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## Appeal Decision

Site visit made on 9 May 2017

**by G J Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 25 May 2017**

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**Appeal Ref: APP/D5120/W/17/3167661**

**2 West Heath Close, Crayford, Dartford DA1 3PD**

- 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 Mrs Ayo Itoya against the decision of the Council of the London Borough of Bexley.
  - The application Ref 16/01972/FUL, dated 1 August 2016, was refused by notice dated 2 November 2016.
  - The development proposed is change of use of existing outbuilding (games room) to granny annexe.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of existing outbuilding (games room) to granny annexe at 2 West Heath Close, Crayford, Dartford DA1 3PD in accordance with the terms of the application, Ref 16/01972/FUL, dated 1 August 2016 subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
    - 2) The development hereby permitted relates to the following approved plans: Site Location Plan-Dwg No. 1000; Site Plan (existing)-Dwg No. 1001; Proposed Plans & Section for Games Room-Dwg No. 1004; Proposed Elevations for Games Room-Dwg No. 1005.
    - 3) Notwithstanding condition (2) the development hereby permitted shall not be occupied until details of the arrangements for storage of refuse and recycling (including means of enclosure for the area concerned where necessary) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to first occupation of the development hereby permitted.
    - 4) Notwithstanding condition (2) the development hereby permitted shall not be occupied until details of a fence to pass along the boundary of the site with 3 West Heath Close have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to first occupation of the development hereby permitted.
    - 5) The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling
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known as 2 West Heath Close and shall not be occupied as a separate dwelling.

### **Procedural Matters**

2. I have used the description of development given on the appeal form as opposed to that on the application form which is "Change of Use-Games Room to Nanny annex". I have used the description given above because it more accurately captures the scope of the proposed development.
3. The application form states that development in relation to the proposed use started on 1 August 2016, and I saw that internally the property was arranged in line with the submitted plans. However, it is unclear from the application form, and at the time of my site visit, to what extent the property is or has been in use as annexe accommodation as described. Accordingly, I have assessed the appeal on the basis that the proposed use has not commenced.

### **Main Issues**

4. I consider the main issues in this appeal to be firstly, the effects of the proposed development on the character and appearance of its surroundings; secondly, the effects of the proposed development on the living conditions of the occupants of adjacent residential properties in terms of noise and disturbance; and thirdly, whether the proposed development would make adequate arrangements for car-parking.

### **Reasons**

#### *Character and Appearance*

5. The appeal property is a large flat-roofed ancillary building, with an established use as a games room<sup>1</sup> situated deep within the garden of 2 West Heath Close. 2 West Heath Close is a semi-detached property that has been considerably extended, one of a number of similar properties clustered around a narrow cul-de-sac. To the side and rear of the appeal building are the gardens of similar semi-detached properties that address other streets. Plot depths and garden shapes and sizes in the surroundings of the appeal site vary, and I saw that garden buildings were present in some of them, leading to a considerable density of development within its immediate environs. The proposed development would change the use of this outbuilding to provide one-bedroom annexe accommodation in association with 2 West Heath Close. I saw that the internal changes to facilitate this have already occurred. These comprise a living area with integral kitchen, washroom, a bedroom and a store, the latter of which does not include any windows.
6. Even if no external changes were proposed, the use of the appeal building as a separate dwelling, due to the appeal building's deep set back from the road and consequent lack of frontage would result in an incongruous development at variance with the pattern of its surroundings. However, the building is currently used as an ancillary element of 2 West Heath Close, and it would remain so under the terms of the development applied for. As ancillary accommodation it would share the amenity space of the main dwelling, and its forecourt, leading to no subdivision of the site, and taken together with the integrated nature of its use would not result in a material change to its

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<sup>1</sup> Under the terms of planning permission Council reference: 11/01090/FUL

character and appearance. This leads me to the view that no significantly harmful effects would be caused by the proposed development to the character and appearance of the area. As a result the approval of the proposed development would not establish a precedent for development proposals that would have harmful effects in these regards.

7. Thus for the reasons given above, the proposed development would cause no significant harm to the character and appearance of its surroundings. Accordingly, I can perceive no conflict with Policies H3 or ENV39 of Bexley's Unitary Development Plan (adopted April 2004) (the UDP), which, taken together, and amongst other things, seek to ensure that residential development is compatible with the character and appearance of its surrounding area.
8. As Policy H8 of the UDP refers to, amongst other matters, the development of new dwellings in gardens, as opposed to annexe accommodation, I consider that it is not directly applicable to this case.

