

Appeal Decision

Site visit made on 28 August 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2024

Appeal Ref: APP/E2001/W/24/3343313

The Barn, Leconfield Parks House, Leconfield Road, Leconfield, Beverley HU17 7LU

- 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 Robert Whyte against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/02037/PLF.
 - The development proposed is the conversion of an existing outbuilding to form an ancillary dwelling together with external alterations.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Robert Whyte against East Riding of Yorkshire Council. This application will be the subject of a separate decision.

Preliminary Matters

3. The information before me suggests the Council amended the description of development through the validation process. However, I am unaware whether the appellant agreed to it being changed. I have therefore included the original description of development in the banner heading above.

Main Issues

4. The main issues are:
 - (a) the effect of the proposal on highway safety;
 - (b) whether the appeal site is an appropriate form of development in the countryside, including the effect of the proposal on the character and appearance of the surrounding area;
 - (c) the effect of the proposal on protected species; and
 - (d) whether the proposal constitutes an ancillary residential accommodation.

Reasons

Highway Safety

5. The proposal would be accessed via a very long, straight, single width private track from Dray Drive and would utilise the host dwelling's gated access and internal driveway.
6. The Highway Development Management Officer raised no objection with the proposal. However, they did state that as the private track is narrow and has no passing places, they would be concerned if the building would be separate to the host dwelling rather than ancillary, or if it was used commercially. However, the appellant clarified that the access track does have a passing place, which I witnessed during my site visit.
7. Notwithstanding whether the proposal would comprise an independent dwelling or ancillary residential accommodation, vehicle users would clearly be able to see another vehicle coming along the track due to its straightness and utilise the existing passing place. Thereby, the proposal would not create a highway safety issue. Furthermore, I am uncertain from the information before me how the comings and goings the ancillary residential accommodation would differ from an independent dwelling.
8. Consequently, in reference to the first main issue, the proposal would not have an unacceptable impact on highway safety. It would comply with Policy ENV1 of the East Riding Local Plan 2012-2029 Strategy Document, adopted 2016 ("LP") which, amongst other things, seeks to promote equality of safe access, movement and use. It would also comply with paragraphs 96, 114, 115 and 135 of the National Planning Policy Framework ("the Framework").
9. The Council's third reason for refusal also references LP Policy EC4. However, this is in respect of enhancing sustainable transport, which is not a matter in dispute.

Appropriate Development in the Countryside? Character and Appearance

10. The appeal site contains an L-shaped single storey building sited to the west of the dwelling known as Leconfield Parks House. The southern section of the L-shaped building has a tiled pitched roof, while the northern section has a shallow mono-pitch roof. It has the appearance of a former agricultural barn with a traditional character and materials.
11. It is proposed to convert, extend and alter the existing building to create a two-storey, four-bedroom dwelling as ancillary residential accommodation to the host dwelling. While part of the first floor would be used for storage that would be accessed via an external staircase.
12. The appeal site is within the countryside and both parties agree that LP Policy S4 is applicable to the proposal. LP Policy S4 supports a closed list of developments within the countryside, including (C)(1) the conversion of buildings for new housing where the preservation of the building would enhance the immediate setting and (i) where it would involve a heritage asset; or (ii) where it would re-use a redundant or disused building without significant alteration or significant extension. None of the other developments listed within the policy would be applicable to the proposal.

13. The appeal building is not listed, nor have I been provided with evidence to suggest it is a non-designated heritage asset. Consequently, Part (C)(1)(i) of LP Policy S4 is not applicable to the proposal.
14. At the time of my site visit, the majority of the area surrounding the appeal building formed part of the host dwelling's garden. Therefore, I do not share the Council's view that the proposal would domesticate the outdoor space through the siting of domestic paraphernalia given that this could already occur.
15. A Structural Conditions Report¹ concludes that the barn is in good structural condition. However, the proposals would involve significant alterations to the existing building including the construction of three dormer windows, several rooflights, numerous new openings including floor-to-ceiling glazed windows and bi-fold doors, an external staircase, and the construction of internal walls. Also, the creation of a first floor above the existing mono-pitch roof would comprise a significant extension to the existing building.
16. Furthermore, at the time of my site visit, the building was used for storage purposes, as a workshop and for garaging incidental to the host dwelling. Therefore, the building is not redundant or disused.
17. Consequently, the proposal would not comply with LP Policy S4(C)(1)(ii).
18. The existing building comprises an unassuming barn that is subordinate to the host dwelling. In contrast, the proposed extension and alterations would overly domesticate and detract from the barn's existing simple character and appearance. Consequently, the proposal would not respect the intrinsic character of its surroundings, nor would it enhance the building's immediate setting.
19. The appellant asserts that the rooflights and dormers of the proposal are consistent in scale and form to those approved by a previous planning application². However, the information before me suggests that the permission related to a building attached to the host dwelling and therefore, it is not directly comparable to the appeal proposal. In any event, I must determine the proposal on its own merits.
20. In reference to the second main issue, the proposal would not be an appropriate form of development in the countryside, and it would harm the character and appearance of the surrounding area. It would conflict with LP Policy S4 (the content of which I have described above), and LP Policy ENV1 which, amongst other things, seeks to support development that achieves high quality design having regard to the character of the surrounding area.

