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## Appeal Decision

Site visit made on 26 May 2020

**by Robin Buchanan BA (Hons), MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 June 2020**

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**Appeal Ref: APP/V1260/D/20/3245719**

**16 Mountbatten Road, Poole, Dorset BH13 6JE**

- 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 Andrew Reeks against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref APP/19/01305/F, dated 21 October 2019, was refused by notice dated 20 December 2019.
  - The development is described as a garage conversion to include bedroom, lounge, bathroom and kitchen.
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### Decision

1. The appeal is allowed and planning permission is granted for a garage conversion to include two bedrooms, lounge, bathroom, kitchen and store at 16 Mountbatten Road, Poole, Dorset BH13 6JE in accordance with the terms of the application, Ref APP/19/01305/F, dated 21 October 2019, and the plan dated October 2019 submitted with it, subject to the following condition:
  - 1) The building hereby permitted shall be used solely for residential purposes ancillary to the parent dwelling known as 16 Mountbatten Road and shall not be used at any time as a separate unit of living accommodation, nor shall it be let separately to another person, either permanently or for any seasonal or holiday period.

### Preliminary Matters

2. At my site visit, I saw that the appeal building includes a separate store at one end, which contained various items of domestic equipment and machinery, while the main part was internally arranged as two bedrooms, a lounge, a bathroom and a kitchen as indicated in the appeal plan. The appellant seeks to retain the building in its present form, which is further described by the appellant as an 'annex'. I also note that the appellant has 'closed down [a] bed and breakfast business'. I have therefore considered the appeal on this basis. However, even if there was a bed and breakfast business in operation in the main house it would not be a matter that is determinative to the consideration of this appeal, as explained below.
3. The description of development in the banner heading above, which is taken from the application form, includes 'bedroom' but not a 'store'. This is inconsistent with what is shown in the appeal plan and with what in fact exists. I have therefore amended the description of development above to include 'two bedrooms' and 'store' in the interests of precision. The appeal plan was subject

to public consultation by the Council and, in any event, whether there is a store, or one or two bedrooms is also not determinative in this appeal, as I explain below. There is therefore no prejudice caused to any interested party by this change to the description of the development.

### **Main Issues**

4. The main issues are whether the development:
  - (i) Provides ancillary accommodation or a separate dwellinghouse; and
  - (ii) Preserves or enhances the character or appearance of The Avenue Conservation Area.

### **Reasons**

5. 16 Mountbatten Road is a large detached two storey house in a residential area of mainly similar large houses in spacious mature landscaped gardens. It is also in 'The Avenue Conservation Area' (the CA), which is a designated heritage asset. These houses form an identifiable pattern of existing development which is locally distinctive and noticeable in public views from Mountbatten Road and surrounding roads and is therefore an important positive contribution to the character and appearance of the CA.<sup>1</sup>

#### *Living Accommodation*

6. About half of the rear garden, closest to the house, is paved. Of the remainder, one side is grass and the other side contains the appeal building. The main part is already internally decorated and furnished with a sofa, beds, tables, wardrobes, drawers and carpets. There is also a bathroom, with a bath and shower, washbasin and toilet as well as a kitchen with sink, worksurfaces, cupboards, drawers, cooker, fridge and washing machine. There is lighting and central heating. The building therefore provides facilities potentially for independent day-to-day living.
7. However, whether or not it is an annexe (ie ancillary accommodation) or a separate dwelling house is a matter of fact and degree.<sup>2</sup> In this appeal, there is no clear or reliable objective evidence before me to explain how the building was last used and when, or who occupied it and for what purpose or on what basis — eg family member, tenant or a guest. Nor is there any evidence about how services and utilities such as electricity, water and gas are accounted for.
8. Nonetheless, at my site visit I saw no evidence of current or recent occupation or habitation. Furthermore, the main house and the appeal building share the same single pedestrian and vehicular access from Mountbatten Road, the same parking areas and the same rear garden. The latter is flat and there are no sub-dividing walls or fences between the paved and grassed areas or separating the building from the grassed area or the rest of the property. In addition, being a detached building, it does not share any means of internal access with the main house and while it is moderate in size, it is nonetheless significantly smaller than the main house and sited relatively close to it, within the same residential curtilage. Consequently, I am satisfied that the appeal building does not occupy a separate planning unit.

