

Appeal Decision

Site visit made on 25 January 2017

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 February 2017

Appeal Ref: APP/G5180/D/16/3164303

86 Copers Cope Road, Beckenham, Kent, BR3 1RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Ms Christopher & Rachel Lawn & Gill against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/04513/FUL6, dated 27 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is the erection of a single storey residential outbuilding (granny annexe) at the end of the rear garden within the existing residential curtilage.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

3. The appeal site is situated within a pleasant residential area of good quality. The opposite frontage in the vicinity of the appeal site and both frontages to the south are characterised by fairly sizeable detached and semi-detached dwellings set in generous gardens. To the north of the appeal site on the same side of the road some low-rise flats have been built. Sports and recreation grounds are evident behind the development on the road frontages in this part of Copers Cope Road.
 4. The proposed building would be sited to the rear of the appellants' garden, well separated from the host property. No independent vehicular access would be provided but the building would be reached on foot from Copers Cope Road along an existing pathway that runs alongside the appeal property's rear garden, but which is effectively divorced from it by a row of mature evergreens.
 5. The outbuildings currently occupying the site would be removed to make way for the proposal. The intention is that the mother of one of the appellants would occupy it. It is said that she wants to be able to spend more time with the family in their house, but she would also wish to retain some independence and privacy, hence the proposed siting.
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6. The Council's main concern is that the proposed development does not, in its view, represent an ancillary form of accommodation, but that it is capable of being severed from the host property and used as a separate dwelling.
7. The appellants, on the other hand, consider the proposed dwelling is too small to be regarded as a separate dwelling, and that it is not the intention to separate it.
8. In March 2015, the government published new '*Technical housing standards – nationally described space standard*', and its intended role in planning is described in *Planning Practice Guidance (PPG)*. I consider that the fairly recently published national standards provide the most relevant and up-to-date guidance available. Indeed, table 3 of the London Plan, to which the appellants refer, was altered in March 2016 to reflect the new national standards.
9. The submitted plans show a 1-bedroom, single-storey building, an accompanying shower/bathroom and an open-plan living/dining room and kitchen. A patio area would be set outside. The accommodation would have an internal area of around 45 sq.m – too small in the appellant's view to be regarded as a dwelling. It would be sited as far as practical from the main house at the end of the garden.
10. In the terms of the national standards referred to earlier (table 1), and the altered London Plan, the annexe's floorspace is sufficiently large for it to qualify as a one-person single-storey dwelling. Moreover, given the nature of the accommodation, including a well-equipped kitchen area, it is more than capable in my view of being regarded and used as a residential unit wholly independent of the appellant's house.
11. Accordingly, I fully understand the nature of the Council's concerns, which reflect the concerns on separate annexes expressed in the explanatory text to policy H8 of the Council's Unitary Development Plan (UDP). Whilst the appellant asserts correctly that the explanatory text does not, in itself, comprise policy, it nevertheless provides useful guidance to prospective applicants of the pitfalls sometimes encountered with such development, and gives a firm indication of the Council's view of such developments.
12. I concur with the Council's view that the use of the proposed annexe as a separate dwelling, independent of the host property, would be unacceptable largely since it would introduce backland development, materially altering and harming the character of the area, resulting in future pressures for improved access and separate amenity arrangements, which would themselves result in material effects on the living conditions of the residents' of the host property, by reason of noise and disturbance and loss of privacy. Whilst insufficient reason, in itself, to refuse permission the establishment of an independent unit in this backland location would also act as an undesirable precedent.
13. The appellants say that mechanisms are available to prevent the building being used as an independent dwelling. In this regard the appellant suggests that conditions could be imposed, reinforced by a legal agreement, executed under s106 of the *Town and Country Planning Act 1990* (as amended). However, no s106 agreement or unilateral undertaking has been put before me, and it is a matter entirely for the appellant to present an executed document if it is to be taken into account as part of the appeal process.

14. The national *Planning Practice Guidance* (the Guidance) provides advice on the use of conditions, including the propriety of using conditions to limit the benefits of the planning permission to a particular person or group of people. In this regard, it advises that

'Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission...

A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building...'

15. The appellant suggests conditions, amongst others, to restrict occupancy to a close family member and one designed to prevent the independent sale or letting of the unit. The accommodation is intended for a particular person (Mrs Gill senior), but very little information has been provided of her personal details or whether or not her circumstances can be regarded as exceptional.
16. Be that as it may, it is almost certain that the building, given its permanence, would outlast her need for the accommodation. It is at that stage, or possibly sooner, should for example the appellants find themselves in a position of needing to sell their house, that pressures could and would probably arise for the relaxation of any restrictive conditions imposed. The Council would probably find difficulty in resisting, particularly given my earlier finding that the accommodation provides such facilities and is of a size which define it as a dwelling.
17. In my experience, granny-annexes are not uncommon, and are helpful in maintaining and encouraging family connections. But when normally proposed they consist of modest extensions to the main house, with linkages, or the use of outbuildings smaller than proposed, possibly more closely related to the main house and not providing the range or level of facilities envisaged in this case.
18. Unlike this proposal, such developments encourage and foster close and frequent social relationships between the generations, whilst providing an appropriate level of mutual privacy and independence. They also ensure the functional subservience and ancillary nature of the annexes. In this case, however, the proposal consists, in effect, of the development of a small, fully serviced bungalow at the bottom of the garden, capable of providing wholly independent living accommodation. It could not realistically be considered as accommodation ancillary to the main dwelling.
19. I therefore conclude that the proposal is unacceptable since, for the reasons already provided, it would have a materially deleterious effect on the character of the locality, and, if permitted, could give rise to pressures for similar development, which the Council would find difficulty in resisting. Accordingly, the proposal conflicts with that provision of UDP policy BE1 designed to ensure that new buildings should complement the layout of adjacent areas. Furthermore, although I do not share all the Council's views on the issue of conditions, it seems likely to me, given the nature of the accommodation, that if conditional permission were granted, pressure would inevitably arise in future to relax the restrictive conditions such as those proposed by the appellants.

20. All other matters raised in the representations have been considered and taken into account. I note the thrust of the appellants' point that the Council accepted the original application under the general heading of householder development. However, the administrative process invoked does not obviate the need for planning permission for the proposed development. No other matter raised is of such strength or significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR