



Appeal Decision

Site visit made on 12 July 2023

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2023

Appeal Ref: APP/U1430/D/22/3315965

St Benedicts Byre, Catsfield Road, Crowhurst, TN33 9BU

- 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 and Mrs A Brodrick-Ward against the decision of Rother District Council.
 - The application Ref RR/2022/2059/P, dated 12 August 2022, was refused by notice dated 11 November June 2022.
 - The development proposed is described as proposed detached building to be used as ancillary overspill/annexe accommodation for members of the owners of St Benedicts Byre's family (alternative to garage building approved under extant planning permission RR/2022/1236/P).
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Decision

1. The appeal is allowed and planning permission is granted for a proposed detached building to be used as ancillary overspill/annexe accommodation for members of the owners of St Benedicts Byre's family (alternative to garage building approved under extant planning permission RR/2022/1236/P) at St Benedicts Byre, Catsfield Road, Crowhurst, TN33 9BU in accordance with the terms of application Ref RR/2022/2059/P, dated 12 August 2022 and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7225/EX, 7225/22/LBP and 7225/22/1/A
 - 3) The materials to be used in the construction of the external surfaces of the detached annexe hereby permitted shall match those of the existing dwelling.
 - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as St Benedicts Byre.
 - 5) No additional external lighting shall be installed at the site unless full details of the location, design and luminescence of the lighting has been submitted to and approved in writing by the local planning authority. The lighting shall be installed and thereafter maintained in accordance with the approved details.

- 6) The annexe hereby approved shall not be first used until a minimum of one bird box and one bat tile/box have been provided on the site in accordance with the manufacturer's recommendations/instructions. Thereafter they shall be retained for the duration of the development.

Main Issue

2. The main issue is whether the proposed development would be tantamount to the creation of a new dwelling in the countryside and if so whether it would be in a suitable location for new housing, having regard to its form, size and proximity to the host dwelling.

Reasons

3. The appeal site is located within a small informal enclave of residential development within the countryside. The appeal site is irregular in shape and the host dwelling is both centrally positioned and stretches across most of the width of the plot. The host dwelling is linear, slender and comprises a brick built former milking parlour. It is one of a number of converted farm buildings that comprise an historic farmstead located within an area of countryside that retains its historic field enclosure pattern. Both individually and collectively these buildings make a positive and valuable contribution to this historic farmstead and rural landscape.
4. In 2022 planning permission was granted for a garage building within the front garden and close to the entrance to the property. Since then, the appellants family accommodation needs have changed and they now propose to construct an annexe instead. It would be sited in the same location and its footprint and form would be the same as that of the approved garage. It would also be in a similar location to a former farm building that appears on the 1899 historical map submitted by the appellant. The annexe would have an open plan kitchen living area, two bedrooms and two bathrooms.
5. Whilst the council has not raised any visual concerns relating to the proposed building, they have expressed concern that the proposal would be tantamount to the construction of a new dwelling and as such would be contrary to various development plan policies.
6. Policy RA3 of the Rother Local Plan Core Strategy (CS) seeks to restrict the creation of new dwellings in the countryside to limited circumstances, none of which apply to the appeal proposal. The supporting text to this policy explains that to protect the undeveloped and rural landscape of the countryside, new residential development must be limited to that which cannot be located in an urban area. Similarly, policy DIM2 of the Rother Development and Site Allocations Local Plan 2019 (DaSA), seeks to restrict development in the countryside to that which accords with specific local plan policies.
7. CS Policy RA3 also states that new outbuildings should not compromise the character of the countryside and the landscape. Regarding domestic annexes DaSA Policy DHG10 requires a sequential approach to their provision. The first consideration is an extension to the host dwelling, next the conversion of an existing outbuilding and finally a new building in close proximity to the host dwelling. The new building should have a demonstrable link to the host dwelling such as shared access, communal parking and amenity spaces, where appropriate. In all cases the occupation of annexes would be managed by the

