



Appeal Decision

Site visit carried out on 20 January 2025

by Mrs J A Vyse DipTP MRTPI DipPBM

an Inspector appointed by the Secretary of State

Decision date: 18th February 2025

Appeal Ref: APP/F1040/D/24/3352835

Nutwood, Shepherds Lane, Melbourne, Derby DE73 8HT

- 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 Andrew Moseley against the decision of South Derbyshire District Council.
 - The application No is DMPA/2024/0681.
 - The development proposed is described as “Changes to a residential property to allow it to function as a farmhouse and to provide downstairs bathroom and bedroom facilities. The creation of a separate farm office/workshop/plant room to serve the property’s farm and forestry estate, together with work to extend and existing wildlife pond.”
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Decision

1. For the reasons that follow, the appeal is dismissed.

Preliminary Matters

2. The Council’s Decision Notice is dated 11 July 2024, prior to the target date of 25 July 2024.¹ On 15 July 2024, subsequent to the issuing of the Decision Notice, the appellant submitted amended elevation details to the Council, which the authority declined to entertain. The appellant requests that I consider them as part of this appeal. However, whilst I understand the appellant’s frustrations in this regard, it is not the purpose of the appeal process to evolve a scheme. I am required to assess the proposal on the basis of the same plans that were consulted on and considered by the Council in coming to its Decision. I confirm therefore, that I have dealt only with the original application plans and have had no regard to any alternative design. The merits of any alternative scheme would be a matter for consideration by the planning authority in the first instance, as part of a fresh proposal.
3. The appellant maintains that the Council was wrong to remove domestic permitted development rights by condition when permission was granted for conversion of the building to a dwelling. However, as set out in my reasoning below, this matter has already been addressed through an appeal dealing with a refused application to, among other things, ‘remove’ the relevant condition (Condition 6). That appeal was unsuccessful. The building has been converted to a dwelling and permitted development rights for extensions etc have been removed, with the appeal scheme to be determined on that basis.
4. It is also maintained by the appellant, that permitted development rights for extensions to agricultural and forestry buildings, introduced in May 2024 under Class Q of Schedule 2 Part 3 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), represent a material

¹ The target date is the date before which the Council should have made its decision. It is not an intended decision date.

fallback position that could have been implemented at the time the instant application was determined and, it is argued, could still be exercised, even though the property is now in use as a dwellinghouse. However, and notwithstanding the reference in the description of development to possible use of the building as a farmhouse serving a farming and forestry estate, the planning application the subject of this appeal was a householder application for works or extension to a dwelling. Similarly, the appeal is a Householder Appeal, proceeding under the provisions of Part 1 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009. I have determined the appeal on that basis.

5. The description of development set out above is taken from the application form. However, no details of the works to the pond referred to are before me and so I make no comment on that element of the scheme.

Main Issue

6. The main issue in this case relates to the effect of the proposed extension and outbuilding on the character and appearance of the host building and of the surrounding area.

Reasons for the Decision

7. Nutwood comprises a modest, 21st Century, two-storey timber framed agricultural/forestry barn, originally with a linear plan form and a steep pitched roof over. It is set within a woodland clearing in the countryside, accessed via a track through the woods that approaches from the northeast, with views of the east and north elevations on approach. For the purposes of planning policy, it lies in the open countryside.
8. In 2018, permission was granted for its conversion to a two-bedroom dwelling, together with a pond and reed beds to the rear.² That permission included the re-building and limited extension of a lean-to addition along part of the western elevation of the barn. A subsequent application in 2019, which sought to implement that permission without complying with conditions No 2, 4, 5 and 6, was refused. On appeal, however, whilst conditions 5 and 6 were retained, conditions 2 and 4 were 'varied' allowing, among other things, for an further increase in the length of the lean-to extension, with an additional canopy overhang, although it was still set well back from the north (gable end) elevation.³ Notwithstanding its new use as a dwellinghouse, the building retains its original, characteristically simple form and scale, blending well with the rural nature of the locality. Seen in its woodland setting, its vernacular heritage remains clear.
9. The current proposal seeks permission for a single-storey, slightly L-shaped extension, with a pitched roof over, to create a boot room, bathroom and additional bedroom. It would extend beyond the end of the existing lean-to, filling the recessed corner, extending beyond the northern gable of the barn and projecting out at right-angles at the northern end of the western elevation by almost the same length as the original barn

² Application No 9/2018/0887

³ Application No 9/2019/0651 Appeal Ref APP/F1040/W/19/3240900 Condition 5 required the submission of details of boundary treatments. Condition 6 removed permitted development rights in relation to walls, fences, gates etc and extensions. Condition 2 was the plans condition and Condition 4 required a scheme of landscaping.

10. As noted above, the rebuilt lean-to was increased in size pursuant to the 2019 approval. The scale of the development now proposed, with a footprint almost double that of the original rectangular barn (excluding the lean-to), and a pitched roof over, is substantial and would not be seen as modest or subordinate in relation to the host building.
11. The proportions and location of the extension proposed would also appear at jarring odds with the linear form of the original building (as previously extended). That impact would be particularly apparent on the approach along the driveway from the northeast. At present, the eastern side elevation and the narrow gable end of the original building are seen viewed on arrival - the lean-to on the western elevation is not readily apparent in this view, being set well back from the gable end. The lateral extension would conflict with the vertical proportions of the gable end, undermining the original character and proportions of the building.
12. The appellant draws attention to guidance in the Council's SPD⁴ which, it is argued, supports the principle of a single storey range at right angles to traditional barns. However, the diagram cited is taken from a section of the SPD relating to the extension of buildings in conservation areas. It is not aimed at extensions to barn conversions in the open countryside, which are dealt with in a separate appendix (Conversion of Agricultural Buildings) which seeks to avoid large extensions. In any event, I note that the same section of the SPD also confirms that extensions are usually more successful if they are visually subordinate to the host building, which is not the case here.
13. Since the proposal is not for the conversion of the building, I find no direct conflict with policy H28 of the Local Plan, the policy against which the original application for its conversion to use as a dwelling would have been considered. That is not to say, however, that the policy is not relevant. As confirmed in the SPD, permitted development rights which normally apply to dwellings are withdrawn as a condition of approval for the conversion of agricultural buildings to residential (as is the case here) with proposals for subsequent changes being considered against the same criteria as the original conversion. It is important, therefore, to have regard to the purpose of the policy, which is to allow for buildings worthy of retention, that are part of the character of the rural landscape, to be put to a new use without being detrimental to the existing character.
14. Policy H28 is permissive of residential conversions in locations such as this – namely the open countryside where the erection of new dwellings would generally be resisted - as long as it can be done without extensive extension. The SPD reiterates the thrust of policy H28, advising that conversions will only be permitted where, among other things, the use can be accommodated within the confines of the existing building, without substantial extensions. The development proposed is in clear conflict with that.
15. The harm I have identified also brings the development into conflict with policy H27 of the South Derbyshire Local Plan, which allows for extensions to dwellings provided, among other things, that they are of a scale and character in keeping with the property. There would be conflict too with the Council's SPD, which advises that residential extensions should usually reflect the existing character, form and proportion of buildings.

⁴ South Derbyshire Design Guide – Design Supplementary Planning Document (November 2017)

16. The appellant seeks to draw support from policy BNE5. No copy of that policy is before me, but I understand that it relates to development in rural areas out with defined development boundaries. In particular, my attention is drawn to parts ii) and iii) of the policy, which apparently allow for development that is essential to a rural based activity and is unavoidable outside development boundaries.
17. The appellant refers, in this regard, to evidence provided to the Council to demonstrate how the proposal meets the policy. However, only limited evidence on this is before me in connection with this appeal. I have a statement from Derby College referring to use of the appellant's estate for the training of forestry students, and from Milner Forestry, who purchase timber from the appellant's woodland to produce woodchip as a biomass product. It is also suggested that the boot room is reasonable and necessary, in part, due to use of the building as a farmhouse. However, neither that, nor the brief statements, demonstrate that the residential extension proposed meets the parts of policy BNE5 prayed in aid by the appellant, particularly when regard is had to the nature of the application. As set out at the start, this is specifically a householder application. Any application for works in association with a rural business would need to be the subject of a full application. I am not persuaded, therefore, that this is a relevant policy in relation to this type of application in any event.
18. Permission is also sought for a detached farm workshop/office building set into banked ground to the northwest of the dwelling. An office, workshop and plant room are shown on the ground floor, with a staircase up to first floor storage within the roof space. The lower part of the walls would comprise existing stone retaining walls that enclose three sides of the footprint. It is not clear what the upper part of the walls would be constructed of, possibly timber. It would have a steeply pitched clay tile roof, with a height to ridge of some 6.4 metres. Solar panels are shown on the south-facing roof slope.
19. I have concerns about the proportions of the building proposed in relation to the converted barn. It would be a substantial structure, with a width similar to the original barn, of similar height. Consequently, it would not appear as a subservient outbuilding that would sit sympathetically with the dwelling. It would have an imposing presence that would harm the character and appearance of the rural surroundings to the converted barn. Whilst I am advised that the height is the minimum required to allow for vehicle and machinery access, it would seem that the first floor, as shown on the plans, would restrict the height for vehicles on the ground floor. It is not clear therefore, why the building is as tall as is proposed.
20. Moreover, as set out in the officer's report, it would seem that in 2024, the Council determined that prior approval was not required for the erection of an agricultural machinery store and an open fronted feed/log store at the site. I have no details of those buildings or where they were in relation to the appeal site, but the appellant indicates that they have not been built. In support of the appeal, it is argued that the workshop building now proposed would have less of an impact than one of those 'approved' buildings. Without any details, I have no way of assessing that. Even if that were the case, there is no mechanism before me to prevent erection of the 'approved' building prior to building the workshop now proposed. That could lead to a proliferation of buildings that would materially erode the rural character and appearance of the area.