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<sup>1</sup> Council's 'The Avenue Conservation Area' appraisal document.

<sup>2</sup> *Uttlesford DC v SSE & White [1992] JPL 171*.

9. Furthermore, the appellant describes the use of the building applied for as an annexe (ie ancillary accommodation to the main house) as distinct from a dwellinghouse (ie a separate independent living unit) and not for any other existing or future intended use or occupation. Accordingly, provided the building is used and occupied in a way that maintains a functional relationship and shared connection to the use of the main house as a dwellinghouse, I am satisfied that it would be ancillary accommodation as an annexe. I consider this to be a realistic possibility and there is no credible evidence before me in this appeal to indicate otherwise.
10. It would be possible to ensure that it was used on an ancillary basis by means of the imposition of a planning condition. Subject to such a condition, I am satisfied that the proposal would therefore accord with Policy PP13 of the Poole Local Plan, November 2018 (the LP). This policy supports proposals for the expansion of a dwelling (including by an annexe within the curtilage of the main dwelling) to provide a degree of independent living as part of a 'multi-generational' extended family unit.

#### *Conservation Area*

11. Notwithstanding the above, I do acknowledge that the appeal building contains facilities for independent day-to-day living. I accept that it would theoretically be possible to use and occupy it as a separate dwellinghouse. Were that to be the case, then it is located in a backland position close to the rear of the main house and to one side, which means that it can be seen in a public view past the side of the house from Mountbatten Road and from the wider vicinity of the nearby junction of this road with Tower Road and Pinewood Road.
12. The building is significantly smaller in size, scale and massing than the main house and nearby houses. The likelihood of subdivision of the plot would result in two much smaller gardens that would be inconsistent with the size of other gardens nearby and noticeable additional domestic paraphernalia and activity. This would not therefore be in keeping with the pattern of surrounding residential development and could have the effect of leading to an overly intensive form of domestic development on the site.
13. However, the planning application has not been submitted on the basis of the building being used as a separate dwellinghouse. It would be possible to ensure that it was used on an ancillary basis by the imposition of a planning condition, as explained above. Subject to such a condition, I am satisfied that the proposal would preserve the character and appearance of the CA. Consequently, the development would therefore accord with LP Policy PP30. This policy expects development to at least preserve the historic and architectural significance of conservation areas and their settings.

#### **Conditions**

14. The Council has suggested drawings and time limit conditions. However, these are not necessary as this is a retrospective proposal. In order to preserve the character and appearance of the CA, it is necessary to impose a condition which ensures that the building can only be used on an ancillary basis in connection with the primary use of the appeal site as a single dwellinghouse.

## **Other Matters**

15. I appreciate that some neighbours believe there are restrictive conditions attached to a previous planning permission to control the use of the appeal building. However, even if there are such conditions, these would not prevent an applicant (or appellant) subsequently seeking permission for alternative development, including retrospectively.
16. Some neighbours have also raised concerns regarding the alleged operation of a bed and breakfast business at 16 Mountbatten Road. However, as I explain above, the appellant does not seek permission in this appeal for such a use of the appeal building. Any unauthorised use could be separately investigated by the Council's planning enforcement service. Furthermore, if there is any legal covenant restricting the operation of a bed and breakfast business at 16 Mountbatten Road then that would be a private matter.
17. None of the above matters alter or outweigh my findings on the main issues.

## **Conclusion**

18. For the reasons given, the appeal succeeds.

*Robin Buchanan*

INSPECTOR