- imposition of a condition or legal agreement, to ensure that they cannot be used as a separate dwelling.
8. The supporting text to this policy advises that exceptions to this approach may be where an extension to the dwelling would not be appropriate, for example in some cases relating to non-designated heritage assets or historic agricultural buildings. Also, that annexes provide semi-independent accommodation and their size should relate to the needs of the family, normally with a single bedroom. Annexes should be capable of being incorporated into the use of the dwelling in the longer term.
 9. Collectively and amongst other things CS Policies OSS4, EN1 & EN2 and DaSA Policies DEN1, DEN2 & DHG9 seek to ensure that new development respects, maintains and reinforces the natural and built landscape. It should also preserve and ensure clear legibility of locally distinctive vernacular building forms. Domestic outbuildings should respect and respond positively to the host dwelling and should not detract from the wider character of the countryside in terms of scale, form and density.
 10. Paragraphs 78 & 79 of the of the National Planning Policy Framework (Framework), similarly seek to restrict the construction of new dwellings in the countryside and paragraph 130 states that new development should be designed to a high standard, be sympathetic to local character and history, function well and should safeguard the environment. Sections 15 and 16 of the Framework seek to conserve and enhance the natural and historic environments.
 11. The appellants have explained their need for a two bedroom annexe to meet the current needs of their family and how the use of the annexe could be adapted over time to meet their long term needs. This includes swapping accommodation with their daughter as their needs change and using the annexe accommodation for other ancillary purposes, including potentially for a live-in carer.
 12. Having regard to the agricultural appearance and slimline, modest and uncluttered proportions of the host dwelling, it is difficult to see how an extension of the size required to meet these needs could be successfully achieved without harming the character and appearance of the existing dwelling. It would also have the potential to detract from the setting of Nashes Barn and could dilute the quality of the farmstead as a whole. There are no existing outbuildings on the appeal site which could be converted to meet these needs.
 13. Conversely, the proposed annexe would be sited in an area that was historically occupied by a farm building and where a building of the same size has already been approved. Externally the proposed annexe would appear modest in form and detailing. It would be subservient to and would respect the character and appearance of the host dwelling and the other converted farm buildings within the immediate area. It is noted that there are a number of outbuildings of various sizes within the farmstead, including one in the front garden of Nashes Barn and others clearly visible to the side and rear of various dwellings.
 14. The proposed annexe would be largely screened from the surrounding countryside by existing trees and where it could be glimpsed it would be seen as an integral part of the enclave of converted farm buildings. It would not be

visible in views from the High Weald Area of Outstanding Natural Beauty (AONB), whose southern boundary is on the northern side of Catsfield Road. Similarly, it would not intrude into views towards the AONB from the open countryside to the south.

15. For these reasons, the proposed structure would maintain and reinforce the natural, built and historic landscape of the locality.
16. Regarding size, not only is the building the same size as an approved outbuilding in this location, it is not disproportionate in size to other annexes in the district, that have been referred to by the appellant. Whilst the proposed annexe would be some 14 metres from the host dwelling, it would be within the clearly identifiable domestic curtilage to the dwelling and would be sited directly in front of the host dwelling. The patio doors serving the annexe would face towards the shared parking area, front entrance and front facing windows in the host dwelling. Also, the access drive would run parallel and close to the kitchen area window in the proposed annexe. Three generations of a single family would occupy the host dwelling and the annexe and they would share the existing access, driveway, parking area and gardens.
17. Collectively, these factors demonstrate strong physical and functional links between the host dwelling and the proposed annexe and their use. Having regard to these links and subject to the imposition of a condition that ensures that the building cannot be occupied as a separate dwelling, I am satisfied that the proposed annexe would not be tantamount to the creation of a new dwelling ¹ and would protect the character of this area of countryside.
18. The council has suggested the imposition of a condition which would restrict the use of the annexe to accommodation for the existing dwelling. I agree that such a condition is necessary for the avoidance of any doubt and to prevent the creation of a new dwelling in the countryside. I have however changed the suggested wording in the interests of clarity and to enable the building to be used for ancillary purposes other than accommodation by family members.
19. The council has also suggested the imposition of conditions relating to the use of external materials that match those of the host dwelling and adherence to the submitted drawings. These conditions are necessary to ensure the development respects the host dwelling and the farmstead as a whole and in the interests of certainty.
20. The parish council has suggested the imposition of conditions which restrict external lighting and require the provision of bat and bird boxes. I agree that such conditions are necessary and reasonable to protect the dark night skies and their contribution to wildlife habitats and to protect and enhance biodiversity. Neither the council nor the appellant have raised any concerns regarding the modifications to the wording of the occupancy condition and the imposition of conditions relating to dark skies and biodiversity.
21. The parish council has also suggested the imposition of a condition that any new hardstanding should be constructed from porous material. This is unnecessary as the creation of more than 5m² of non-porous hardstanding between the front of the existing dwelling and the private access drive would require planning permission.

¹ *Burdle & Williams v SSE & New Forest DC* (1972) 1 WLR 1207 and *Uttlesford DC v SSE & White* (1992) JPL 171

22. For these reasons I conclude that the proposal would not result in the creation of a new dwelling and would not harm the surrounding area. Accordingly, it would comply with CS Policy RA3 and DaSA Policies DHG10 & DIM2, as well as CS Policies OSS4, EN1 & EN2, DaSA Policies DEN1, DEN2 & DHG9 and sections 5, 15 & 16 of the Framework

Elizabeth Lawrence

INSPECTOR