



Appeal Decision

Site visit made on 10 March 2020

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2020

Appeal Ref: APP/V0510/W/19/3243162

3 Nunns Way, Sutton CB6 2PH

- 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 Stuart Nunn against the decision of East Cambridgeshire District Council.
 - The application Ref 19/00931/FUL, dated 2 July 2019, was refused by notice dated 23 August 2019.
 - The development proposed is existing gym/store to be used as ancillary accommodation for 3 Nunns Way.
-

Decision

1. The appeal is allowed and planning permission is granted for existing gym/store to be used as ancillary accommodation for 3 Nunns Way at 3 Nunns Way, Sutton CB6 2PH in accordance with the terms of the application, Ref 19/00931/FUL, dated 2 July 2019 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: Site Location Plan; Plan No SN01-19; and Plan No SN02-19.
 - 3) The accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 3 Nunns Way, Sutton CB6 2PH.

Preliminary Matter

2. The gym/store building which is the subject of this appeal is in situ. However, the use proposed has not commenced and appeared to be used primarily for storage purposes at the time of my site visit. I have assessed the appeal on this basis.

Main Issue

3. The main issue is whether the proposed accommodation would be an annexe or an independent dwelling, and if the latter, whether a new dwelling would be appropriate.

Reasons

4. The appeal site comprises of a building located in the front garden of No 3 Nunns Way (No 3), a detached dwelling within a well-established residential

- area. Access is shared with a small number of other properties along Nunns Way from Pound Lane.
5. There is no dispute between the parties that the building and its use for a gym/store is lawful and ancillary to the host property. The building is currently fitted internally with a shower room and a small kitchen.
 6. The proposal would involve the change of use of the building to provide accommodation for the appellant's daughter. The Council argues, amongst other things, that as the building is physically detached from the host dwelling, has a separate private garden, kitchen, living area, bedroom and shower room and is capable of being accessed independently, it could be used as an entirely separate self-contained residential unit. The Council also refers to the planning history of the site, including applications for the use of the building as a dwelling in 2018 and 2019, which were refused. Moreover, I'm told the building has previously been rented as a separate dwelling house.
 7. None of these factors can be disputed and I agree that the introduction of an independent dwelling to the garden of No 3 would not be appropriate for a variety of reasons including the access and parking arrangements.
 8. Both parties have referred to several appeals which are concerned with annexes and the extent to which they are ancillary to the host dwelling. Although I have had regard to these differing cases, each appeal is different, and a fact and degree judgment must be made on the specific circumstances of the case. In considering whether the proposal would be tantamount to a separate dwelling, I have taken into account the judgement in *Uttlesford DC v SSE & White [1992] (Uttlesford)* in which the judge found that it is a matter of fact and degree as to whether a 'granny annexe' would constitute part of the main planning unit, or create a separate one.
 9. If the proposal does not create a new planning unit, then the annexe could be considered a part of a single family's occupation and would be an incidental use. In *Uttlesford*, the person accommodated "would have her own bedroom, bathroom and, I assume, lavatory, small kitchen, somewhere to sit and her own front door. To that extent, she will be independent from the rest of her family". The judge then went on to say that he "finds no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling". Even though the judgement was given almost 25 years ago, this principle remains valid today.
 10. Whilst I recognise that the building has been previously rented independently, the application clearly states that the proposal is for ancillary accommodation and the appellant has consistently asserted that it is required to accommodate a family member. Moreover, the Council validated the application on that basis.
 11. The appellant advises that the floor area of the annexe equates to approximately 33% of the floor area of the main dwelling. As such, its size would be ancillary to the host property. I recognise that there is a degree of independence from the internal fittings, entrance and a separate private garden space. However, the annexe would share the access and parking area associated with the host dwelling with parking immediately to the front of the entrance to No 3. Moreover, the annexe would share its services and utilities. It would also share the same address and would be occupied by a family

member. For these reasons it would, in my view, remain part of the original planning unit.

12. Contrary to the Council's suggestion, the use and occupancy of the building could be restricted by a suitably worded planning condition. Whilst I recognise that such a condition could be breached, this principle is comparable to many occupancy conditions. No compelling reasons have been advanced to persuade me that such a condition could not be monitored and readily enforced.
13. I am therefore satisfied that safeguards could be put in place to ensure the building is used as an annexe accommodation ancillary to the host dwelling rather than as an independent residential unit. Given that there are no external changes proposed to the building, I am also satisfied that such a use would be appropriate and would not appear out of context in this domestic setting. As I have found that the proposal would not amount to an independent dwelling, I need not consider whether a new dwelling would be appropriate.
14. For the reasons given above, I consider that the proposal may justifiably be regarded as an annexe to the existing dwelling and that its occupation should be restricted to that purpose. Consequently, I find no conflict with policies ENV2, GROWTH2 of the East Cambridgeshire Local Plan (adopted 2015) or the Councils Design Guide Supplementary Planning Document (2012). These require, amongst other things, that all development be designed to a high quality, enhancing and complementing local distinctiveness and public amenity.
15. I consider that policies ENV2 and GROWTH2 are consistent with the provisions of the National Planning Policy Framework (the Framework) and can therefore be given substantial weight.

Conditions

16. The Council has suggested conditions in the event of the appeal being allowed. These have been considered in relation to the advice contained within the Planning Practice Guidance. Where necessary, and in the interests of clarity and precision, I have altered the Council's suggested conditions to better reflect the relevant guidance.
17. In addition to the standard implementation condition it is necessary in the interests of precision, to define the plans. A condition is also imposed to ensure that the annexe remains ancillary to the host dwelling at No 3.

Conclusion

18. For the above reasons the appeal is allowed subject to conditions.

Robert Walker

INSPECTOR