#### *Living Conditions*

9. The positioning of the appeal building, deep within its plot, and on a site elevated above the levels of some of its surrounding properties mean that it is proximate to other dwellings, and their first floors. However, the building's authorised use is a domestic one ancillary to its host dwelling which is unrestricted in terms of the times that it can be used or the numbers that it could accommodate. Whilst the occupant of the annexe may receive visitors and could own a car, I consider that the modest amount of trips generated in respect of such a limited use would not lead to an excessive amount of comings and goings.
10. As a consequence, the modest scale of the proposed development would not lead to an intensity of occupation or activity within or around the appeal building that would cause materially more comings and goings or noise and disturbance than its existing use. Accordingly, I find that no significant harm would occur to the living conditions of the occupants of adjacent residential properties in these regards. Consequently, the proposed development would not conflict with Policy ENV39 of the UDP insofar as it seeks, amongst other things, to ensure that new development does not prejudice the environment of the occupiers of adjacent property and avoids unreasonable effects in terms of noise. As Policy H8 of the UDP refers to new dwellings rather than annexe accommodation, I consider it not to be applicable to this case.

#### *Parking*

11. At my site visit I saw that resident only parking restrictions were in place along the Close for a portion of the day, and that the road was narrow, with houses crowded around it, their highway crossovers limiting the amount of on-street parking space available. However, I saw a parking bay on-street that looked capable of accommodating two cars. No 2 has a crossover serving a forecourt that provides sufficient space to park two cars.
12. The use of the appeal building as annexe accommodation in connection with No 2 would only result in a limited intensification of occupation at the site. Given that the appeal building would be used in connection with its host dwelling, I have no substantive evidence to suggest that it would lead to

significant additional amounts of visits to the site that would cause a material increase in pressure for on-street parking. Moreover, whilst the occupant of the ancillary accommodation could own a car, I saw that parking was available both within the forecourt of the site, and within the resident parking bay on the street; and I have been supplied with no substantive evidence to suggest that occupants of the appeal property would be ineligible for resident parking permits. I also saw that the majority of dwellings which addressed the Close had ample amounts of off-street parking associated with them.

13. Moreover, I consider that the narrowness of the Close, coupled with its shortness, and the fact that it is a cul-de-sac that serves a limited number of properties are factors that would tend to limit both the amount and speed of vehicular traffic along it. As a result I consider that any minor additional on-street parking caused as a result of the development would not cause any undue harm to pedestrian safety or that of the highway more generally.
14. For these reasons, I consider that the proposed development would make adequate arrangements for car-parking, and in arriving at this view I am mindful that the two spaces provided within the forecourt of No 2 would meet the maximum standards given in table 8A.18 of the UDP, relevant in this case because the proposed development refers to annexe accommodation rather than the provision of a new dwelling. As a result, I can find no conflict with Policy T17 of the UDP insofar as it seeks to respect the amenity of nearby residents and discourage on-street car-parking.

### **Other Matters**

15. I note that the Council considers that were the appeal building to be used as a separate two-bedroom dwelling that it would cause considerable harm in relation to the main issues set out above. However, that is not what the proposed development seeks to achieve. Whilst I note that the appeal building could be accessed independently from No 2, by going round the side, this does not alter my conclusions regarding the planning merits of the proposed development. I consider that an appropriately-worded condition would ensure that the proposed development is delivered in line with the description given in the banner heading above.
16. I have been supplied with marketing details which show the appeal building available to rent as a separate dwelling. However, a separate dwelling such as this is not what is applied for in this case. As a result, these marketing details do not weigh heavily against the proposed development in the overall planning balance.
17. The Council considers that the appeal building's potential capacity to be occupied as an independent dwelling, its size, and its physical detachment from No 2 mean that it is not as integrated with its host dwelling as other annexe accommodation in the Borough<sup>2</sup>. I am also aware of comments suggesting that the ground floor of No 2 could be used to house occupants with mobility difficulties, and that the appeal building's physical detachment could fail to meet the welfare needs of an older resident. However, as I have found no material harm would arise in respect of the main issues as a result of the

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<sup>2</sup> Including for example the annexe accommodation permitted at 72 Dale Road under the terms of the application Council reference 16/01191/FUL

