

Appeal Decision

Site visit made on 27 August 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/A0665/W/24/3341693

Nettleford House, Waste Lane, Kelsall, Chester CW6 0PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Edward & Nina Armitage & Armitage-Lyon against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/00804/FUL.
 - The development proposed is described as 'Conversion of first floor above attached garage to create two Air BnB rental bedrooms.'
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of first floor above attached garage to create two Air BnB rental bedrooms at Nettleford House, Waste Lane, Kelsall, Chester CW6 0PE in accordance with the terms of the application, Ref 23/00804/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. This is a retrospective application. The conversion of the first floor has already taken place and I have dealt with the appeal on this basis.

Main Issue

3. The main issue is whether the proposal is acceptable when assessed against the relevant development plan policies and its effect on the character and appearance of the area.

Reasons

4. The appeal site lies close to the edge of Kelsall village within the open countryside. Policy STRAT 9 of the Cheshire West and Chester Local Plan Part 1 Strategic Policies (2015) (LP1) outlines that within the countryside development will be permitted, subject to it falling within a set criteria. One such criteria is the reuse of an existing rural building, particularly for economic purposes where buildings are of permanent construction and can be reused without major construction. It goes on to state that development must be of an appropriate scale and design to not harm the character of the countryside.

5. The Air BnB rental bedrooms are located on the first floor of an existing garage. The construction of the garage had planning permission granted in 2020.¹ Condition 5 linked to this approval restricted the creation of habitable accommodation within the garage. An application to vary this condition to allow the garage to be used for purposes ancillary to the residential use of the house was approved in 2023.² No external alterations are proposed to the building, with its existing approved scale and design being retained, thus there is no visual harm to the character and appearance of the countryside. I therefore find no conflict with Policy STRAT 9 of LP1.
6. Policy DM 9 of the Cheshire West and Chester Local Plan Part 2 (2019) (LP2) relates to visitor accommodation. This sets out that visitor accommodation will be supported where it meets the requirements of Policy ECON 3 of LP1 and, in the countryside, where it meets the requirements of Policy STRAT 9 of LP1. It states that proposals for new build guest houses outside of defined settlements will not be permitted. As I have already set out, the proposal accords with Policy STRAT 9 and I do not consider it amounts to new build visitor accommodation.
7. Policy ECON 3 is supportive of new visitor accommodation in the countryside where it is of a suitable scale, type and protects the character of the countryside. As previously discussed, there are no external alterations proposed to the existing garage. Therefore, I do not support the Council's view that the site would appear cramped and not relate well to the wider appearance of the area. This would have been a matter for consideration under the original garage scheme. The accommodation provides two small Air BnB rental bedrooms within an existing building. I consider this to be a very modest number and I am not persuaded that this results in a substantial and harmful increase in associated vehicle comings and goings over its current permitted use. I also observed that the site has a substantial amount of space for parking. Accordingly, I find the proposal does not result in a harmful intensification of the site and it does not detrimentally effect the character of the countryside.
8. Policy ECON 3 also sets out that proposals will be assessed against additional criteria. One of these is that the site is accessible by sustainable modes of transport. Whilst mindful that most visitors would likely use private vehicle, Kelsall, a key service centre, is a short distance away, where there is a range of services and facilities. There is also a bus stop located a short walk from the appeal site which provides a regular service for any future occupants of the Air BnB accommodation to travel into Northwich and Chester. In this respect the site is accessible by sustainable modes of transport.
9. Taking the above points into consideration I find no conflict with ECON 3 of LP1. I also note that no conflict was found with this policy in the Officer report or decision notice. Accordingly, the proposal therefore accords with Policy DM 9 of LP2.
10. In conclusion, the proposal is an acceptable use when assessed against the relevant development plan policies. Therefore, I find no conflict with Policy STRAT 9 of LP1 and DM 9 of LP2. The proposal also does not harm the

¹ Ref: 20/02495/FUL

² Ref: 22/03817/S73

character and appearance of the area. Given there are no external alterations, there is no conflict with Policy DM 3 of LP2 and Policy ENV 6 of LP1. These broadly seek, amongst other matters, to achieve a high standard of design that respects the character and protects the visual amenity of the local area. It also accords with the overarching aims of the National Planning Policy Framework (the Framework).

Other Matters

11. The Council have assessed the proposal against Policy DM 22 of LP2 which, amongst a number of other criteria, permits change of use in the countryside of buildings to dwellinghouses where the existing building is not redundant or disused. However, as the building is to be used for visitor accommodation and economic purposes, rather than a conversion to a residential dwellinghouse, I do not find this policy should be engaged in this case.
12. A third party raised concerns in relation to overlooking into the front garden at the neighbouring property, Mayfield House. On my site visit I was able to access the Air BnB accommodation. The windows are Velux windows which provide an outlook towards the front drive of Nettleford House and the shared boundary with Mayfield House. Given the tall height of the boundary treatment and the substantial distance to the shared boundary, I am satisfied that there is no harm to the living conditions of the neighbouring occupiers with regards to overlooking.

Conditions

13. The Council has suggested several conditions. I have included those which meet the six tests set out in the Framework and the Planning Practice Guidance, rewording, where necessary, for clarity.
14. The time limit condition is not required as the proposal is seeking retrospective planning permission. An external materials condition is not necessary as the building has already been constructed with no alterations proposed.
15. It is necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
16. A condition limiting the occupation of the building is necessary to prevent other uses and to define the consent. In the interests of enforceability, I have included the requirement to keep a register of occupiers of the Air BnB bedrooms as part of that condition.
17. Details of cycle parking arrangements and the supply of an electric charging point are necessary in the interest of promoting sustainable modes of transport.

Conclusion

18. For the reasons given above the appeal should be allowed.

T Bennett

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawings: Site Location Plan 795/PL/001/B, Layout 795/PL/004, Elevations 795/2023/PL/005 and 795/2023/PL/006.
- 2) The development shall be occupied as holiday accommodation only and shall not be occupied as a sole or main place of residence or by any persons exceeding a period of 28 days in a calendar year. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.
- 3) Within 3 months from the date of approval, electric car charging infrastructure comprising, as a minimum, one dedicated 32 amp radial circuit which is directly wired to an appropriate RCD at the consumer unit shall be installed and retained thereafter. The circuit shall terminate at a three-pin socket or BS EN 62196 Type 2 electric vehicle charging point located where it is accessible from a dedicated off-street car parking bay. The electric vehicle charging point shall, thereafter, be maintained and retained.
- 4) Within 3 months from the date of approval, details of cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The cycle parking shall be provided in accordance with the agreed details and retained at all times thereafter within 3 months from the date of the approval.

****End of Conditions****