
Appeal Decision

Site visit made on 14 August 2017

by G P Jones BSc (Hons) MA MRTPI

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

Decision date: 25 August 2017

Appeal Ref: APP/F1610/W/17/3174590

The Orchard Annexe, Calveshill, Chedworth, Cheltenham GL54 4AH

- 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 Ms Judy Tice against the decision of Cotswold District Council.
 - The application Ref 16/03196/FUL, dated 4 August 2016, was refused by notice dated 28 October 2016.
 - The development proposed is Use of annex as self-contained living accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for Use of annex as self-contained living accommodation at The Orchard Annexe, Calveshill, Chedworth, Cheltenham GL54 4AH in accordance with the terms of the application, Ref 16/03169/FUL, dated 4 August 2016, and the plans submitted with it and the unilateral undertaking dated 16 September 2016, insofar as it relates to refuse bin storage, and subject to the following conditions:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing it, no enlargement, improvement or other alteration, additions to the roof, other alterations to the roof, porches, buildings incidental to the enjoyment of the dwelling house, hard surfacing, chimneys or flues or microwave antenna shall be erected, constructed or sited, other than those permitted by this Decision.
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing it, no windows or other openings, shall be inserted other than those permitted by this Decision.

Preliminary matters

2. The appellant provided a planning obligation to accompany the planning application in the form of a signed and dated Unilateral Undertaking (UU). The UU contains provisions that allow for the occupier's refuse bin to be kept within the designated parking area for the appeal property and it intends to stipulate that the annex shall not be sold separately from the main property.
3. I have considered the UU against the requirements in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations), and the National Planning Policy Framework (the Framework). I consider that the

measures as detailed in the UU in relation to the storage location of the refuse bin are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and thus compliant with the CIL Regulations.

4. However, I consider the wording of the first part of the Second Schedule of the UU to be erroneous, as it refers to not allowing the annex to be sold separately from the 'Property', but the definition provided for the Property is in fact that of the annex. I therefore consider that it is not possible for me to lawfully take this part of the UU that pertains to restricting the sale of the annex separately from the main property, into account as a reason for granting approval. Notwithstanding this error, I consider that this element of the UU is not necessary and thus would not comply with the CIL Regulations or the guidance contained in the Framework.
5. Although not contained in its reasons for refusal the Council's appeal statement makes reference to the amount of internal space the proposed dwelling would provide. In terms of the new national technical standards that commenced in 2015, the space standard can only be applied where there is a local plan policy based on evidenced local need and that is not the case in regard to the proposal that is before me. Consequently, I do not attach any weight to this matter.
6. I have used the description of development as provided on the planning application and appeal forms, although I note that this differs from that provided on the Council's decision notice.

Main Issues

7. Taking into account all that I have read and seen I consider that the main issues are as follows:
 - whether the proposal would provide acceptable living conditions for future occupants in terms of the provision of private amenity space;
 - the effect of the proposal on the character and appearance of the area, having particular regard to its location within a Conservation Area;
 - whether the occupants of the proposed development would have acceptable access to shops and services.

Reasons

Living conditions

8. The appeal property is an annex to the host property which is known as The Orchard. The annex has already been constructed and as a separate dwelling it would comprise a one-bedroom property with an attached conservatory and an outdoor area. Both parties agree that the outdoor area, comprising a patio, would be small in size, measuring some 2.7m by 2.7m. Policy 46 of the Cotswold District Local Plan 2001-2011 (LP), adopted 2006, requires that new residential development, including change of use and sub-division, provides adequate areas of open space around dwellings so as to ensure reasonable privacy, daylight and adequate private outdoor living space. However, Policy 46 does not provide specific guidelines beyond stating that the size of a private garden should relate to the size and nature of the property.

9. The appellant has indicated that the occupier of the annex would have access to the large garden that belongs to the host property and also to the substantial field that lies to the rear (north). However, this arrangement has not been formalised, for example within the submitted UU. As such I attach little weight to this agreement as either the ownership of the main property or any agreement with the current owner could alter in the future and permission to access these larger areas of open space could be withdrawn.
10. Whilst the outdoor area would be small it would not be out of keeping with the scale and nature of the appeal property. The amount of private amenity space would be mitigated by the presence of the conservatory that provides additional space that could be considered akin to an 'outdoor room'. As I have already discussed, the appellant has stated that the occupier of the appeal property would have access to this field and also to the private garden of the host property, and I have no reason to believe this would not be the case. However, even if such access were denied the presence of the field adjacent to the outdoor space would reduce the feeling of enclosure by providing a sense of openness and light to the north of the patio area.
11. In terms of privacy I accept that the outdoor space would be in a slightly elevated position. However it is obscured by the main property so that it is not visible from the street and is bounded by a stone wall. Apart from the host property there are no other dwellings in the immediate vicinity; the nearest being the semi-detached dwellings that lie across the lane to the south-west. Although the annex is visible from the bridleway that runs to the north-west, this is at some distance and at an oblique angle to the patio area. I therefore consider that overall the private amenity space would be sufficiently secluded and private.
12. For the reasons I have identified, I consider that the particular circumstances of this case are such that the proposal would be acceptable in terms of the amount of private amenity space provided and thus it would comply with LP Policy 46 and the guidance contained in the Framework.

Character and appearance

13. The appeal site lies within the designated Chedworth Conservation Area (CCA) and also within the Cotswolds Area of Outstanding Natural Beauty (AONB). Consequently, footnote 9 to paragraph 14 of Framework applies.
14. Within this part of the CCA the dwellings are of a traditional Cotswold stone construction, and they vary in scale. The host property of The Orchard is a large dwellinghouse constructed in this vernacular style and there are similar large properties nearby but also a smaller pair of semi-detached properties.
15. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. This means that considerable weight and importance must be given to any harm caused to heritage assets in the planning balance.
16. The annex has already been constructed and therefore the issue raised by the Council is whether its use as a separate dwelling, and in particular the provision of private amenity space and separate refuse bin storage, would give rise to an

unacceptable effect on the character of the CCA thereby affecting its significance.

17. The proposed parking and bin storage would be located adjacent to that of the appellant on the other (western) side of the road behind a stone wall, near to where the lane ends and the bridleway begins. The parking and bin storage would be in a separate but reasonably secluded location and thus would not give rise to any effect on the character or appearance of the CCA. The submitted UU secures the provision of a bin within the designated parking area.
18. Overall I consider that the effect on the character and appearance of the CCA would be neutral and thus the proposal would not affect the significance of this heritage asset. As such it would accord with the Framework and LP Policy 15 that requires, among other matters, the protection and enhancement of a conservation area, including ensuring that the scale and form of development is in keeping.

Access to shops and services

19. Calveshill borders the larger settlement of Chedworth and the appeal site is located at the far end of the lane that runs through this small hamlet, and is not in an isolated open countryside location in regard to paragraph 55 of the Framework. It is not in dispute between the parties that Chedworth contains many of the services, amenities and shops to meet every day needs, with some public transport links, and thus is considered to be a sustainable settlement in this regard. Neither is it a matter of contention that the walking distance from the appeal site to some of the shops, services and amenities in Chedworth would be reasonable.
20. However, the Council contends that the quality of the route is such that it would give rise to poor accessibility to the shops and services. The road leading from Calveshill to Chedworth is narrow and unlit, and without a proper footway although there is a grass verge in most places. Furthermore, this road is undulating with some sections that are quite steep.
21. During my site visit I walked from St Andrew's Church of England Primary School in Chedworth to the appeal site and back and observed few, if any, cars on the road. Whilst I accept that this provides only a limited snapshot during one particular early afternoon, nevertheless it provides some insight into the quality of the walking or cycling experience. Also, I have not been presented with any substantive evidence that the local road network is heavily trafficked or has a high accident rate.
22. The road network from Calveshill to Chedworth is not atypical of those in the locality. Although there is no footway there are verges and the low level of traffic in combination with the distance involved would make walking and cycling from the appeal site to Chedworth a realistic prospect. Overall, whilst it is inevitable that future occupiers would be likely to require the use of the private vehicle for some needs, I consider that on balance the location of the site would provide acceptable access to Chedworth by means of walking or cycling. As such the proposal would accord with LP Policy 19 that seeks to promote the principles of sustainable development and prevent a material increase in car-borne commuting, and the guidance in the Framework, particularly paragraphs 17 and 32.

Conditions

23. The Council has recommended two planning conditions which both relate to withdrawing permitted development rights in regard to alterations to the roof and the insertion of additional windows or other openings. The Planning Practice Guidance (PPG) indicates that the withdrawal of permitted development rights should only take place in exceptional circumstances. However, due to the nature of the proposal in regard to its size, relationship with the host property and location within the CCA, I consider it reasonable and necessary to impose the conditions as recommended by the Council in the interests of protecting the character and appearance of the area.

Planning balance and conclusion

24. In accordance with paragraph 14 of the Framework I have considered this proposal in the context of the presumption in favour of sustainable development. In terms of its benefits, the proposal would help to boost the supply of housing, albeit by a very limited amount. It has been indicated that the annex would be used as a rental property and would be of a type that is uncommon within the rental market for this area. Although I have not been presented with any substantive evidence that the Council cannot demonstrate a five year supply of housing, I accord significant weight to this benefit of the proposal. The occupation of the appeal property would also be likely to provide a limited boost to the local shops and services.
25. The proposal would give rise to a separate dwelling that would be small in size with limited private amenity space. However, there are particular mitigating circumstances in the form of the attached conservatory, the paucity of properties nearby and the potential for use of the appellant's large garden, although this is not guaranteed. Also the adjoining field, even if not used, would provide an open vista. It is the combination of these particular mitigating factors that lead me to conclude that the amount private amenity space is acceptable in this instance. Furthermore, I consider that the effect on the significance of the CCA would be neutral and there would be reasonable accessibility to shops and services by means of walking or cycling.
26. Therefore for the reasons set out above, and having regard to all other matters raised including other relevant development plan policies, I conclude that the appeal should be allowed.

GP Jones

INSPECTOR