- proposed development these are matters that do not weigh heavily against the scheme.
18. I have had regard to comments concerning additional rubbish receptacles in association with the proposed use. However, I consider that an appropriately worded condition would ensure that the proposed development makes adequate arrangements in these regards and thus avoids harmful effects to the amenity of occupants of adjacent dwellings or to the character of the streetscene more generally.
  19. There is an existing conservatory to the rear of No 2 and I am aware that this may not benefit from planning permission; however an assessment of the planning merits of this aspect of the site is not before me in this appeal which has focussed on the use of the outbuilding. Moreover, whilst I note comments regarding potential discrepancies between the approved plans for the appeal building and the actual building, I have had no substantive evidence supplied to suggest that it is unauthorised. As a result, I consider that the proposed change of use of the appeal building, which is an existing structure, would not lead to over-development of the site. Furthermore, as the appeal building is an existing structure, I have no substantive evidence before me to suggest that its change of use would result in any material pressure on drainage or services more generally in its environs.
  20. I note comments regarding fire-risk from cooking equipment located within the appeal building. However, I saw that the appeal building was at a reasonable separation distance in these regards from adjoining residential properties, and that the fire service could attend to emergencies of this nature via the side access. Consequently, I consider that the fire risk associated with the cooking equipment within the appeal building does not weigh against the proposal to any significant degree in the overall planning balance.
  21. I saw that the windows that would serve habitable rooms in the appeal building were separated from neighbouring dwellings by a considerable distance, and that boundary and other structures screened these to a substantial degree from neighbouring properties. Moreover, due to the orientation of the appeal building any views available from these windows to the habitable rooms of nearby properties would be oblique. I consider also that a condition requiring details of boundary treatments between the appeal building and No 3 to be submitted to and approved by the Council, and the retention of any boundaries as approved would ensure that the proposed development would avoid mutual overlooking between those properties. Thus taking these matters together, I consider that the proposed development would cause no significant harm to the privacy of the occupiers of adjacent properties.
  22. Whilst I note references to the professional qualifications and occupation of the appellant and comments relating to potential purchases of land adjacent to the appeal site and alterations of fences, these are essentially private matters that have no bearing on the planning merits of the appeal. Moreover, I have been supplied with no substantive evidence regarding former uses of the appeal building for church services, or in terms of allegations of anti-social behaviour occurring in connection to the appeal site more generally, and in any event, these matters have only a very limited bearing on my assessment of the use as proposed.

## Conditions

23. I have assessed the list of conditions supplied by the Council against the tests given in paragraph 206 of the National Planning Policy Framework. This states that conditions should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.
24. As it is unclear whether the use of the property as annexe accommodation has already started I have attached the standard implementation condition to comply with the requirements of the Town and Country Planning Act 1990 (as amended). In the interests of certainty I have attached a condition specifying the approved plans.
25. In order that the proposed use makes adequate arrangements for bin storage, I have attached a condition requiring submission of further details of these to the Council for its approval. In the interests of the privacy of the ancillary unit's future occupants, and the occupants of the neighbouring dwelling I have attached a condition requiring the details of boundary treatments between the appeal building and 3 West Heath Close to be submitted to the Council for its approval, prior to its first occupation. I have amended the wording of both of these conditions in the interests of precision.
26. As the use of the appeal building as a separate dwelling could lead to a development pattern harmfully at odds with its surroundings, exacerbate comings and goings and noise and disturbance to the detriment of the living conditions of the occupants of adjacent properties, and result in increased pressure for parking, I consider it both necessary and reasonable to attach a condition to ensure that the proposed use is ancillary to the dwelling at 2 West Heath Close. Moreover, this condition ensures that the proposed development would be in line with what is applied for and the description of development given above.
27. Whilst I note the Council's comments with regard to the enforceability of such a condition, I consider that, given the close arrangement of dwellings around the appeal site that a more intensive and separate use of the appeal property would be readily apparent to the occupiers of adjacent properties, and that enforcement investigations would not be unduly difficult to conduct. Moreover, marketing of the appeal property as a separate dwelling would also be another clear trigger for enforcement action, as is made clear in the Council's appeal statement. Consequently, the perceived difficulty to enforce the condition on the part of the Council would not render it invalid in this case for the purposes of the Framework.
28. However, given my conclusions on the acceptability of such an ancillary use in planning terms, I can see no necessity to attach a condition restricting the permission personally to the appellant.
29. Neither, given the ancillary nature of the proposed use do I consider that exceptional circumstances exist in this case to limit any permitted development rights arising from the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended).

**Conclusion**

30. For the reasons given above, I consider that the proposed development would not conflict with the development plan insofar as the policies that have been drawn to my attention are concerned. Accordingly, I conclude, for the reasons given above, and having regard to all other matters raised, that the appeal should succeed.

*G J Fort*

INSPECTOR