



Appeal Decision

Site visit made on 23 August 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2023

Appeal Ref: APP/U2235/W/23/3316192

The White House, Heath Road, Boughton Monchelsea, Kent ME17 4JE

- 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 Kishan DeSilva against the decision of Maidstone Borough Council.
 - The application Ref 22/501301/FULL, dated 11 March 2022, was refused by notice dated 19 August 2022.
 - The development is described as 'conversion of existing barn together with the erection of a single storey extension and changes to fenestration to create an independent residential dwelling.'
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Decision

1. The appeal is allowed and planning permission is granted for conversion of an existing barn together with the erection of a single storey extension and changes to fenestration to create an independent residential dwelling at The White House, Heath Road, Boughton Monchelsea, Kent ME17 4JE in accordance with the terms of the application, Ref 22/501301/FULL, dated 11 March 2022, and the plans submitted with it, subject to the following condition:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations as defined within Part 1 of Schedule 2, Classes A, B, C or D of the above Order shall be carried out to the dwellinghouse hereby permitted, other than those expressly authorised by this permission.

Preliminary Matters

2. In the banner heading and decision above I have used the description of the development as it was given on the Council's decision notice. The description given on the application form did not clearly specify the development for which planning permission was sought, stating 'The existing gardeners cottage has been let as an independent residential unit since 27th June 2018. No building works were undertaken to convert the building.' However, the Council's description of the development is included on the appeal form and in the appellant's statement of case and I am satisfied that it accurately describes the development for which planning permission is sought.
3. The development has been carried out and therefore I am considering the appeal retrospectively. At the time of my site visit I established that the external appearance of the converted building corresponds with the details shown on the proposed plans, although one window on the east elevation is shown only on the proposed floor plan and not on the equivalent elevation. The

internal walls were as indicated on the proposed floor plan, although the largest room was being used as a living room and kitchen, with the bedroom being located at the rear.

Main Issues

4. The main issues are:

- the effect of the development on the character and appearance of the area,
- whether satisfactory living conditions are available for occupiers of the converted building, having regard to the amount of internal space and private outdoor amenity space, and
- whether the site would provide a suitable location for housing, having regard to its accessibility to services and facilities.

Reasons

Character and Appearance

5. The appeal concerns conversion of an existing building located in the large garden of a substantial detached dwelling. The building is situated well behind the host dwelling, at the boundary between the rear garden and an adjacent field. It is a modest building of traditional appearance, constructed in brick and stone, with a plain clay tile roof.
6. The White House is one of several large, detached dwellings on one side of Heath Road. These are mostly, but not exclusively, set close to the road and there are a variety of outbuildings within their extensive gardens. The garden of The White House includes abundant mature landscaping, both along Heath Road and throughout the site. As a result of its rearward location and the intervening landscaping, the converted building is not visible from the road.
7. Various external alterations have been carried out, as detailed on the application drawings. While I have noted that the appellant states these alterations were undertaken over 20 years ago, it is not the function of this appeal to determine their lawfulness or otherwise. In any event, the Council's Officer Report raises no issues with the external appearance of the building and the reasons for refusal do not allege any harm arising from the external alterations per se. Based on the evidence before me, I have no reason to reach a different view.
8. It is unclear whether planning permission granted in the 1980s for use of the building as a chauffeur/gardener's lodge was ever implemented and a certificate of lawfulness for its use as a self-contained dwelling was refused in January 2023. Nevertheless, the Council's Officer Report describes it as an 'incidental building' to the host dwelling and accepts that it could be used as an annexe, for occupation by a member of the main household. I have been presented with no substantive evidence to the contrary and the appellant describes its previous occupation by family members on that basis.
9. Against that background, any effect of the development on the character and appearance of the area is limited to the consequences of creating a separate, self-contained residential unit with any associated domestic paraphernalia.

10. A modest area for outdoor seating has been defined around the building, including a patio and pergola. These are in proportion with the scale of the building and well integrated into the landscaping of the main garden. Neither the converted building, nor the associated curtilage would intrude into the wider landscape. Any domestic paraphernalia would be modest in scale, given the very limited size of the accommodation and the associated curtilage. Since the building is within a well-established garden, the land in question already has a clearly domestic character, which would be unaffected.
11. Parking for the occupier of the converted building is available alongside the host dwelling, where there are other outbuildings and an existing driveway and parking area. This area is well screened from the road and its use for car parking is not harmful to the character and appearance of the wider area.
12. Although the appeal site is in a 'backland' location, neither the converted building nor its curtilage encroach beyond the limits of the surrounding garden. The siting of the converted building is not intrusive within the rural landscape and its use as a separate dwelling does not erode the character or appearance of the countryside. The introduction of a single small dwelling, through conversion of an existing building in a visually unobtrusive location, does not harmfully disrupt the wider pattern of large dwellings in large plots.
13. For the above reasons, I conclude that the development does not have any harmful effect on the character and appearance of the area. It would not conflict with policies SP17, DM1 or DM30 of the Maidstone Borough Local Plan 2017 (MBLP) or relevant paragraphs in the Framework. These policies, amongst other things, require that development in the countryside, including alterations to buildings and associated activity, would not harm the character and appearance of the area, would maintain local distinctiveness and landscape features and relate sympathetically to the existing building and rural area.
14. My attention has also been drawn to Policy DM31 of the MBLP which relates to the conversion of rural buildings. The reasons for refusal did not allege any conflict with that policy. Given my findings set out above, the proposal would not conflict with section 1 of Policy DM31, which sets out criteria relating to the characteristics of the existing building and the effect of its conversion on the surrounding area. Section 2 relates to conversion of rural buildings for non-residential purposes, which is not relevant. On the basis that the pre-existing use of the building is as a residential annexe, section 3 of the policy, which relates to introduction of a new residential use, is likewise not applicable.

