



Appeal Decision

Site visit made on 9 November 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2020

Appeal Ref: APP/P1615/W/20/3258356

Flossies Cottage, Viney Hill, Lydney, Gloucestershire GL15 4LY

- 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 and Mrs E Richfield against the decision of Forest of Dean District Council.
 - The application Ref P0453/20/FUL, dated 24 April 2020, was refused by notice dated 24 July 2020.
 - The development proposed is the change of use of land to provide additional residential curtilage, the erection of annexe accommodation with solar panel array, to be used in association with the main dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to provide additional residential curtilage including the erection of annexe accommodation with solar panel array, to be used in association with the main dwelling at Flossies Cottage, Viney Hill, Lydney, Gloucestershire GL15 4LY, in accordance with the terms of the application, Ref P0453/20/FUL, dated 24 April 2020, subject to the conditions as set out in the attached Appendix.

Main Issues

2. The main issue is whether the development would be effectively a new dwelling and, if so, whether this would be a suitable location for a new dwelling given its countryside location.

Reasons

3. The proposal is for an annexe to accommodate a relative of an occupant of Flossies Cottage, who has significant health issues and needs care. This relative lives on their own a substantial distance away. The annexe is required to accommodate the relative and help with her long term care, which would be primarily provided by the existing occupants of Flossies Cottage. To my mind, this is a strong reason for the need for an annexe, with there being no suggestion that the proposal would be used as a separate dwelling. This is proposed as an ancillary building within the curtilage of Flossies Cottage which would be used as annexe accommodation.
4. Nonetheless, due to issues such as the distance of the detached annexe as proposed from the main cottage the Council have concluded that it would not be ancillary and would be 'tantamount' to a new dwelling. If so, this would be a

new dwelling in a countryside location where residential development is restricted.

5. The annexe would be separate from the existing cottage, down the slope on this hillside location. However, it would still be on an area considered to be part of the garden of Flossies Cottage, but at a lower level. Furthermore, given the site constraints it would not be particularly feasible to provide an attached annexe or one much closer than proposed. There is a modest garden area to the rear of the cottage, but this appears to be the main outdoor amenity space for the existing occupants. It would therefore be reasonable to choose not to propose the annexe in this lawn garden area, when a seemingly less used area of garden is available. On a less constrained site I would agree that it would be preferable to have the annexe adjacent or connecting with the main dwelling, but given the situation with this particular site I would consider the siting as reasonable, especially as the separation distance is still only several metres.
6. Due to the levels difference it is likely the main route between the main house and ancillary accommodation would be the wooden steps. Whilst not ideal for those with mobility problems I understand that the relative can use them. I am also not persuaded that an alternative route cannot be used if necessary. There does appear to be a route from the site of the proposed annexe which links with the lane for example.
7. The annex would include a WC and kitchen, for example, meaning that the occupant could maintain some level of independence, but this is not uncommon within an annexe. Furthermore, this is not an especially large annexe (similar in size to other outbuildings or garages for example) and so I would consider it likely that the annex occupant would still spend much time with the family in the larger cottage.
8. Overall, I see no reason why this would not be a genuine annexe, ancillary to Flossies Cottage, even if it has a good level of internal facilities for occupants and is detached from the main cottage. The appellant has set out convincingly the reasons why the annexe is required and also why it is to be set on the lower ground level. In an area where many dwellings are spread out in spacious plots, the relative short distance of the annex from the main dwelling would see it relate well visually and functionally to Flossies Cottage. Indeed, the proposed annexe would not appear overly prominent in an area partially characterised by dwellings along the side of the hills.
9. The solar panels would be adjacent to the proposed annex but slightly further down the slope of this hill. This does mean that a change of use of this land is proposed, but there is no objection to this or the positioning of the panels from the Council with regards this aspect of the proposal. I have no reason to disagree with this from the evidence before me.
10. Overall, whilst I note the guidance within the Residential Design Guide supplement for Alterations and Extensions, the proposal would not be a new dwelling and I am satisfied it would be an annexe as proposed, ancillary to Flossies Cottage. As such the proposal would be in accordance with policies CSP.1, CSP.4 and CSP.16 of the Core Strategy, and policy AP.1 of the Allocations Plan. These policies require development to be a form of sustainable development, to focus new residential development to settlements, taking account of the level of accessibility of services, amongst other things.

Conditions

11. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the National Planning Policy Framework (the Framework). The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
12. Both parties have suggested the use of a condition to restrict the annexe from being used as a separate dwelling. However, I have concluded that the proposal before me is an annexe only and does not result in a material change of use that results in a new dwelling. That being the case and on the basis of the information before me I am satisfied that a condition would not therefore be necessary in this case as the establishment of a separate dwelling would create a new planning unit, result in a material change of use and would therefore require planning permission of its own right, should it occur in the future, and this would give the Council control. What is proposed in this appeal is not a separate dwelling/new planning unit, but an ancillary annexe.
13. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials and landscaping to ensure a satisfactory appearance of the annex in this hillside location.
14. I have not included the separate landscaping condition recommended by the Council (No 5) as details of boundary treatments and hard surfacing is required with the general materials condition mentioned in the preceding paragraph. I do not consider it reasonable to require more soft landscaping for the modest scale of development proposed, further to that required with the Council recommended materials/boundary treatment condition.
15. To meet with the Framework's biodiversity net gain objective a condition requiring a small scale biodiversity enhancement scheme is included. I have not included the reference to what would be required (bat tubes for example) to allow the appellant flexibility to come forward with their own scheme to put to the Council.
16. Finally, the details of drainage for the annexe is not fully detailed and so full details of the foul and surface water drainage scheme for the site shall be required via condition.

Conclusion

17. For the reasons outlined above and considering all matters raised, the appeal should be allowed subject to the conditions as set out in the attached Appendix.

Steven Rennie

INSPECTOR

APPENDIX – 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: 100 REV A and 200 REV D (Proposed details).
- 3) Prior to commencement of any works above ground level, full details of external materials and finishes to be used in the construction of the annexe, hard-surface areas and boundary treatments shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter the development shall be fully implemented in accordance with the approved details and materials and be maintained for perpetuity.
- 4) Prior to the first occupation of the annex a small scale biodiversity enhancement scheme shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter the approved biodiversity enhancement scheme shall be fully implemented within 6 months of the first occupation of the approved annexe and be maintained on-site for perpetuity.
- 5) Prior to the undertaking of any drainage works in relation to the annexe, full details of the foul and surface water drainage scheme for the development shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter, prior to the first occupation of the annexe, the approved details shall be fully implemented and be maintained as approved for perpetuity.

END OF SCHEDULE