



Appeal Decision

Site Visit made on 12 January 2021

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th February 2021

Appeal Ref: APP/P3040/W/20/3261320

Greenview, Owthorpe Lane, Kinoulton, Nottinghamshire NG12 3EH

- 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 David Smith against the decision of Rushcliffe Borough Council.
 - The application Ref 20/01824/FUL, dated 28 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is change of use of existing annex to separate dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effects of the development on:
 - the character and appearance of the area;
 - the living conditions of future occupants, with particular regard to private amenity space;
 - the living conditions of neighbouring occupants, with particular regard to noise, disturbance and privacy; and
 - highway safety, with particular regard to access and off-street parking provision.

Reasons

Character and appearance

3. The appeal relates to an existing residential annex located in the rear garden of a large detached dwelling known as Greenview. There are a variety of building designs on this part of Owthorpe Lane. The overriding character however is that of large detached two-storey homes in reasonably spacious plots. Dwellings on Gardner Drive are part of a modern residential estate, but nevertheless are generally two storey detached dwellings.
4. The annex is a small, single storey rectangular building with a shallow slanting roof. The form and materials used result in a contemporary design, but it is nevertheless a somewhat squat and bulky utilitarian structure. As such, it does not reflect the scale or nature of any dwelling in the immediate area.

5. The original permission was granted in the context of this building being viewed and functioning as a subservient annex with a close physical and functional link to the host dwelling. This inevitably results in a different consideration of what would be acceptable or appropriate. Although there would be no physical alterations to the building itself, it would be wrong to conclude that the change of use would have no effect on the character or appearance of the area.
6. The subdivision of the plot has already taken place, with 1.8 metre timber fencing creating a new boundary with Greenview. The ancillary nature of the annex means that any fencing within the site currently lies within the control of the appellant. The fencing is not therefore necessarily a permanent feature. A change of use would likely result in the permanent sub-division of the plot. The size of the resulting garden would be small, irregularly shaped, and out of kilter with other nearby development. The plot ratio would be at odds with other nearby dwellings and the annex would appear unduly cramped in the space.
7. There would therefore be a perceptible change in character from a small, subservient outbuilding within a reasonably spacious garden, to a small incongruous dwelling squeezed into a constrained plot. The change in context would therefore be harmful to local character. This could be reinforced by potential increases in comings and goings, including in relation to such things as deliveries, and associated increases in domestic paraphernalia to support an independent dwelling. Anything of this nature would indicate a change in function.
8. In addition, I have not been made aware of any other 'tandem' or 'backland' developments of this kind in the vicinity of the site. As such, the introduction of a small, independent dwelling close to the rear of Greenview would create an incongruous pattern of development. Again, this would be at odds with the prevailing pattern of the existing built form.
9. In coming to my conclusion, I have had regard to the fact the building is already in place and the visual impact would be relatively localised. Nevertheless, the change in context from annex to independent dwelling would result in a cramped, contrived, and unsympathetic built form. The inappropriate nature of this would be readily apparent from the private views of neighbouring residents.
10. Accordingly, I find that the use of the building as an independent dwelling would result in material harm to the character and appearance of the area. This would conflict with Rushcliffe Local Plan Part 2: Land and Planning Policies (RLP2) Policy 1 which seeks, amongst other things, to ensure the scale, layout and design of development is sympathetic to local character. There would also be conflict with the National Planning Policy Framework (the Framework). In particular, paragraph 127 which includes provisions to ensure development functions well and adds to the overall quality of an area, not just for the short term but over the lifetime of the development.

Living conditions – future occupants

11. The Council's Residential Design Guide (RDG) suggests that gardens for one bed dwellings should provide a minimum of 55 sqm. There is dispute between the parties as to the level of viable amenity space, with the Council suggesting it would provide around 32 sqm, and the appellant arguing it would be around 118 sqm. As noted above, the garden would be small and irregularly shaped.

Not all of the area identified by the appellant could be considered 'useable' or functional space. However, I saw that areas to the front and side of the building would allow for such things as sitting outside and drying clothes. Although spread around the building, I consider this would meet what might be considered the absolute minimum quantitative requirement.

12. Nevertheless, there are other qualitative factors that also need to be considered in deciding whether the space would be satisfactory. The distances between the building and common boundaries are not significant. Much of the space around the building is narrow and subject to high fences or hedgerows. This would create a strong sense of enclosure and confinement within the garden. The overbearing impact of this would be detrimental to the living conditions of future occupants. This is a direct consequence of the change in context that would occur and the overdevelopment of the plot.
13. I am therefore concerned that the specific constraints of the amenity space would not result in a satisfactory living environment for future occupants. This would conflict with RLP2 Policy 1 and the RDG which seek, amongst other things, to ensure sufficient amenity and circulation space is provided. There would also be conflict with paragraph 127 of the Framework which includes the expectation that development provides good standards of amenity for future users.