Living Conditions

15. The Council's Officer Report highlights that the total floor space of the converted building falls short of the minimum area required by the Nationally Described Space Standard (NDSS)¹ and this has not been disputed by the appellant. However, neither Policy DM1 of the MBLP, nor any other policy to which my attention has been drawn, requires compliance with the NDSS. On that basis, compliance with the minimum standards in the NDSS is not mandatory based on the provisions of the development plan.
16. The accommodation comprises one bedroom, a shower room, and a combined kitchen, dining and living area. A small study area has been created within the

¹ Technical Housing Standards – Nationally Described Space Standard March 2015

porch. There are several window openings and one small roof light. The accommodation is open to the steeply pitched roof and the interior feels light and airy.

17. While the accommodation is undoubtedly compact, it provides all the facilities required for self-contained living and is comfortably furnished for a single occupant. Adequate storage is available. There is a small outdoor seating area, which is screened by planting and a pergola, to provide a reasonably private outdoor area suitable for the occupant's use.
18. Having taken account of the quality and layout of the internal accommodation, in this particular case I find that the shortfall against the NDSS does not result in a cramped or uncomfortable living space at the very modest level of occupation anticipated.
19. For the above reasons, I conclude that satisfactory living conditions are available for occupiers of the converted building, having regard to the amount of internal space and private outdoor amenity space. The development does not conflict with relevant requirements in Policy DM1 of the MBLP which requires, amongst other things, that development provides adequate residential amenities for future occupiers.

Location

20. The appeal site is located within a small enclave of housing, outside the larger village of Boughton Monchelsea. There is a modest range of local services at a typical village scale in Boughton Monchelsea and a much wider range of services and employment opportunities in the urban area of Maidstone, a short distance to the north.
21. Although a bus service is available, the nearest bus stop can only be reached by walking along Heath Road. This is a classified road carrying through traffic and without pavements or street lighting. As such it does not provide a particularly comfortable environment for pedestrians. Cycling to some local services would be feasible for a confident cyclist, but the majority of future occupiers are likely to be largely dependent on travel by car.
22. However, the site is not isolated, given its relationship with the surrounding housing and relatively close proximity to nearby settlements. While the Framework directs significant development towards locations where the need to travel can be limited, the single dwelling proposed in this case would not amount to a significant scale of development. The Framework also recognises that opportunities to maximise sustainable travel solutions will vary between urban and rural areas.
23. Although Policy SS1 of the MBLP directs the majority of new housing towards larger settlements, the supporting text acknowledges that the larger villages, including Boughton Monchelsea, provide for the day to day needs of local communities and the wider hinterland. Criteria 9 of Policy SS1 limits development outside defined settlements, but focusses on the potential harm to the Borough's rural character and settlement coalescence, rather than on limiting the need to travel. MBLP Policy SP17 likewise does not specifically restrict development on the basis of car-dependency.
24. The converted building could be occupied by a family member as an annexe to the main dwelling, and that occupant would have a similar need to travel to

local services. While a separate occupant is more likely to travel independently, the additional need to travel arising from the development would nevertheless be modest. Car-based trips to local services would also be relatively short.

25. Taking all the above matters into consideration, given the particular circumstances of the case, I find that the location of the site outside any defined settlement does not result in a harmful reliance on private vehicle use.
26. For the above reasons, I conclude that the site would provide a suitable location for housing, at the very limited scale proposed, having regard to its accessibility to services and facilities. As such, it does not conflict with Policies SS1 and SP17 of the MBLP, which amongst other things allow for some development outside settlements, where other policies of the Local Plan are satisfied and harm to the character and appearance of the area and coalescence of settlements is avoided.

Other Matters

27. The appeal site is between Tilts House and Iden Farmhouse, both of which are Grade II listed buildings. The Council does not allege that the development would have an adverse effect on the listed buildings, their settings or any features of special architectural or historic interest which they possess. Having considered the development and visited the site, I concur that the appeal proposal would preserve the listed buildings, their settings and their significance as designated heritage assets.
28. I have noted the strong view of an interested party that the local planning authority should discourage retrospective planning applications. However, the planning system allows for the consideration of planning applications on a retrospective basis and I have accordingly considered the development on its merits.

Conditions

29. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended one of the proposed conditions in the interests of precision and clarity and have omitted others.
30. Since the external alterations have been completed and the building is already separately occupied, there is no requirement for a condition regarding the timescale for implementation of the development.
31. I am mindful that the Framework states that permitted development rights should not be restricted unless there is clear justification to do so. However, in reaching the above conclusions on the suitability of the location and the effect on the character and appearance of the area, I have had close regard to the very modest scale of the dwelling. Further enlargement of the dwelling through exercise of permitted development rights could result in a materially greater level of harm and therefore a condition to maintain planning control over future additions is justified in this case.
32. There is space within the site for storage of refuse bins, conveniently located for the occupier and without any adverse effect on the character and appearance of the wider area. The site is also within an existing enclave of housing and no specific evidence has been provided of any barriers to refuse

collection. Therefore a condition requiring further approval and regulation of refuse arrangements is not necessary.

33. No evidence has been presented that the alteration or separate residential use of the building, or creation of a separate curtilage, has had any effect on biodiversity within this well landscaped existing garden. Nor has any evidence been provided that introduction of swift bricks or bat tubes to the building would be of specific benefit in this location. Against that background, there is no clear justification for a condition requiring implementation of measures to secure biodiversity enhancement.

Conclusion

34. For the reasons given above, I conclude that the appeal should be allowed.

Jane Smith

INSPECTOR