



Appeal Decisions

Hearing held on 11 February 2025

Site visit made on 11 February 2025

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 February 2025

Appeal A Ref: APP/H1840/C/24/3354241

Appeal B Ref: APP/H1840/C/24/3354242

Drakes Bridge House, Drakes Bridge Road, Eckington, Pershore WR10 3BN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Edward Mustin (Appeal A) and Mrs Louise Mustin (Appeal B) against an enforcement notice issued by Wychavon District Council.
- The enforcement notice was issued on 25 September 2024.
- The breach of planning control as alleged in the notice is failure to comply with a condition imposed on planning permission ref 21/01007/HP granted on 21 March 2022.
- The development to which the permission relates is the "Refurbishment and extension to existing garage for storage and home office; new shed/kennel to rear garden and new front boundary fencing".
- The condition in question is no.1 which states:
The garage development hereby permitted shall not be used/occupied at any time other than for purposes ancillary to the residential use of the adjacent listed dwelling known as Drakes Bridge. The development shall not be used as an independent self-contained dwelling separate from the dwelling known as Drakes Bridge.
- The requirement of the notice is to comply with condition 1 of planning permission 21/01007/HP by ceasing the independent self-contained use of the garage as a dwelling (building shown approximately filled in blue on the attached plan).
- The period for compliance with the requirement is 2 months beginning with the date on which the notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (b) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2)(b) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary decision: Appeal A is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision. No further action is taken in respect of Appeal B.

Preliminary Matters

1. Planning permission (reference 21/01007/HP) was granted by the Council in March 2022 (2022 Permission) for the conversion of a garage within the appeal property to additional living accommodation. Condition (1) attached to that permission requires the outbuilding to remain ancillary to the main dwelling, and precludes any independent use. Whilst the appellants use the outbuilding as ancillary accommodation to their main house, the outbuilding is also used for short-term holiday lets, which the Council says is in breach of this condition.
2. As the notice alleges a breach of condition, success on ground (a) would mean permission is granted for the development authorised by the 2022 Permission without compliance with condition (1). The description of development authorised

by the 2022 Permission refers to “*refurbishment and extension to existing garage for storage and home office*”. Therefore, even without condition (1), use of the outbuilding for short-term holiday lets would potentially be inconsistent with the development description. Even if successful on ground (a), this could raise uncertainty with regard to how the outbuilding may lawfully be used.

3. During the hearing, amendments to the notice were therefore discussed, with a view to correcting the allegation from a breach of condition attached to the 2022 Permission to development without planning permission. These changes would give greater clarity and certainty to the parties in the event of success on ground (a), particularly in terms of how the outbuilding may lawfully be used going forwards. The main issues in respect of the ground (a) appeal would be similar, even if the breach were framed in this way.
4. The appellants were aware these changes would mean their appeal on ground (b) would fail, as there is no dispute that the outbuilding is used for short-term holiday lets. However, given the greater certainty with regards to the ground (a) appeal if successful, the appellants considered the amendments were beneficial.
5. Consequently, and with agreement from both parties, I have corrected the allegation to “*without planning permission, the material change of use of the outbuilding shown blue on the attached plan to a mixed use comprising short-term holiday accommodation and use ancillary to the residential use of Drakes Bridge House*”. The requirements have been amended to reflect the corrected breach. I have also amended the statutory basis for the notice, as the corrected allegation now refers to development without planning permission (as per s171(1)(a) of the 1990 Act). Given both parties were given time to consider the changes during adjournments at the hearing, and both agreed to the changes, I am satisfied that neither party has been caused injustice.
6. In turn, the ground (b) appeals no longer fall to be considered, as they would fail automatically as part of the agreed changes. Appeal A will therefore proceed on grounds (a) and (g) only, and Appeal B will proceed on ground (g) alone.

GROUND A (APPEAL A)

Main Issues

7. In this context, the main issues with regard to the ground (a) appeal, being the deemed planning application for the matters alleged in the notice, are:
 - the effect of the development on local amenity; and
 - whether the development preserves the setting and significance of Drakes Bridge House as a listed building.

Reasons

Local Amenity

8. The outbuilding is a detached former garage which is sited to the western side of the main house. It has been converted into annexe accommodation, which includes living space, a kitchenette, a small bathroom and a bedroom at mezzanine level. As discussed, since its conversion the outbuilding has been used for short-term holiday lets and as additional living accommodation to Drakes Bridge House.

9. The annexe is modest in size, and includes sleeping accommodation for up to two people. In turn, the annexe is generally occupied by solo travellers or couples, irrespective of whether it is used as a holiday let or as additional family accommodation. There is nothing to suggest its use in this way has introduced any particular amenity concerns in terms of noise, and given its low-level occupancy, it is difficult to envisage noise becoming an issue.
10. The annexe is well screened from the nearest neighbouring property to the west, and there are no windows on the western flank wall of the annexe which give rise to any issues in terms of overlooking. The annexe accommodation also has its own access and off-road parking area, which means its use does not raise any highway concerns.
11. Overall, I am therefore satisfied that the mixed-use of the outbuilding for short-term holiday accommodation and for use ancillary to Drakes Bridge House does not cause harm to local amenity. In turn, the development is consistent with Policy SWDP21 of the South Worcestershire Development Plan (2016) (SWDP), which seeks to ensure new development adequately protects neighbouring amenity.

Listed Building

12. Drakes Bridge House is a grade II listed dwelling. It dates back to the 17th or 18th century, and is noted as a well-constructed and legible example of a rural dwelling from this era. The house sits within a generous curtilage which draws greater focus to the built aspects of the property, which helps contribute to its significance.
13. Notwithstanding its conversion, the size of the outbuilding remains modest, and it continues to incorporate the external features of a traditional garage, such as side-hinged doors along its frontage. Whilst the boundary treatments around the outbuilding do provide it with a degree of separation from the main house, these physical features ensure the building is still appreciated as a garage/outbuilding which is closely associated with the main house.
14. As a result, the outbuilding continues to be seen as part of the curtilage to the main property, and its use, whether for short-term holiday lets or as ancillary accommodation to the main dwelling, does not affect this. The use also does not affect the physical character of the main house itself. In turn, the development preserves the overarching significance of Drakes Bridge House. Appropriate conditions to regulate use of the outbuilding can ensure this remains the case going forwards.
15. Overall, I am therefore satisfied that the development preserves the setting and significance of Drakes Bridge House as a grade II listed building. The development is consistent with Policies SWDP6, SWDP21 and SWDP24 of the SWDP, all of which seek to protect the significance of heritage assets as part of new development.

Other Matters

16. In reaching this conclusion, I have had special regard to the desirability of preserving this listed building and its setting, in line with my duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Given the proximity of the appeal property to the Eckington Conservation Area, I have also had special regard to the desirability of preserving or enhancing the character or

appearance of the CA, in accordance with my statutory duty under s72(1) of the same Act.

17. Whilst drainage provision to the outbuilding was discussed during the hearing, the parties agreed that adequate provision for the development was secured as part of the 2022 Permission.

Conditions

18. During the hearing, the parties discussed the inclusion of conditions in the event Appeal A was allowed on ground (a). I have reviewed these in line with guidance included in the National Planning Policy Framework (2024) and Planning Practice Guidance.
19. I have included a condition which requires a scheme for boundary treatments, landscaping, access and parking to be approved by the Council. The scheme must be implemented as approved, and retained as such thereafter. This is to ensure the outbuilding continues to integrate effectively with the main dwelling, which will help to preserve its significance as a listed building. The condition will also help ensure acceptable access and parking arrangements are retained going forward.
20. I have also included a condition to preclude the possibility of the outbuilding being used as a permanent residence. This is to ensure it remains tied to the use of Drakes Bridge House. To this end, a condition has been included which requires a register of occupiers of the outbuilding to be maintained, which will help the Council monitor compliance with the relevant occupancy restrictions.

Conclusion

21. For the reasons outlined, Appeal A succeeds on ground (a) and the deemed planning application is approved. The enforcement notice will be quashed, and it follows that Appeals A and B on ground (g) do not fall to be considered.

Formal Decisions

22. It is directed that the enforcement notice is corrected by:

- (a) The deletion of reference "Section 171A(1)(b)" in the third line of paragraph (1) and substitution with "Section 171A(1)(a)".
- (b) The deletion of paragraph (3) and substitution with the following new paragraph (3):

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the material change of use of the outbuilding shown coloured blue on the attached plan to a mixed-use comprising short-term holiday accommodation and use ancillary to Drakes Bridge House.

and varied by:

- (c) The deletion of paragraph (5) and substitution with the following new paragraph (5):

5. WHAT YOU ARE REQUIRED TO DO

Cease the mixed-use of the outbuilding shown coloured blue on the attached plan comprising short-term holiday accommodation and use ancillary to Drakes Bridge House.

23. Subject to the corrections and variations, Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the outbuilding shown coloured blue on the attached plan to a mixed-use comprising short-term holiday accommodation and use ancillary to Drakes Bridge House, at Drakes Bridge House, Drakes Bridge Road, Eckington, Pershore WR10 3BN as shown on the plan attached to the notice and subject to the conditions set out in the Schedule.

24. I take no further action in respect of Appeal B.

Mr James Blackwell

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within 3 months of the date of this decision a scheme for the provision of boundary treatments, landscaping, parking and access arrangements, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval (or within such time as may otherwise be approved), the use of the outbuilding for short-term holiday accommodation shall cease until the scheme is approved and implemented. The scheme shall thereafter be retained in accordance with the approved details.
- 2) The outbuilding shall not be used as a person's permanent or main residence at any time.
- 3) A register of all occupants of the holiday accommodation, which shall include their names, addresses and dates of stay, shall be maintained at all times and shall be made available for inspection by the local planning authority upon reasonable request.

APPEARANCES

FOR THE APPELLANT:

Daniel Stiff (Boughton Butler Ltd)
Edward Mustin
Louise Mustin

FOR THE LOCAL PLANNING AUTHORITY:

Gavin Greenshow
Samuel Mather
Victoria Stevens