Living conditions – neighbours

14. There is an existing high fence and hedge between Springfield Farmhouse and the annex. This is likely to provide a high degree of protection and mitigation against noise or overlooking from the drive. I am not persuaded that any potential increase in use of the drive would be sufficient to cause harm in this context. Increased use of the drive would also have no effect on properties on Gardner Drive, which are to the rear of the dwelling and would thus not be affected by any comings and goings.
15. I also see no reason why occupancy as an independent dwelling would result in any additional risks of overlooking into the properties on Gardner Drive or Springfield Farmhouse. The annex is already capable of being occupied on a permanent basis and there would be no change in terms of the position of the building or windows. I have noted the concerns raised by local residents in relation to noise from the property. However, I also see no reason why an independent dwelling should necessarily be any noisier in principle than one occupied by a relative. I am not therefore convinced that the change of use would result in harm to the living conditions of occupants of Springfield Farmhouse or properties on Gardner Drive.
16. Nevertheless, the Council's officer report and decision notice refer more generally to the effects on 'neighbouring properties'. This would also include Greenview itself. While the existing occupant of Greenview may have no qualms about the potential impacts of an independent dwelling, I must have regard to the long-term relationship between the two properties.
17. Vehicles associated with the annex can, and presumably do, park in the space between Greenview and its boundary with Springfield Farmhouse. This is not an especially wide gap. Parking in such proximity to the flank wall may already create a degree of noise, including from engines starting, doors opening and closing and traversing over the gravel drive. However, as the unit can only be

occupied by a relative, this is unlikely to result in any conflict with existing occupants.

18. The change of use would alter this relationship. Coupled with the potential for an increase in comings and goings, including such things as deliveries made directly to the annex, it is possible that this could give rise to a more overt degree of disturbance and some impact on privacy at the front of the dwelling. With the 'link' between dwellings being removed, it is more likely that this would result in some degree of harm in the longer term.
19. To the rear, the front elevation of the annex building would be close to the new common boundary with Greenview. The main windows and decking across the front of the building would directly face the garden of Greenview. Although screened by a 1.8 metre fence, the close proximity of the building to the boundary may give rise to some concerns in relation to the unwelcome perception of being observed, particularly in the garden. This would result in a somewhat unneighbourly relationship that would not exist if occupied as an annex.
20. I therefore have some reservations about the future relationship between the annex and Greenview. This adds to my concerns about the impact on character and appearance and the living conditions of future occupants. Accordingly, I consider there to be a degree of conflict with the requirements of RLP2 Policy 1 which seeks to resist development that has significant adverse effect on the amenity of neighbours. There would also be some conflict with paragraph 127 of the Framework, which requires development to ensure good standards of amenity for existing users.

Highway safety

21. The additional parking space created to the front of Greenview would have little long-term benefits for occupiers of the annex. There could be no guarantee of being able to use the space for parking or manoeuvring. On this basis, it is most likely that vehicles would have to enter or exit the site in a reverse gear. However, it would be reasonable to assume that existing occupants of the annex may have access to a vehicle and will use the existing access. The change in occupancy would not alter this.
22. The likely need to make manoeuvres in the carriageway is clearly not ideal. Nevertheless, this is already likely to occur. Even accounting for any potential increase in comings and goings, it is unlikely that the change of use would result in significant additional risk.
23. Regular passers-by will already be aware of the vehicular access here and will drive accordingly. The road is also relatively straight, meaning that approaching vehicles and pedestrians would have good visibility of anybody entering the site. As for vehicles leaving the site, there would clearly need to be a degree of caution, particularly as visibility to one side is constrained by the fence of Springfield Farmhouse. Nevertheless, the pavement is quite wide here and there is sufficient space to edge out without entering the carriageway. Once on the pavement, visibility is be good in both directions. Any manoeuvres that take place are also likely to be at slow speeds. This would also help further to mitigate any risks, particularly to pedestrians.

24. I am not persuaded therefore that the change of use would alter the existing situation to the extent that it would create unacceptable risks to highway or pedestrian safety. In this regard, there would be no conflict with RLP2 Policy 1 which seeks, amongst other things, to ensure suitable means of access are provided. There would also be no conflict with paragraph 109 of the Framework which states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters and Conclusion

25. I have found that the development would result in harm to the character and appearance of the area. I also have concerns over the effect the change in use would have on the living conditions of existing and future occupants. While the building may have been occupied since its construction, this has been on a different basis to how it would function in the future. This does not therefore lead me to conclude the change of use would be acceptable. There are no other material considerations that would lead me to a different conclusion.

26. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR