



---

## Appeal Decision

Site visit made on 24 January 2023

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> February 2023

---

**Appeal Ref: APP/Z1510/W/22/3306392**

**Cust Hall, Gainsford End Road, Toppesfield, Essex CO9 4EB.**

- 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 Paul Mackman against the decision of Braintree District Council.
  - The application Ref 22/00763/HH dated 22 March 2022, was refused by notice dated 25 August 2022.
  - The development proposed is the conversion and extension of holiday accommodation barn to create residential annexe.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of holiday accommodation barn to create residential annexe at Cust Hall, Gainsford End Road, Toppesfield, Essex CO9 4EB in accordance with the terms of the application, Ref 22/00763/HH dated 22 March 2022 and subject to the conditions at Schedule A below.

### Preliminary Matters

2. The application is retrospective and the conversion and extension work was well advanced and ongoing at the time of my visit with the basic structure and roof works substantially complete and largely only the internal fit out left to complete.

### Main Issues

3. The main issues in this case are whether the site for the proposed development would:
  - have a detrimental impact on the character and appearance of the barn and the listed Cust Hall.
  - operate as a residential annexe physically and functionally linked to the main dwelling Cust Hall.

### Reasons

#### *Character and Appearance*

4. The appeal property is a timber framed barn formerly in agricultural use sited adjacent to the road along the eastern boundary of Cust Hall and forms one of a number of barns which previously would have been part of the farm steading and now converted to residential use. The barns are finished in black shiplap timber cladding under clay pantile roofs. The appeal property has the benefit of a permission to convert it to holiday accommodation (ref 16/01547/FUL) which included full kitchen and bathroom facilities similar to that now proposed and a

small offshoot extension under a catslide roof. The extension in the appeal proposal now under construction would extend slightly further westwards and would have a pitched, gabled roof - the additional height accommodating a staircase and bathroom to serve a first floor bedroom which was permitted under the existing permission.

5. I acknowledge that what has been constructed without permission involves a substantially larger extension than that originally permitted. Whilst it has been put to me that the wet room facilities for the annexe could have been incorporated within the shell of the main barn I am not persuaded that this could be satisfactorily achieved without resulting in further internal subdivision of the main barn to the detriment of the character of the open bayed interior. Moreover, the need to accommodate the disabled occupant means that greater personal bathing space and circulation space would be necessary. To that extent the additional depth of extension to accommodate the ground floor accessible wet room is justified.
6. I do accept that the height of the extension as built is not a design that is sufficiently subordinate to the main barn being set just below the main ridge and apparently only necessary to accommodate a separate bathroom for a future carer as the needs of the occupant increase to require onsite 24 hour care.
7. Whilst proportionately in respect of the barn itself this design is not ideal, for a number of reasons I am not persuaded that this in itself would be sufficient reason to dismiss the appeal.
8. The extension is largely screened from the road and the public domain by both the barn itself from the north and east and by trees and shrubbery from the south affording only glimpsed views of it.
9. In terms of the relationship to Cust Hall itself as the listed building, the extension would be around 30 metres from the Hall at the nearest point and as the much smaller building (even as extended) it would remain subservient to it.
10. Pretty much the only direction in which the two could be seen together is from the south. In the glimpsed views from this direction the distance between the hall and the development is such that the over-scaled extension would not be detrimental to the setting of the main house and Cust Hall would remain the pre-eminent building.
11. The completed development would appear in the context of the cluster of steading buildings and the design, roof pitch and materials would all blend to ensure that the setting to the listed building would be preserved. It has been put to me that because the barn is sited forward of Cust Hall the outbuilding would be particularly intrusive but, as explained, in the view from the road, which is the only viewpoint where the barn is in front of the listed hall, the barn has always been dominant and indeed largely precludes views of Cust Hall until the courtyard is entered.
12. I have been invited to conclude that it would be the cumulative effect of the extension now constructed together with the earlier permitted scheme that would be problematic. However, the extension as now constructed would not be additional to the earlier permitted extension, it would entirely replace it and therefore I am not persuaded that there would be a cumulative impact.
13. I conclude that the extended barn, would at least preserve the setting of the listed building in accordance with the clear expectations of section 16 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* and to which the decision

maker is required to have special regard. It would also be in accordance with section 16 of the Framework which anticipates great weight being given to a heritage asset's conservation (including its setting). For the same reasons the proposals would comply with BLP policies LPP47 on the built and historic environment and with Policy LPP57 which seeks to preserve and enhance the immediate settings of heritage assets by appropriate control over development.

