions

7. No.4 North Brook End (No.4) is a two-storey dwelling with a modest area of garden at its rear and a habitable room window at upper floor level and on its flank wall. The upper floor windows would overlook the active area of the appeal site and the window in the flank wall would directly overview the site access at ground level. The proposal would introduce change which raises concerns by occupiers as to the impact on privacy and of disturbance from vehicle movement and the use of the access. The proposal would also 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.
8. Policy HQ/1 of the 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'.
9. Whilst it is not before me to consider the lawful use of the appeal site, currently in a neglected and overgrown condition, the unfortunate positioning of a habitable room window in the flank wall of No.4 on a boundary with land over which the occupier has no control, creates a sensitivity which attracts some weight. However, whilst use of the access and residential use might indicate a

potential for disturbance, an absence of development permission does not necessarily prevent problems arising in situations where land is not in beneficial use as is the case with the appeal site.

10. A recent appeal decision¹ for a similar proposal concluded as to harm to neighbouring amenity from the proposed use of the site. Whilst I note the decision of Inspector Reed, 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. The benefits of granting consent with conditions that provide mitigation against such uncertainty is a consideration to which I attach significant weight.
11. The established access onto the site is relatively wide, and the appellant proposes to introduce a buffer planting area outside and in proximity to the window in the flank wall of No.4. In addition, the Highway Authority recommend a number of conditions including a set-back from the road for any gates. Careful positioning and design of such gates would also reduce the likelihood of disturbance from vehicles waiting in close proximity to the flank wall window of No.4.
12. Overall, the introduction of planting buffer along the flank wall to No.4 and the proposed creation of a buffer area of fruit tree planting at the rear of No.4 (together with some screen walling) would, in my judgement, increase the actual and perceived separation between the rear of No.4 and the proposed active area resulting from the change of use. Subject to suitable conditions, these measures would reduce the potential for nuisance. Having regard to the test set out in Policy HQ/1 at (n) I consider that with the improvements proposed the result would be a not-unacceptable degree of change and very little different to many situations where dwellings exist in proximity to neighbouring residential access and garden areas.
13. I therefore attach significant weight to the scheme of screening and planting proposed in the appealed scheme and conclude that the subject to appropriate conditions to ensure the implementation and maintenance of the identified buffer areas, the proposal would not conflict with policies H/17 and HQ/1 of the SCLP with regard to living conditions of neighbouring users.

Biodiversity

14. The appellant provided a preliminary ecological assessment at the time of the application dated February 2018, but this is now approaching 5 years old. The report recommends the implementation of an emergence/re-entry survey for bats, however, there is no evidence of such being conducted. Further, the passage of time and significant overgrowth indicates at least a possibility of presence (or incursion by) protected species; the absence of which cannot be presumed.
15. Planning Practice Guidance² makes clear that decision-takers are under a duty to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Further, section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 applies to a range of species. I have nothing

¹ APP/W0530/W/20/3250047

² paragraph 009, Reference ID: 8-009-20190721

before me to confirm that the species addressed by the NERC Act would not be impacted by the proposed development. On that basis the proposal would clearly conflict with policy NH/4 of the SCLP which seeks an adequate level of survey information is provided so that unacceptable impact on Biodiversity is prevented.

Conclusion

16. Although I have found, subject to suitable conditions, there would be no conflict with the development plan in relation to the second refusal reason, that cannot outweigh the significant conflict with the development plan identified in the first refusal reason or the statutory requirement to have regard to the protection of biodiversity. I therefore conclude that the proposal would not accord with the provisions of the development plan as a whole and in consequence, taking all matters raised into account, the appeal cannot succeed.

Andrew Boughton

INSPECTOR