The Planning Inspectorate

Appeal Decision

Site visit made on 16 June 2020

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2020

Appeal Ref: APP/K0235/W/20/3251154
213 Goldington Road, Bedford MK41 9PH

- 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 Damiano against the decision of Bedford Borough Council.
- The application Ref 20/00126/FUL, dated 20 January 2020, was refused by notice dated 27 March 2020.
- The development proposed is detached annex ancillary to existing dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellants appeal statement has confirmed that the appeal is made in the name of Mr & Mrs Damiano rather than Mr & Mrs Romualdo as stated on the original application form. This change has been confirmed in writing by the appellants and I have determined the appeal on this basis accordingly.

Main Issues

3. The main issues are: (i) the effect of the proposed development on the character and appearance of the area; and (ii) whether the annex would be ancillary or incidental to the main dwelling or a separate independent dwelling unit.

Reasons

Character and appearance

4. The appeal site forms part of the garden area at the rear of a two storey semi-detached dwelling on the south side of Goldington Road. It is located on a relatively spacious plot in a mature well-established residential area, typically characterised by detached and semi-detached properties of a similar appearance set back from the road behind a front garden/driveway.

5. To the south, east and west of the appeal site are the long garden areas and the outbuildings associated with the adjacent properties. Where outbuildings and other structures exist behind the residential properties, these are very low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying open

character and appearance, which is further enhanced by the presence of mature landscaping and established trees within the surrounding gardens.

6. The proposal would involve the construction of a detached annex set back from the main dwelling. The external finish would be predominantly brick with a pitched tiled roof. Although the proposed annex would be a similar scale to the proposed swimming pool building approved under a Lawful Development Certificate within the rear garden of the appeal property[1], the overall bulk and massing of the proposed building would nevertheless be substantial in this location. Such positioning would compromise the sense of space and openness and interrupt the established grain and pattern of development in the area.

7. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed building on the street scene. In any case, the site is viewed via the accessway at the side of the property and from the rear of the surrounding properties. As such, I consider the proposed annex, by virtue of its scale, siting and layout would result in incongruous and out-of-keeping addition that would adversely harm the character and appearance of the area.

8. I have considered the appellants arguments that the design and layout of the proposed annex has been carefully considered in order to minimise any impacts on adjacent dwellings and the area. I note the proposal has been redesigned in order to take into account the comments on the previously dismissed applications and appeals on the site in 2017[2] and 2018[3]. However, whilst the use of materials, fenestrations and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.

9. Consequently, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would be contrary with the overall aims of Policies 28S (ii), 29 (i-ii) and 30 (i-ii) of the Bedford Borough Local Plan 2020. These policies, amongst other things, seek to ensure that all developments should be of the highest design quality that contributes positively and responds to the character and quality of the surrounding area.

Ancillary or incidental to the main dwelling or a separate independent dwelling unit

10. It is a matter of fact and degree as to whether or not the development would be occupied as an annex or an independent separate dwelling. In assessing this, it is necessary to consider whether the building could function as an annex. The appellants have outlined that the need for the additional space cannot be met within the existing dwelling. The development involves the construction of a detached annex to provide living accommodation for an elderly relative with lounge, kitchen, bedroom and a bathroom. Although the annex is not physically attached to the side of the main dwelling, the proposed building would be sited set back in a relatively large garden plot and within the curtilage of the main dwellinghouse. The occupants of the annex would share the same vehicular site access and use of the existing garden.

[1] 16/00371/LDP
[2] Ref 17/00829/FUL and APP/K0235/W/17/3176990
[3] Ref 17/03065/FUL and APP/K0235/D/18/3196865

11. However, access to the annex would be provided via a separate doorway into the garden and vehicular and pedestrian access would be via a gated entrance to the side of the existing property. These allow access to the annex without any need to pass through the main dwelling. The submitted drawings show the building would have all of the accommodation available for independent occupation separate from the main dwelling. It would also be detached and sited away from the main building, which together could further facilitate occupation independent of the main dwelling.

12. I have noted the appellants arguments regarding the revised design and layout since the previously dismissed application and appeal on the site in 2018[4]. However, the layout of the annex does not portray what would be expected to be an ancillary or incidental addition to the main dwelling. Whilst these incidental purposes are capable of including a wide range of uses, the Courts have held that they do not include primary residential accommodation such as a kitchen or bedroom. Whilst there is a realistic prospect that the fall-back option of the approved swimming pool building could be constructed, this current proposal would not be considered as a use incidental to the enjoyment of the dwellinghouse.

13. Therefore, taken together the evidence suggests very strongly that, as a matter of fact and degree, what is proposed, on the balance of probabilities, would be able to function as a separate independent dwelling unit. Given the reasonable likelihood that the building could be occupied as a separate independent dwelling unit, I do not consider that a planning condition requiring ancillary occupation of the annex to address the unacceptable impacts of the development would be effective and enforceable in this case.

14. Consequently, even if my conclusion on this main issue is disputed, as a result of other material considerations, in this case, I am not satisfied that the appeal scheme can be appropriately assimilated within the curtilage of the existing dwelling without harming the character of the area. Consequently, I conclude that the proposal would conflict with Policies 28S (ii), 29 (i-ii) and 30 (i-ii) of the Bedford Borough Local Plan 2020 for the reasons set out above.

Other Matters

15. I have considered the appellants comments regarding the family's personal circumstances and the benefits to the family arising from the proposed additional accommodation. However, the courts have generally taken the view that planning is concerned with land use in the public interest. Although personal circumstances can sometimes justify a personal or temporary permission, that would not be appropriate here where a permanent structure is intended and as such are matters to which I can attach only limited weight in making this decision.

16. I have noted the other developments drawn to my attention by the appellants. However, the proposed annexes permitted elsewhere by the Council have different development and locational characteristics to the appeal scheme. On the basis of the limited evidence provided I am not convinced that the circumstances are compellingly similar to the appeal proposal. As a consequence, whilst I have taken these other examples into account, they do not materially alter my conclusions on the appeal proposal.

[4] Ref 17/03065/FUL and APP/K0235/D/18/3196865

17. I have considered the various benefits put forward by the appellants that the proposal would bring, including providing additional accommodation for their elderly relative close by to offer support and assistance. While I have given them some weight, these modest benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR