
Appeal Decision

Site visit made on 28 June 2017

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

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

Decision date: 17th August 2017

Appeal Ref: APP/G1250/D/17/3172645
12 East Avenue, Bournemouth BH3 7BY

- 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 and Mrs MJ Nash against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-10025-N, dated 24 November 2016, was refused by notice dated 18 January 2017.
 - The development proposed is the demolition of an existing asbestos and timber garage and erection of a new garage with associated store and sun lounge to rear. Ancillary "granny" annexe accommodation comprising of hall, small kitchenette and stairs to ground floor and two bedrooms with en-suites to first floor.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing asbestos and timber garage and erection of a new garage with associated store and sun lounge to rear. Ancillary "granny" annexe accommodation comprising of hall, small kitchenette and stairs to ground floor and two bedrooms with en-suites to first floor at 12 East Avenue, Bournemouth BH3 7BY in accordance with the terms of the application, Ref 7-2016-10025-N, dated 24 November 2016, subject to the conditions set out in the Annex to this decision.

Costs application

2. An application for an award of costs has been made by Mr and Mrs Nash against Bournemouth Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - i) whether the proposal would preserve or enhance the character or appearance of the Meyrick Park and Talbot Woods Conservation Area, and
 - ii) the effect of the proposal on the Dorset Heathlands Special Protection Area (SPA), Ramsar Site and Dorset Heaths Special Area of Conservation (SAC).

Reasons

Character and appearance

4. The site comprises a large, two storey house and detached garage in a large plot, set amongst similar sized plots. It is located in a central part of the conservation area and this part is typified by large dwellings, in spacious, well-planted plots.
5. The proposed dwelling would provide all of the facilities necessary to enable occupiers to live wholly independently of the main house. However, this on its own is not conclusive as the judgement in *Uttlesford DC v Secretary of State for the Environment & White* [1992] makes clear – it is a matter of fact and degree.
6. The appellants have explained in their grounds of appeal that the building is intended to be occupied by both sets of the appellants' parents, providing them with a degree of independence from their children. The proposed dwelling would share the same access as the main dwelling, and there would be no separate curtilage. It would be very much smaller than the main house, and would be close to it. More particularly, the windows to habitable rooms in the front elevation would be close to the main entrance to the main dwelling and to windows to habitable rooms in the side elevation, resulting in a degree of overlooking which would be uncomfortable were it not for a familial relationship.
7. Whilst I recognise that the building could be used as a separate dwellinghouse wholly independent of the main house, on the basis of the evidence before me, I consider that it could be realistically occupied as an annex, and in such circumstances it would be appropriate to prevent separate occupation by means of a condition limiting occupation for purposes ancillary to the residential use of the main dwelling.
8. I therefore find that the proposal would not lead to an inappropriate sub-division of the plot, as the planning unit would remain unchanged. Whilst two separate independent dwellings would appear as cramped and uncharacteristic, the same considerations do not apply to an ancillary residential annex, where close proximity to the host dwelling might be expected. I am satisfied that the use of conditions could control the occupation and use of the annex and any pressure to create an independent dwelling would need to be assessed on its own merits.
9. The existing house is a large one, and is well-screened from public views by planting in the front garden and alongside the drive. Only part of the front elevation of the house and that of the existing garage is clearly visible at the end of a fairly long drive, and as the proposed accommodation would occupy roughly the same site, it too would be visible from East Avenue. Even so, the proposed building would be clearly subordinate to the house, in terms of size, height, bulk and its more rearward position. The inclusion of double garage doors would reinforce the impression of an ancillary building, rather than a separate dwelling. It would appear like a coach-house or boat house and would not look out of place in the context of a large house in a spacious, well-screened curtilage.

10. In this case, I consider that the combination of the set-back and well-screened location of the building and its subservient relationship to the host building would ensure that it would fit in satisfactorily in the street scene, and would preserve the character and appearance of the conservation area. It would not conflict with saved Policy 4.4 of the Bournemouth District Wide Local Plan (DWLP) (February 2002) which deals with conservation areas. Nor do I find any material conflict with Policies CS39 or CS41 of the Bournemouth Local Plan: Core Strategy (CS) (October 2012), which respectively deal with designated heritage assets and quality design.
11. I find no conflict with DWLP Policy 6.8, as this deals with infill development, which this development is not.

The effect on the protected habitats

12. The site lies within 5km of the Dorset Heathlands SPA, which is also a Ramsar Site and part of the Dorset Heaths SAC. New residential development is normally required to provide mitigation to ensure that increased recreational pressure does not have a significant adverse effect on the habitats. CS Policy BCS33 provides that residential development will be required to take all necessary steps on site to avoid or mitigate any adverse effects upon the heathland site's integrity, or, where this cannot be achieved within the development, make provision for mitigation measures designed to avoid such adverse effects taking place.
13. A detailed explanation of the aims and mechanisms relating to habitat mitigation is set out in the Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (SPD). It makes it clear that the primary aim is to ensure that there is no net increase in residential units including their curtilage within a radius of 400m from the boundary of a protected heath. Although the SPD details various kinds of residential accommodation for which mitigation is required, it does not refer to "granny annexes" of the type proposed here. However, the council accepts that if the annexe could be controlled by condition then the contribution would not be required for additional ancillary living accommodation.
14. What is being sought here is not an independent dwelling, but ancillary accommodation for the appellants' parents. The ancillary nature of the accommodation makes it little different from an extension to the dwelling, which was the Council officers' preferred alternative, but was rejected for reasons of incompatibility with internal arrangements and the presence of trees. The proposal can properly be considered as forming a single household and not a separate dwelling, in which case there would be no net increase in residential units requiring mitigation.
15. I therefore find that there would be no significant adverse effect on the protected European sites, and no material conflict with CS Policies CS22, CS23 or CS24, all of which deal with nature conservation measures.

Conditions

16. The Council has suggested a number of conditions which I have assessed in the light of national guidance. A condition to require the development to be carried out in accordance with the approved plans is needed to ensure certainty. Conditions relating to materials and the implementation of tree protection

measures are necessary in the interests of appearance. Conditions to ensure that the building is only used for ancillary accommodation and to prevent the formation of a separate curtilage are justified to ensure that the building remains as an ancillary component.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: refs: 1016/155/01, 1016/155/02 Rev. B, 1016/167/03 Rev. A, 1016/167/07 Rev. B, and 005/014/02 Rev. P2.
- 3) No development shall take place until details or samples of the tile hanging, brickwork, cladding, render, fenestration types, joinery details and other materials to be used in the development and the design of the architectural detailing and components have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The tree protection measures as detailed in the arboricultural method statement dated 16/11/2016 and prepared by Gwydion's Tree Consultancy (ref. GH1617.1) shall be implemented in full and in accordance with the timetable set out in the report and the protection measures shall be maintained and supervised until completion of the development.
- 5) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 12 East Avenue. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the annex shall not be adapted, extended or altered.
- 6) Notwithstanding the provisions of Class A and C, under Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) there shall be no erection or construction of a gate, fence, wall or other means of enclosure or physical division to delineate separate areas of garden within the grounds of the application site unless otherwise agreed in writing by the local planning authority.