21. The appellant suggests that whilst it would be possible to install the solar panels in an adjoining field, that would result in greater harm to the setting of the barn than the workshop building proposed. However, no details of any possible alternative location are before me on which to come to a view.
22. In support of the appeal, my attention is also drawn to a number of permissions elsewhere.

Pippin Heath, Kings Newton Lane, Derby

23. I am advised that permission was granted for the conversion and L-shaped extension of a former agricultural store, the extension representing an increase of 84% over the size of the original building. However, I have no information as to the background that informed that decision, so have no way of knowing if the circumstances are directly comparable to the scheme the subject of this appeal.

Forest View, Cockshut Lane, Melbourne

24. I understand that permissions were granted for extensions to a converted barn, including a two-storey extension, under the provisions of policy H27. The extensions apparently equated to a 130% increase in floor area. Again, I have no information as to the planning considerations that informed those decisions.

Hemsley Barn Cottage, Melbourne Lane, Ticknall

25. Reference is made to permission for a two-storey extension. Again, no background information is before me, but it is not evident from the submitted photograph that the property is a barn conversion.

Park Lea, Melbourne Lane, Ticknall

26. The permission referred to here relates to the extension of a replacement dwelling. Whatever the scale of that extension, the development is not comparable to the appeal scheme which comprises a converted barn, to which different policy considerations apply.

St Brides, Shepherds Lane Stanton Hill

27. Permission was granted for the conversion of six barns to dwellings, which apparently included a double garage with loft space for each. Reference is made to the proposed workshop at the appeal site being a similar size to those garages. Again, however, I have no information about the circumstances that led to the grant of permission in that case.
28. Based on the information that is before me, I find nothing in those decisions to be directly comparable to the appeal scheme, which I have considered on its own merits in the light of its planning history and particular physical context.

Planning Balance and Conclusion

29. In considering the appeal proposal, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

30. The appellant advises that whilst the original permission included two bedrooms and a bathroom at first floor level, he felt that necessary alterations to the timber frame were undesirable and so the first floor accommodation was reduced to one bedroom. The proposed extension is intended to provide for additional downstairs accommodation to meet the unspecified future needs of the appellant. However, those needs must be balanced against the harm to the character and appearance of the host building and the surrounding area that I have identified. I am not persuaded, in this regard, noting that the existing bathroom is already at ground floor level, that if the appeal were dismissed, there are no appropriate alternatives that could deliver similar benefits in terms of an additional bedroom, without the identified harm possibly, for instance utilising some of the existing ground floorspace, or maybe providing it in a smaller extension. Therefore, dismissal of the appeal is a proportionate response.
31. It is also sought to justify the proposed boot room, in part, through reference to it allowing for the installation of an alternative renewable heating system. It would seem that the system referred to relates to the solar array on the proposed workshop, which would heat and power the house. The role of the boot room is referred to as housing related tanks and control systems. It is not clear, however, why they would need to be in the boot room, nor is there any indication of space requirements etc. On the evidence before me, the space proposed is not justified on this basis.
32. In terms of benefits, reference is made to the potential for the scheme to contribute to net carbon targets. However, other than an ambition for the development to be net zero, any benefits in this regard are not detailed or quantified. I am, however, mindful of the use made of the woodland by the College and a local business, which may well generate some economic and social benefits.
33. In light of the forgoing, I have found that the development proposed would result in material harm to the appearance of the host building and of the surrounding rural area, bringing it into conflict with policies H27, H28 and BNE5 (insofar as it might be deemed to be a relevant policy) of the Local Plan and with the Council's SPD, which together and among other things seek to protect such interests. The benefits that I have identified, including the personal circumstances of the appellant and allowing for some environmental benefits through the introduction of a solar array, are not sufficient in this case, to outweigh that harm and the conflict with the development plan. On balance, therefore, I conclude that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR