



Appeal Decision

Site visit made on 13 August 2024

by Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 30 August 2024

Appeal Ref: APP/X3540/W/23/3331359

Hill Farm Barn, Lamberts Lane, Rushmere St Andrew, IP5 1DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr L Chambers against the decision of East Suffolk Council.
 - The application Ref is DC/23/0377/VOC.
 - The application sought planning permission for "Renovation and conversion of barns to form single dwelling with residential annex; erection of cartlodge style building to provide triple garage with storage above without complying with a condition attached to planning permission Ref C00/0883, dated 13 October 2000.
 - The condition in dispute is No 9 which states that: "The annexe¹ hereby permitted shall not be occupied or let as a separate dwellinghouse but shall be used only for purposes incidental to the use of the main barn or for occupation by a relative, employee or parent of the householder or his/her spouse".
 - The reason given for the condition is: "The development is not such that the local planning authority would be prepared to approve as a separate dwellinghouse in its own right".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: i) whether the proposed condition to permit the continuation of the current use of the access would meet the policy requirements set out in Policy SCLP5.13 'Residential Annexes', Policy SCLP5.3 'Housing in the Countryside' and Policy SCLP5.12 'Houses in Multiple Occupation' of the East Suffolk Council – Suffolk Coastal Local Plan, adopted September 2020; and ii) whether there is any effect on the amenity of existing occupiers in the vicinity of the development by way of increased noise and disturbance.

Reasons

3. Hill Farm Barn, Lamberts Lane, Rushmere St Andrew, is a Grade II listed building situated in the countryside approximately 600m from the settlement boundary of Rushmere St Andrew. Its access is along a single-track Road

¹ Policy SCLP5.13 'Residential Annexes', uses the word 'annex' for the singular form, and I have adopted this spelling throughout my reasoning.

without footways and a private track. The annex, attached to the main dwelling, comprises five bedrooms set over two floors, with cooking, dining and other ancillary facilities. The existing use, which would be in conformity with the enlarged condition proposed by the appellant, has commenced and therefore the application is retrospective.

The development plan policies

4. Policy SCLP5.13 'Residential Annexes' states:
"An annex to an existing dwelling will be supported where:
 - a) The annex is smaller in scale and clearly ancillary to the host dwelling;*
 - b) The proposal does not involve the physical separation of the residential curtilage;*
 - c) No separate access is required;*
 - d) The annex is either an extension or is well related to the host dwelling;*
 - e) In the case of a new build annex, it is not feasible to create the annex through an extension or the conversion of an outbuilding;*
 - f) There is sufficient off-road parking; and*
 - g) There is no significant adverse effect on the landscape or visual amenity.**Conditions or planning obligations will be applied to limit occupation to use as an annex and to prevent future use as a separate dwelling in accordance with national policy for planning conditions and obligations. Where an annex is proposed as an extension, it should be designed in a way which will enable it to be incorporated into the host dwelling when no longer required"*
5. Policy SCLP5.3 'Housing in the Countryside' seeks to limit residential development to local needs affordable house, limited development within existing clusters, replacement dwellings, subdivision of existing large dwellings, conversion of existing buildings and rural workers dwellings, or development consistent with the National Planning Policy Framework.
6. Policy SCLP5.12 'Houses in Multiple Occupation' states that: *"Proposals for Houses in Multiple Occupation will be supported within Settlement Boundaries where:*
 - a) There is no adverse impact on the character of the dwelling or the surrounding area;*
 - b) Provision can be made for sufficient parking and where the dwelling is, or can be made to be, accessible to public transport services and main employment and service centres on foot and by cycle;*
 - and c) Any extensions necessary are in accordance with the Council's design policies".*

The background and the current use

7. The appellant is a former player at the Ipswich Town Football Club (Ipswich Town). He contends that when the use started there was compliance with the existing condition, by way of an employer/employee relationship. He transferred from Ipswich Town to Colchester United in June 2021 and continued to support players at Ipswich Town Academy. Since the purchase of the appeal property, young players attached to Ipswich Town have been supported - currently five players. The boys at the Academy often live outside the local geographical area and require host families to support them, in close proximity to the training ground at Bent Lane.

