
Appeal Decision

Site visit made on 8 August 2017

by Stephen Roscoe BEng MSc CEng MICE

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

Decision date: 23 August 2017

Appeal Ref: APP/J1860/W/17/3175286

Coach House Cottage, Chambers Court, Longdon, Tewkesbury GL20 6AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Joanna Beswick against the decision of Malvern Hills District Council.
 - The application Ref 16/00091/S73, dated 23 December 2015, was refused by notice dated 10 November 2016.
 - The application sought planning permission for the extension of an existing garage building to form a cottage without complying with a condition attached to planning permission Ref MH 91/00214/FUL, dated 18 April 1991.
 - The condition in dispute is No 2 which states that: *The accommodation to be formed under this permission shall be used only and solely in connection with the occupancy of the existing dwelling within the application site known as Coach House Cottage, Chambers Court, Longdon as an annexe to that dwelling. The structure shall not be regarded as a separate dwelling house and shall not attract any permitted development rights whatsoever under the Town and Country Planning Development Order 1988 or any Order revoking or re-enacting that Order.*
 - The reason given for the condition is: *In order to define the permission and in accordance with the details of the application concerning the use of this accommodation as a "granny flat". The site of the application comprises the curtilage to the principle dwelling Coach House Cottage, Chambers Court, Longdon and the building, the subject of this decision, is within that total curtilage. New residential development would not normally be permitted in this rural area but this scheme is considered to effectively be an extension of the main dwelling.*
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Decision

1. I allow the appeal and grant planning permission for the extension of an existing garage building to form a cottage at Coach House Cottage, Chambers Court, Longdon, Tewkesbury GL20 6AS in accordance with terms of the application Ref. 16/00091/S73, dated 23 December 2015, and the plans submitted therewith, without compliance with condition 2 previously imposed on planning permission Ref. MH 91/00214/FUL, dated 18 April 1991, but subject to the following new conditions.
 - 1) The development hereby permitted shall be carried out in accordance with the approved plans listed below.

Location Plan Rev 1 05.05.16
Block Plan 196;81 - 01

- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no new windows or other openings, no additions, extensions or external alterations shall be made in the external elevations of the building and no building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house as such (other than those expressly authorised by this permission) shall be constructed within the site of this dwelling.

Reasons

2. I consider the main issue in this case to be whether the disputed condition is reasonable and necessary in the interests of sustainable development.
3. The appeal building provides separate residential accommodation in close proximity to the host dwelling. It includes two bedrooms (one of which has the benefit of an ensuite bathroom), a first floor living/dining/kitchen room, a shower room, a garden room, a utility room and a ground floor garage/workshop. Other dwellings near to the appeal building and its host dwelling appear, from their curtilages, to be independently occupied.
4. The appeal building was occupied by the appellant's father until July 1994 and an application for a certificate of lawfulness was refused by the Council in April 2012 for an existing use as a separate dwelling. With this appeal, there is evidence to suggest that the building has not been used as an annex to the host dwelling since 1994.
5. The size of the appeal building is sufficient to provide family accommodation in itself. Indeed, it appears to be of an equivalent size to the host dwelling and, in my opinion, is of a greater size than would be expected of an annex for use as a granny flat as was intended by the original permission. I therefore consider that the occupation restriction imposed by the disputed condition results in the inefficient use of the housing stock in the area of the appeal site.
6. Whilst the building has other separate dwellings nearby, and therefore could not be seen to be isolated as such, the occupation restriction imposed by the disputed condition conflicts with para 55 of the NPPF. This is because it prevents the re-use of potentially redundant parts of the building. Furthermore, the building has not been occupied for various periods since 1994, and this represents a degree of redundancy which could be related to the disputed condition. Removal of the disputed condition in this particular case would also accord with the social and environmental roles of sustainable development. This is by providing the supply of housing to meet the needs of present generations and by protecting the natural environment by reducing the need for a new build property. Furthermore, the positive and efficient use of this self-contained residential building would accord with the proactive solution driven approach advocated by Development Plan¹ (DP) Policy SWDP 1.
7. I also recognise that the appeal building lies outside of any settlement boundary identified by the Council. It also has limited sustainable access to services and facilities and occupiers would be likely to be heavily dependent on the use of the private car. These aspects of sustainability do not however

¹ South Worcestershire Development Plan: February 2016

outweigh the benefits from unrestricted use of the existing appeal building as a dwelling.

8. I am satisfied that the occupation of the building without the disputed condition in place would not necessarily result in an increased level of domestic paraphernalia in comparison with its use as an annex to the host dwelling. Similarly, it would not necessarily give rise to a different type of occupation, pattern of travel or services use and unrestricted occupation would thus not conflict with DP Policy SWDP 4 in terms of minimising travel demand. I therefore consider that, in these regards, the fall back position of the annex would have similar levels of impact to that with the removal of the disputed condition.
9. In this particular case, I consider that the material considerations that I have identified are sufficient to justify a departure from the development plan in terms of DP Policy SWDP 2. This policy seeks to strictly control development in the open countryside.
10. In view of all the above points, I conclude that, given the nature and history of the appeal building, the removal of disputed condition 2 would not have an unacceptable adverse effect on the principles of sustainable development. I further conclude that the removal of the condition would accord with DP Policy SWDP 1 and would not conflict with DP Policy SWDP 4. The disputed condition is therefore not reasonable or necessary in the interests of sustainable development.
11. I consider that a condition would be necessary to restrict permitted development to protect the character and appearance of the surrounding area. It would also be necessary that the development should accord with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition would therefore be required to define the approved plans. It would however be necessary to amend the conditions suggested by the Council in the interests of precision and enforceability. I have not been given sufficient information to justify the imposition of the appellant's suggested condition relating to the repair of railings and landscaping.

Conclusion

12. Having taken into account all other matters raised, none carry sufficient weight to alter the decision, and my conclusion is based on the evidence before me in terms of policy as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed.

Stephen Roscoe

INSPECTOR