Protected Species

21. A Biodiversity Assessment³ supported the planning application that concluded it was extremely unlikely that the building would support bats due to the level of activity associated with the building's existing use and the

¹ Structural Conditions Report dated 6 September 2023, produced by Blackburn Wigglesworth & Associates

² Planning Ref 21/04290/VAR

³ Biodiversity Assessment for the proposed conversion of existing outbuilding to form an ancillary dwelling at Leconfield Parks House, Driffild Road, Leconfield, Beverley, East Riding of Yorkshire, HU17 7LU, dated September 2023, produced by Origin Planning Services.

presence of interior lighting. However, the qualifications of the author are unknown and therefore, I am unable to determine whether these conclusions have been made by a suitably qualified person.

22. The appellant's Planning Appeal Statement of Case refers to a bat scoping survey being undertaken by Rachel Hacking Ecology. However, I have not been provided with a copy of this survey. The appellant's final comments state that a bat survey produced by Wold Ecology Ltd has been prepared and submitted as part of the appeal documents. However, it is unclear whether this was attached to the appellant's final comments or was submitted at a later date.
23. Even if the bat survey had been submitted with the appellant's final comments, the Council and any interested parties have not had the opportunity to consider it and therefore, could be prejudiced if it was accepted. Therefore, I cannot accept the document. As the bat survey cannot be accepted, I cannot be satisfied that the development would not have a material adverse impact on protected species.
24. Therefore, in reference to the third main issue, there is a lack of evidence before me to ensure the safeguarding of protected species. The proposal would conflict with Policy ENV4 of the LP which, amongst other things, seeks to conserve and enhance biodiversity. It would also conflict with the Conservation of Habitats and Species Regulations 2017 and Chapter 15 of the Framework that seeks to conserve and enhance the natural environment.

Ancillary Residential Accommodation?

25. The Council has raised concern regarding the inclusion of the host dwelling within the land edged blue on the Location & Block Plan rather than the land edged red and accordingly, whether a condition restricting the proposal as ancillary to the host dwelling could be imposed. The appellant has indicated that they would be willing to submit a revised drawing amending the site edged red to encompass the host dwelling. However, as I am dismissing the appeal, I have not advanced this matter further.
26. The Council has also raised concern that the proposal is not within the curtilage of the host dwelling. However, for the purposes of ancillary residential accommodation, the test is whether the proposal would be within the same planning unit as the host dwelling and the Council accept that it would. Therefore, whether the proposal is within the residential curtilage of the property is not pertinent to this appeal.
27. The Council consider the proposal is tantamount to an independent dwelling. The appellant has directed me to *Uttlesford DC v SSE & White [1992]*, where the judge considered the conversion of a garage to a granny annex had not resulted in a change of use, stating 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.
28. The proposal would be occupied by the appellant's daughter and granddaughter. Therefore, it is likely that they would have a degree of connection with the host dwelling and its occupants. The garden of the host

property would not be subdivided and both buildings would share the existing gated access, driveway and parking areas. The building is within proximity of the host dwelling and the appellant asserts that all utilities would be shared with the host dwelling under single meters. Furthermore, it is said that the host dwelling, the appeal building, and the surrounding land has a covenant that restricts the whole site to only be occupied by one single family unit.

29. Notwithstanding this, the proposal would be substantial in scale, consisting of 4 bedrooms, four reception rooms and an integral double garage. This is excessive in size, particularly as the information before me suggests that it would be occupied by two people (one adult and one child). Consequently, in the absence of detailed information, I have concerns regarding whether the scale of the property could be considered ancillary to the host dwelling.
30. In reference to the fourth main issue, the information before me is insufficient for me to determine whether the proposal would comprise ancillary residential accommodation.

Other Matters

31. The proposal would result in some economic benefits during its construction. However, this would be for a limited temporary period. The appellant states that there would be economic benefits to local shops, services and facilities if the occupier of the proposal utilised them. However, any spending would be limited due to the low number of occupants.
32. I acknowledge that the proposal would provide accommodation for the appellant's daughter, promoting closer family ties and a support network. It is also stated that the daughter is unable to afford a dwelling nearby. However, this has not been substantiated with evidence. Furthermore, I am not convinced that the appellant's daughter and granddaughter could not be accommodated within the grounds of the host dwelling by a less harmful proposal.
33. The appellant asserts that ancillary residential accommodation can provide a solution for older adults who wish to downsize while remaining close to their family or community, and that the proposal could alleviate housing shortages or provide alternative housing options in areas where affordable housing is limited. However, the proposal is not for the appellant to downsize, it is not an open market dwelling, nor does it meet the definition of affordable housing.
34. All living accommodation must meet current Building Regulations and therefore, this is a neutral matter. I accept that the conversion of an existing building requires fewer resources and generates less construction waste than the building of a new structure. However, I am not convinced that the building could not be converted by less harmful means.
35. I have been directed to planning approval⁴ at another property for the conversion of an existing snooker room to form accommodation for a disabled family and sleep-in nurse. The appellant asserts that this example demonstrates similarities with the appeal proposal in meeting a specific

⁴ Planning Ref 06/08807/PLF

housing need. However, limited information has been provided to enable me to determine whether it is directly comparable to the appeal proposal. Furthermore, it was determined a significant time ago under a different development plan.

36. While the appellant asserts that the proposal would comprise an efficient use of land, the existing buildings are currently used incidental to the host dwelling. Therefore, there is nothing before me to suggest that the appeal building is not being used efficiently. The appellant asserts that the proposal would result in an increase in property value and return on investment. However, this has not been substantiated with evidence. In any event, property value is not a material planning consideration.

Conclusion

37. For the reasons set out above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR