



Appeal Decision

Site visit made on 21 January 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2020

Appeal Ref: APP/X0360/W/19/3241324

Fox & Hounds Cottage Annex, Forest Road, Wokingham RG40 5SB

- 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 & Mrs S Kindred against the decision of Wokingham Borough Council.
 - The application Ref 192192, dated 15 August 2019, was refused by notice dated 7 November 2019.
 - The development proposed is formation of a separate dwelling.
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Decision

The appeal is allowed, and planning permission is granted for formation of a separate dwelling at Fox & Hounds Cottage Annex, Forest Road, Wokingham RG40 5SB in accordance with the terms of the application, Ref 192192, dated 15 August 2019, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: MLP/01, MLP/02, MLP/03, MLP/04 and MLP/05.
- 3) 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 windows other than those expressly authorised by this permission shall be constructed on the southern elevation of the building.

Background

1. The appeal relates to a two storey detached building located in front of and at right angles to Fox and Hounds Cottage. Permission was granted for the use of this annex as a replacement ancillary building on appeal¹. A planning condition limited occupation to purposes ancillary to Fox and Hounds Cottage. The current appeal seeks independent residential use of the annex. The plans show how the curtilage would be sub-divided so that both dwellings would have their own gardens and parking areas but would share the common access from Forest Road.

¹ Application F/2014/0370 and Appeal APP/X0360/A/14/2221106

Main Issues

2. The main issues are (a) whether the development would be an unsustainable and inappropriate development in the countryside, (b) the effect of the proposal on the character and appearance of the countryside and (c) the impact on living conditions for occupiers of the host and proposed dwellings in relation to noise and privacy.

Reasons

Sustainability

3. The Wokingham Borough Core Strategy (2010) (CS) has a set of high level policies to guide development including CP1 which sets out principles of sustainable development and CP6 in managing travel demand. The most important policy in this case is CP11 in relation to countryside development.
4. The first part of the policy states, *"In order to protect the quality of the environment, proposals outside of development limits will not normally be permitted except where: 1) It contributes to diverse and sustainable rural enterprises within the borough, or in the case of other countryside based enterprises and activities, it contributes and/or promotes recreation in, and enjoyment of, the countryside; and 2) It does not lead to excessive encroachment or expansion of development away from the original buildings; and 3) It is contained within suitably located buildings which are appropriate for conversion, or in the case of replacement buildings would bring about environmental improvement"*.
5. The appellant contends that the proposal complies with criterion 3) as the building would be suitable for conversion to independent residential use. I have no reason to disagree with this as the building is large, provides more than adequate ancillary accommodation and the proposal would not require external alterations. However, the phrasing of Policy CP11 also requires compliance with criteria 1) and 2) before criterion 3) can be considered. The proposal would not contribute to diverse and sustainable rural enterprises or promote recreation in the countryside. It would therefore fail criterion 1) and by default be contrary to Policy CP11 as a whole. Nevertheless, inclusion of the word *"normally"* in the opening line of the policy conjures up the possibility that there may be circumstances where an exception could apply.
6. Paragraph 79 of the National Planning Policy Framework (the Framework) states *"Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply"*. The exception at clause (d) states, *"the development would involve the subdivision of an existing dwelling"*. Whilst the ancillary accommodation is within a separate building, it forms a single planning unit with Fox & Hounds Cottage. I am satisfied that the proposal would be in accordance with clause (d).
7. A tension exists between the Framework and Policy CP11 that does not allow for subdivision of an existing dwelling as an exception to restrictions on countryside development. At the time of the appeal granting permission for the building in 2015, the original version of the Framework dated 2012 was in operation. Paragraph 55 of the 2012 version, which equates to Paragraph 79 of the current Framework, did not include a clause to enable the subdivision of an

existing dwelling to be an exception to new housing in rural areas. That was first included in the 2018 version and then retained in the 2019 version. Whilst Policy CP11 would otherwise appear to be broadly consistent with the Framework, in respect of the subdivision of dwellings it could be regarded as out of date. The appeal proposal raises a circumstance in which restrictions to development “normally” permitted in the countryside can be relaxed.

8. The Council point out that the site is not near to everyday facilities, that local roads are not conducive to walking to the nearest centres and that the nearest bus service is not close and does not offer a good standard of service. Future occupiers of the dwelling may choose to cycle to local centres on occasions, but I am in no doubt they would primarily be reliant on the use of private vehicles to access most everyday goods and services. The site is not in a sustainable location in respect of transport options.
9. But the proposal is not for the construction of a new dwelling house, as in the case of the nearby dismissed appeal² to which the Council has referred me. It is for an alternative use for accommodation that already exists. Occupiers of the annex as ancillary accommodation would have needed to access everyday services and facilities whether by car or other means. There is no evidence before me to indicate that the independent use of the annex would be likely to result in a material increase in such journeys to warrant resisting the proposal on these grounds.
10. The Council claim that the reason the previous Inspector imposed a condition limiting occupation to purposes ancillary to Fox and Hounds Cottage was because occupation as a separate self-contained unit would not be appropriate. However, the main issue on that appeal related to the impact of the physical changes to the building as originally consented on the character and appearance of the rural location. The condition was imposed as a concession to the Council’s concerns regarding the potential use of the building as an independent dwelling. The current appeal enables that eventuality to be weighed against current local and national planning policies. My findings on the first main issue are that the proposal would not be an unsustainable and inappropriate development in the countryside but would be in accordance with Paragraph 79 (d) of the Framework.