#### *Use as a Residential Annexe*

14. It has been put to me that the annexe is being built as a self-contained unit with full bathroom and kitchen facilities and as it stands separate to Cust Hall it would neither be physically nor functionally linked to the main dwelling. I accept the annexe is proposed to have full facilities available within it but these were already permitted under the previous permission.
15. Although the annexe would be physically separate to the main dwelling it shares the access to it both as currently provided and as proposed in the earlier permission. The annexe also does not have its own amenity space and therefore would also depend on the amenity space of Cust Hall. There is therefore some functional linkage and, given that there are also personal circumstances to consider in that the annexe is proposed to be occupied by the applicant's disabled father-in-law, its use as an annexe, provided it is controlled by condition, would be acceptable.
16. Such an occupancy condition is frequently used in relation to annexes and would be appropriate in this case to ensure that the annexe could not be occupied or used other than as ancillary space to the main dwelling and could not be disposed of separately to Cust Hall.
17. As such, although Policy LPP36 of the recently adopted BLP does require annexes to be physically and functionally linked to any main dwelling, for the reasons above, including the personal circumstances in this case, which are a material consideration and which justify the need for a slightly larger annexe, the slight variance from the Policy in terms of the physical separation would be justified. Provided the permission is controlled by an occupancy condition, functional linkage of the annexe to the main dwelling at least can be secured preventing its occupation and use as a separate planning unit.

#### **Conclusion and Conditions**

18. In reaching my decision I have had regard to the matters before me. For the reasons above the appeal should be allowed and planning permission granted for the conversion and extension of the barn to a residential annexe subject to conditions.
19. The Council suggested a number of conditions. I have considered these in the light of the advice in the Framework and *Planning Practice Guidance*. The normal condition relating to timing is not required as the development is substantially complete. However, a condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.
20. In order to give the Council control over the use of materials used in the external finish of the building a materials condition is necessary. However, the Council has proposed that this should be worded as a pre-commencement condition which is inappropriate as the construction is well-advanced. I have therefore proposed an alternative wording that requires the materials to be approved by the Council prior

to further work being undertaken on the annexe. The work has not yet progressed to the point where windows and doors have been installed and it is therefore necessary to control the detailed design of these through the submission of large scale drawings for the Council's approval and I have attached the suggested condition.

21. Notwithstanding the limited amount of curtilage space associated with the barn it is necessary to attach a landscaping condition controlling hard and soft landscaping around the barn to ensure an appropriate finished appearance. Again, the council proposes this as a pre-commencement condition which is inappropriate given the advanced nature of the works on site. However, the condition should require submission of detailed proposals within 2 months of the date of this permission.
22. Finally, as referred to above the occupancy and use of the annexe should be controlled to ensure it remains ancillary to the main dwelling - Cust Hall.

*P. D. Biggers*

INSPECTOR

### **Schedule A Conditions**

1. The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: Site Location Plan; 0815-008; 210201.001; 210201.002.
2. No further work on the annexe hereby permitted shall take place until a schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.
3. Prior to installation on-site, additional drawings that show details in section and elevation of proposed new windows, doors, fascia and sills at scales between 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the local planning authority. Installation shall be implemented in accordance with the approved details and shall be retained as such.
4. Within two months of the date of this permission a scheme of landscaping shall be submitted to the local planning authority for approval. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate. All planting, seeding or turfing contained in the details of the landscaping scheme once approved shall be carried out in the first planting season following the first occupation of the building or the completion of the development, whichever is the sooner;  
All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the building or upon the completion of the development whichever is the sooner.  
Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be

replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.

5. The annexe hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as Cust Hall, Gainsford End Road, Toppesfield, CO9 4EB.