
Appeal Decision

Site visit made on 3 July 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 26 July 2017

Appeal Ref: APP/J4525/W/17/3169172

Holmlea, North Road, Hetton-le-Hole, Houghton-le-Spring DH5 9JY

- 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 Andrew Nixon against the decision of Sunderland City Council.
 - The application Ref 16/01945/FUL, dated 19 October 2016, was refused by notice dated 16 December 2016.
 - The development proposed is erection of stables and garage with annex over.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed annex would create, or assist in creating, a separate unit of accommodation; and, if so
 - the effect on the living conditions of future occupants with regard to amenity space; and
 - the effect on highway safety.

Reasons

Whether a separate unit of accommodation

3. The proposed annex would be part of a detached building located to the side of the host dwelling of Holmlea. The appellant states that he wishes to provide accommodation for his elderly father who requires family support and would live his life as part of the family occupying the main dwelling.
4. The Council state that the proposal would provide the requisite facilities to enable full independent living without any functional link or dependence on the host dwelling. They contend that the proposal would be akin to an independent dwelling. The Council's Household Alterations and Extensions Supplementary Planning Document (SPD) requires that ancillary in-curtilage accommodation should not provide a fully self-contained unit and can be used only over the long term as part of the main property.

5. In relation to functional links with the host dwelling, no evidence has been provided to me about the sharing of services and utilities. Whilst the proposal would share the gated access with the main house, it would include separate garage provision and hardstanding in addition to that of the existing dwelling. The proposal would be detached from the main dwelling and would be within a parcel of land partially demarcated by a means of enclosure.
6. The proposal would include facilities such as a kitchen, bathroom, living space and bedroom which would enable the annex to function as a separate dwelling without sharing facilities in the main house. Whilst the area of residential accommodation provided by the annex would be limited compared to the main dwelling, it would be located within a detached building of a significant floor area, although I acknowledge that this would contain other uses.
7. Moreover, no substantive evidence has been provided to me in relation to the personal circumstances of the appellant's relative, the nature of the support required and why this accommodation cannot be provided within the main dwelling. I am also mindful that the residential annex is at first floor level with access provided via a flight of stairs, which may limit suitability of the annex for occupation by an elderly person.
8. To all intents and purposes, the facilities provided by the proposal would mean that it could readily operate as a separate residential unit.
9. The appellant contends that it would be appropriate to use a condition to ensure that the proposal is occupied as an ancillary annex to the main dwelling. He has referred to a model condition to this effect in retained Annex A of former Circular 11/95: Use of Conditions in Planning Permission. However, due to the self-contained nature of the proposal with separate facilities and parking, I consider that severance from the host property would in practice be very difficult to monitor. I am also mindful of the National Planning Practice Guidance on the appropriate use of conditions, which states that "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 new building"¹. In any case, very little evidence has been provided in relation to the appellant's personal circumstances. Therefore, I do not consider that such a condition would be reasonable in this case, particularly in respect of whether it is enforceable.
10. Furthermore, there may be pressure in the longer term to amend or remove a condition should the personal circumstances of the appellant and his family change.
11. I have had regard to the Appeal Decisions² submitted by the appellant, and I note that both proposals were allowed subject to the use of a condition similar to that suggested above. However, I note that in both of these appeals the Inspectors concluded that the occupation of the proposals as a separate dwelling was unlikely. For the reasons stated above, I do not consider this to be the case in the current appeal. Furthermore, I do not have full details of these other appeals so cannot be certain that the circumstances are the same. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.

¹ Paragraph: 015 Reference ID: 21a-015-20140306

² Appeal Refs: APP/F1610/A/09/2101500 & APP/B3438/A/12/2188171

12. As a matter of fact and degree, I conclude that the proposal would in effect create, or assist in creating, a separate dwelling. I also conclude that limiting the use by means of a condition would not be reasonable for the reasons stated above. The proposal would therefore conflict with the SPD in relation to the provision of ancillary in-curtilage accommodation.

Living Conditions

13. The Council's first reason for refusal refers to Policy B2 of the City of Sunderland Unitary Development Plan 1998 (UDP) which addresses matters including the scale, massing, layout and setting of new development. Whilst this is a wide-ranging policy, the Council Officer's report states that its concerns relate to the lack of amenity space for residents of the proposal.
14. If the proposal was to operate as an annex to the main dwelling, then it may be possible for occupants to share the existing garden of the dwelling. However, for the reasons stated previously, I consider that the proposal would in effect lead to the occupation of the annex as a separate residential unit. In this case, it is reasonable that occupants should have access to a private external amenity area.
15. The proposal would be separate from the main dwelling and would be within a parcel of land demarcated in part by a means of enclosure. Although the proposal would have an area land around it, this would consist of a paddock and a concrete hardstanding. Within this context, it may be possible to provide separate outdoor space for the proposed building. However, it is unclear how this could be achieved and particularly how potential conflict with vehicle movements and equestrian uses could be managed.
16. I conclude that residents of the proposal would not have suitable access to a private amenity area with subsequent harm to their living conditions. The proposal would therefore conflict with Policy B2 of the UDP with regards to the layout of the development. The proposal would also be contrary to the provisions of the National Planning Policy Framework (the Framework) with regards to seeking a good standard of amenity for all existing and future occupants of land and buildings.

Highway Safety

17. Vehicular access to the site is provided by a gated entrance point from North Road (B1284). I note that the Council's Network Management Section has raised significant concerns in relation to the proposal and have advised that there have been a number of accidents on this road, although details of these have not been provided to me.
18. I saw that North Road was well-trafficked and that visibility on leaving the appeal site was restricted due to high walls adjacent to the access. I also saw that visibility to the south east along the highway was very limited due to the brow of a hill and the curve of the highway.
19. The appellant contends that the ancillary nature of the proposal to the main dwelling would result in no intensification of the use of the main access. However, I have concluded that there is a realistic prospect that the proposed accommodation would not be ancillary to the main dwelling. On this basis, the proposal is likely to lead to a change in the nature of traffic accessing and egressing the site including an increase in the number of vehicle movements.

That the proposal would include the provision of further garage space adds weight to this conclusion.

20. The appellant also makes reference to the historic use of the land for stables. However, no substantive evidence has been provided in relation to the intensity of this use or the traffic movements associated with it. This matter does not therefore weigh in favour of the proposal.
21. Overall I conclude that the proposal would result in a material increase in the use of an access with restricted visibility to the detriment of highway safety. The proposal would therefore be contrary to Policy T14 of the UDP which states, amongst other things, that new development should not cause highways safety problems. The proposal would also conflict with the Framework with regards to achieving safe and suitable access.

Conclusion

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR