



Appeal Decision

Site visit made on 25 September 2017

by Megan Thomas Barrister-at-Law

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

Decision date: 12 October 2017

Appeal Ref: APP/J0405/D/17/3178960 78 Oxford Road, Aylesbury HP19 8RH

- 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 Wendy Herridge against the decision of Aylesbury Vale District Council.
 - The application Ref 17/00612/APP, dated 20 February 2017, was refused by notice dated 13 April 2017.
 - The development proposed is an annex for family accommodation.
-

Decision

1. The appeal is allowed and planning permission is granted for an annex for family accommodation at 78 Oxford Road, Aylesbury HP19 8RH in accordance with the terms of the application, Ref 17/00612/APP, dated 20 February 2017, 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 shall be carried out in accordance with the following approved plans and documents: R1, 1:50 Scale; R2, 1:50 Scale; R3 Design and Access Statement; R4, 1:1250 Scale & R5, 1:500 Scale.
 - 3) The use of the annex hereby permitted shall be limited to a person who is a blood relative of the occupier(s) of the main dwellinghouse.
 - 4) The annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 78 Oxford Road, Aylesbury, HP19 8RH.
 - 5) Development of the annex hereby permitted shall not take place until the outbuildings edged and hatched red on drawing no. R5 have been removed from the appeal site.

Main Issues

2. The main issue in the appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is a two storey end of terrace property situated within the settlement of Aylesbury. It is set back from Oxford Road and has a rear garden which backs onto dwellinghouses in Mill Way. There is a passageway next to the flank wall of no.78 which gives access to the rear garden by foot.
4. The proposal is to remove two existing outbuildings which are currently situated in the rear garden and to erect an outbuilding which would be used as residential annex accommodation for the main residence at no.78. The appellant wants her son to use the annex as mainly sleeping accommodation and she envisages that in the future as she ages she will sleep in the annex and her son would sleep in the main house. The proposed building would have a flat roof and would be about 9.6m long, about 3.6m wide and about 3m high. It would have a bedroom, bathroom and lounge with a kitchenette area. The occupant would have to use the main dwelling for some day-to-day living requirements such as laundry and cooking substantial meals.
5. The Council consider that the building would be at odds with the existing form of development in the immediate vicinity. However, whilst the building would be long at about 9.6m, it is typical to have outbuildings in the rear gardens in the immediate vicinity. The proposed annex would avoid an unduly utilitarian appearance by being composed of structural timbers on its north western flank and south west facing frontage. Moreover, neither the appellant nor the Council have indicated that permitted development rights to build outbuildings within the curtilage of no.78 are not available and, whilst an outbuilding built under PD rights would be lower and perhaps smaller, it would nevertheless demonstrate that a similar pattern of development of outbuildings in rear gardens is a likely prospect in any event.
6. The Council has indicated that the annex would be tantamount to a new separate dwelling. However, appendix A to Circular 11/95 (the appendix remains extant) contains a model condition which can require that a residential annex is only ever used for purposes ancillary to the main dwelling. It is possible to enforce such a condition. In addition, the appellant has indicated that a condition tying use of the annex to a blood relative of the occupant of no.78 would be appropriate. I consider this would meet the legal and policy tests for conditions. Both conditions would be necessary in this case.
7. The Council has referred to policy GP.11 of the Aylesbury Vale District Local Plan but this refers to residential annexes which would be situated outside built-up settlements. The appeal site is comfortably within the urban area of Aylesbury.
8. I conclude that the proposed annex would not unduly harm the character or appearance of the area and with the imposition of conditions it would not be tantamount to the erection of a new dwelling. There would be no breach of policies GP8, GP11 or GP35 of the Aylesbury Vale District Local Plan (adopted 2004).

Other Matters

9. It would not harm the living conditions of nearby residents to see the proposal from windows or from their gardens. There is already overlooking of the garden to no.78 from upper floor windows of nearby dwellings. This is not

unusual in built-up areas especially with rows of terraced properties. There would be sufficient separation distances to avoid a sense of enclosure or loss of outlook or loss of privacy for any neighbours.

Conditions

10. I have addressed the reasons for two conditions above. I also consider it is necessary to impose a condition tying the proposed development to the approved plans for the sake of certainty. In order to protect the character and appearance of the area a condition requiring the two existing outbuildings to be removed prior to erection of the new annex is imposed.

Conclusion

11. Having taken into account all representations made, for the reasons given above I allow the appeal and grant conditional planning permission.

Megan Thomas

INSPECTOR