Character and appearance

11. The northern end elevation of the building is conspicuous through the site access when viewed from Forest Road as acknowledged by the Inspector on the previous appeal³ at this site. But the parking area and garden allocated for the independent residential use of the building would be screened by a high hedge to the eastern side of the access and would therefore be less open to view.
12. The Council contend that residential paraphernalia associated with subdivision of the plot such as parked vehicles, washing lines, satellite dishes, bin storage and children’s play equipment and additional utility structures such as gas or electricity boxes, would result in an unacceptable urbanisation of the site in a countryside setting. But the parking and garden areas where such elements may appear already exist and have been used in association with the use of the

² APP/X0360/W/18/3196057 - Land between Ashcroft and Woodside, Maidenhead Road, Wokingham.

³ (APP/X0360/A/14/2221106

annex as ancillary accommodation. The size of the building would not increase as a result of the proposal. There is no evidence before me to indicate that the extent or nature of residential paraphernalia would be significantly greater as a result of independent occupation. Even if an increase were to arise, given the length and height of the hedge to Forest Road this would not be readily perceptible from public viewpoints.

13. The proposal would not result in an unacceptable urbanisation of the site and surrounding countryside. There would not be conflict with Policies CP1, CP3 and CP11 of the CS or with Section 8 of the Borough Design Guide SPD (2012) which collectively seek to ensure that the design of development contributes positively toward the underlying character and quality of the environment including in the countryside. Neither would there be conflict with Paragraph 170 (b) of the Framework which requires planning decisions to recognise the intrinsic character and beauty of the countryside.

Living conditions

14. There is a separation distance of about 2m between the southern end wall of the appeal building and the front wall of Fox & Hounds Cottage. A clear glazed first floor bedroom window in the end wall affords views downwards to clear glazed windows at Fox & Hounds Cottage. However, the angle of view is so steep that overlooking is limited to only areas very close to the windows and not to any depth within rooms. The present occupiers of Fox & Hounds Cottage would be used to this relationship and would not appear to object to it regarding independent use of the annex. Future occupiers of Fox & Hounds Cottage would be aware of the relationship between the two dwellings prior to purchase.
15. A ground floor window to a toilet in the southern elevation also faces towards Fox & Hounds Cottage. This does not currently result in any loss of privacy due to its obscured glazing. But if a future occupier were to rearrange the interior of the building to provide clear glazing at this point or to provide an additional window in the southern elevation, then a loss of privacy may arise. This eventuality could be controlled using a planning condition.
16. The configuration of windows is such that there would not be an undue loss of privacy for occupiers of the proposed dwelling from Fox & Hounds Cottage. The building proposed for independent occupation is of recent construction and would have been built to accord with Building Regulations operating at that time. I am satisfied that there would not be significant nuisance for occupiers of either building arising from noise transmission between the buildings. The proposal would be compatible with Policies CP1 and CP3 of the CS, Policy CC06 of the Managing Development Delivery Local Plan (2014) and with guidance within the Borough Design Guide SPD (2014); these collectively seek to ensure that the design of proposals safeguards the living conditions of existing and future occupiers in relation to matters including privacy and nuisance.

Conclusion

17. For the reasons given and having regard to all other matters raised, including the representation from the St. Nicholas Hurst Parish Council, the appeal is allowed subject to planning conditions. I have noted the conditions suggested by the Council but have reviewed their necessity in the light of Planning Practice Guidance (PPG).

18. In addition to the standard 3 year commencement condition, I have included a condition requiring the development to be carried out in accordance with the approved plans for certainty and to enable the approval of minor material amendments should this be expedient.
19. I do not consider the Council's third suggested condition on approval of boundary treatments to be necessary. There would be no changes to the access arrangements requiring approval of adjacent enclosures. Existing hedgerows are in reasonable condition and a fence could be constructed under permitted development allowances (Part 2 Minor Operations) to maintain adequate privacy between proposed and retained gardens.
20. PPG cautions against the blanket removal of permitted development allowances in most circumstances. The Council has suggested that householder permitted development allowances be removed in respect to several classes but have not provided a detailed justification for these exclusions. The curtilage available for the proposed dwelling is not small and is well screened from the highway and adjacent plots. Fox & Hounds Cottage is close to the annex, but modest changes as envisaged by the General Permitted Development Order would not unduly impact on the living conditions of its occupiers. I do not consider the Council's final suggested condition removing permitted development allowances to be necessary. However, in view of the proximity of the buildings and the existence of clear glazed windows in the northern elevation of Fox & Hounds Cottage, a condition is necessary to preclude other windows being formed in the southern elevation of the annex to safeguard privacy within Fox & Hounds Cottage.

Rory MacLeod

INSPECTOR