

Appeal Decision

Site visit made on 17 September 2024

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th September 2024

Appeal Ref: APP/U2750/D/24/3349112

89 High Street, Snainton, Scarborough, North Yorkshire YO13 9AJ

- 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 Mr & Mrs Cooper against the decision of North Yorkshire Council.
 - The application Ref is ZF24/00243/HS.
 - The development proposed is conversion of existing outbuilding to annex.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing outbuilding to annex at 89 High Street, Snainton, Scarborough, North Yorkshire YO13 9AJ in accordance with the terms of the application, Ref ZF24/00243/HS, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers – YO-0054-001 A; YO-0054-PLN-B.
 - 3) 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 89 High Street, Snainton, Scarborough, North Yorkshire YO13 9AJ.

Main Issue

2. The main issue is whether a new separate dwelling would be created in the open countryside.

Reasons

3. The proposed development is for the conversion of an existing outbuilding into an annex building with the aim, as described by the appellants, to achieve ancillary accommodation/living space, associated with the main dwelling, the cottage at 89 High Street. The proposal would include the creation of a bedroom, bathroom, lounge and a kitchen. Whilst the appeal site is located outside defined settlement limits, it does appear to be a garden area associated with the property of 89 High Street.

4. My attention has been drawn to the *Uttlesford DC v SSE & White [1992]* judgement which deals with an annex building. The judge considered in this case that even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree. In that case the accommodation gave the occupant the facilities of a self-contained unit although it was intended to function as an annex with the occupant sharing her living activity in company with the family in the main dwelling. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.
5. The proposed annex building would not be directly adjacent to 89 High Street however, it is within close proximity being physically linked by an existing access road. The Council have concerns that the proposal would result in a more intensive form of development including domestic accoutrements and paraphernalia. The proposed annex building would be small in scale and it is not expected that associated paraphernalia would be any greater than the existing use of the site as garden area. The annex building would also have associated parking and a garden area which is an existing feature of the site.
6. The starting point is to consider the proposal as applied for and on the basis that any planning permission runs with the land irrespective of the circumstances of the intended occupiers. Whilst the proposed annex would have the facilities to be used as a separate dwelling, there is not a proposal for a separate dwelling before me to consider. If the building is not used as it is proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted.
7. As a matter of fact and degree, given the intentions of the appellants, the size of the proposal and proximity to the main dwelling, I am satisfied that a new separate dwelling would not be created, and the open countryside would not be unduly harmed. The proposal would not conflict with Policy ENV6 of the Scarborough Borough Local Plan July 2017 which seeks the character of the open countryside to be protected and maintained.

Other Matters

8. The appeal site adjoins the Snainton Conservation Area (SCA) with the listed buildings described as “Numbers 86, 87, 88 and 89 and Outbuilding Attached to Number 86” located to the south.
9. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Also, in accordance with the duty imposed by Section 72(1) of the Act I am required to pay special attention to the desirability of preserving or enhancing the character of the conservation area.
10. The Council have not raised any concerns with regards to the proposed development having harmful effects on the SCA or the listed buildings. Given

the location of the site and that the proposal is a conversion of an existing building with limited external alterations, I am satisfied that the proposal would preserve the setting, character and appearance of the SCA and the nearby listed buildings.

Conditions

11. Conditions relating to timeliness, the identification of plans and clarity of the building being for ancillary purposes are necessary in the interests of proper planning, to provide certainty and ensure the open countryside is not compromised. The Council have requested a condition for the external surfaces of the development to match those used in the existing building, however this is not required as there are not to be any external alterations.

Conclusion

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

Chris Baxter

INSPECTOR