8. The training ground is approximately two miles from the appeal site, affording the young players ease of access to the facility, without relying on the hosts to transport them. They have relative independence but still have the host parents on hand to support and look after their wellbeing. The appellant wished to continue, and considers that the provision he makes to the local football club and the boys attending the Academy, is immensely valuable to the sporting community, the players and the success of the football club and its Academy. A letter written by Ipswich Town supports the appeal, stating that without such support the Academy would not be able to provide such a positive experience for the young Academy players when they move away from their home area.
9. The appellant's amended wording of condition 9 is as follows: "The annex hereby permitted shall not be occupied or let as a separate dwelling house but shall be used only for purposes incidental to the use of the main barn or for occupation by a relative, employee or parent of the householder or his/her spouse *or anyone connected to Ipswich Town Football Club in a playing capacity*²".
10. It is factually correct, as the appellant points out, to say that the annex is larger than would normally be expected of ancillary accommodation, but that does not affect the fact that condition 9 of that permission restricted the use of the annex to "occupation by a relative, employee or parent of the householder or his/her spouse", and the present use is outside the scope of the permission.
11. I reach this conclusion on the basis that the only element of the permitted occupiers that is sought to be relied on is 'employee'. This relationship with the appellant does not ever appear to have been in place. At the outset of the use, the appellant was a player at Ipswich Town, and there is nothing to suggest to me that he personally employed young players at the Academy. Even if there were a factual relationship of this sort, at the point when he moved to play for Colchester United, this would have ceased.
12. Whilst it is accepted on behalf of the appellant that the young footballers are not employees (in his view, due to the change in his personal circumstance), it is pointed out that the annex is not being used independently, but is used as one unit. The appellant mentors and coaches the Academy players; they eat as one family on a daily basis, the players undertake chores around the house and provide assistance in looking after the appellants children; and there is therefore a very tangible link between the young people and the appellant and his family.
13. I have been provided with Ipswich Town's 'Host Family Role Specification', and I have no reason to think that the appellant does not comply with what is expected. Whilst I find it likely that there is a degree of integration of the young men and the appellant's family, I cannot accept that this amounts to a single household, or an extended household, being relatives of parents of the appellant or his wife, as the condition requires.
14. I consider that such a claim would be more appropriate in an application to establish a lawful use, or an appeal against an enforcement notice, where evidence would need to be given in much greater detail than is available to me. In any event, this appeal relates to the use as an annex, not to a use as a single dwellinghouse.

² The words in italics are the additions sought to condition 9 by the appellant in this appeal.

15. In respect of the 'employee' part of the condition, I consider that the correct interpretation is that the employee would be one or more persons directly employed by the householders. An example of this would be a couple who were employed to care for 1 or more elderly relatives of a person in the main household, where the elderly relatives and the carers resided in the annex. Of course there could be other forms of 'employee' that would meet the condition, but none that would encompass the present arrangement. The use of the annex within the ambit of condition 9 requires it to meet the terms of Policy SCLP5.13; it must be "*clearly ancillary to the host dwelling*" and not a separate household.
16. The council's claim that the annex is in use as a house in multiple occupation (HMO) is arguable, but that is not for me to determine. That contention does not need to be made out in order to support the refusal of the application to amend condition 9. The council's prime reason is that the present use does not meet its adopted policy, and a change of the restrictions on the original permission is not justified.
17. It is also argued for the appellant that, even if the current use was a use as an HMO, no harm has been demonstrated. However, the appeal proposal was not for a change of use to an HMO, which would be outside the original annex permission, and such a proposal is not before me.

Effect on the amenity of existing occupiers in the vicinity

18. Turning to the matter of the effect of the appeal proposal on the amenity of existing occupiers in the vicinity of the development by way of increased noise and disturbance, I have noted objections that were made at application stage on this basis and that an initial enforcement case was opened following complaints. This element of the objection to the appeal does not need to be considered in any depth, in view of my decision on the primary issue. Nevertheless, since robust young men are involved, it appears to me that there may well be some experiences that lay behind the objections.

Conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan. The current use of the annex does not comply with Policies SCLP5.3 and SCLP5.13. I do not find that there are material considerations that override the force of the policy objection. Therefore the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR -