



Appeal Decision

Site Visit made on 9 November 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/B2355/D/21/3276448

4 Anderton Close, Rossendale, Lancashire BB4 7DW

- 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 S and G De'ath against the decision of Rossendale Borough Council.
 - The application Ref 2021/0228, dated 9 April 2021, was refused by notice dated 2 June 2021.
 - The development proposed is residential annexe.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellants against the Council. That application is the subject of a separate Decision.

Preliminary Matters

3. The submitted plans indicate that the appeal property is 6 Anderton Close. However, the address in the planning application form, decision notice and the appeal form refer to it as No 4. I have referred to the appeal property as No 4.

Main Issues

4. The main issues are:
 - i) Whether the proposal would be the creation of a separate dwelling rather than ancillary annexe accommodation;
 - ii) The effect of the proposal on the character and appearance of the area;
 - iii) The effect of the proposal on the living conditions of the residential occupiers of 8 Anderton Close; and
 - iv) Whether the proposal would make adequate parking provision.

Reasons

Whether or not a separate residential unit

5. No 4 is a detached property in a large plot in a residential area. It has dwellings on 3 sides. The plot slopes steeply down from Anderton Close finishing at an unadopted access road that serves a number of domestic garages.

6. The proposal would be a detached 2 storey dwelling located partly on the hardstanding car parking area to the front of No 4. It would be orientated at right angles and it would be narrowly separated from its host. It would have a footprint of roughly 8.5m x 6m and its ridge would be less than 1m lower than the ridge of its host. Although smaller than No 4, it would be a large building that would not appear to be a subservient extension or outbuilding.
7. At ground floor there would be a bathroom, a double bedroom and an office room which could be used as a bedroom. The upper floor would provide open plan living with dining, sitting and kitchen areas. There would be a large store room and a separate WC. The proposal would be suitable to be occupied as self-contained residential accommodation independent of the appeal property.
8. The plot would not be subdivided to create separate residential curtilages. However, even if the annexe shared the garden with its host, its 2 large balconies would provide private outdoor space for future occupiers. Moreover, the appeal site is large enough such that 2 separate garden areas could be created in the future. The split parking provision would also lend support to the feasibility of subdividing the plot to create 2 residential units, each with their own separate highway access and parking areas.
9. The proposal would not be in accordance with the guidance in the Alterations and Extensions to Residential Properties A Supplementary Planning Document Adopted June 2008 (the SPD). The Council's concerns are therefore not unfounded. However, while the close relationship between the proposal and the front elevation and habitable room windows of No 4 would be acceptable between a dwelling and an ancillary residential annexe, there is little evidence that it would provide an acceptable standard of living conditions for separate dwellings, with particular regard to privacy and overlooking. This would be a constraint to the separation of the annexe from its host.
10. The proposal is described as a residential annexe. Although there is little evidence in relation to its ancillary functional use, it is intended to be occupied by family members namely parents. The planning application was made as a householder application and it was validated and considered as such. The proposal would not be the creation of a separate planning unit and it would not be an independent dwelling.
11. On the basis that it would be suitable for independent occupation, future occupiers might seek to sever the connection between No 4 and the annexe. However, if the annexe was not used for its intended purpose or if there was a material change of use to create a separate dwelling in future, then a separate grant of planning permission would be necessary. In reaching this conclusion, I have taken account of case law including *Uttlesford DC v SSE & White* [1992] which sets out that, even where accommodation is suitable for independent living, it would not necessarily become a separate planning unit from the main dwelling.
12. Therefore, in this case, I conclude that the proposal would be the creation of ancillary residential accommodation and it would not be the creation of a separate residential dwelling. For this reason, irrespective of the conflict with the guidance in the SPD, I find no overall conflict with Rossendale Borough Council's 'From East to West Making Rossendale the Best' Core Strategy Development Plan Document: The Way Forward (2011-2026) Adopted November 2011 (the CS).

Character and appearance

13. The appeal site is at the edge of a residential area with open countryside and Green Belt beyond. The built environment comprises relatively modern dwellings in a similar palette of materials but in a range of styles and sizes, with varied building lines, siting, orientation and plot sizes. Nevertheless, No 4 is unusual in the surrounding context by virtue of its individual siting, elevation, deep set back from the road and its overly large plot.
14. Plans have been submitted to illustrate the elevations of the proposal in isolation, and its layout relative to its host. There are no plans to illustrate the proposal in the street scene in juxtaposition with the host property or the neighbouring property.
15. The principal elevation facing Anderton Close would be roughly 3.5m to the eaves. It would have 4 long perpendicular first floor windows above 3 smaller windows close to ground level. Irrespective that it would be built into the slope, the proposal would not have the appearance of a single storey dwelling.
16. The ridge of the annexe would not be much below the ridge of its host and its front elevation would be wider than the side elevation of No 4. It would be a large building and it would not appear subordinate to No 4. It would be very close to the front elevation of No 4 and closer still to the neighbouring side boundary. Therefore, it would be out of scale and overly large in the context of the width of the gap within which it would be sited. It would be a high-quality design, but its front elevation including its fenestration would be conspicuous and it would not be well-related to its host or neighbouring built environment. To the rear, the proposal would protrude beyond its host and the tall rear elevation would be prominent when viewed from locations elsewhere.
17. Taking into account its size and scale, orientation and siting, the proposal would have an awkward and overly close relationship to the front elevation of No 4. It would be a visually obtrusive and discordant feature that would be out of keeping with the surrounding townscape. Irrespective that the plot size could accommodate a greater density of development, the proposal would not be sympathetic to its host or to the surrounding built environment and it would not add to the overall quality of the area.
18. Therefore, I conclude that the proposal would harm the character and appearance of the appeal property and the area. It would conflict with CS Policies 23 and 24 insofar as they require development to respect and respond to local context and character, to contribute positively to the townscape and to be compatible with its surroundings including in terms of style, siting, layout, orientation and massing. It would conflict with the aims and guidance in the SPD. It would conflict with the design and visual amenity aims of the National Planning Policy Framework (the Framework).

Living conditions

19. The submitted plans do not illustrate the relationship of the proposal to the neighbouring property No 8, either in plan or elevation form. However, the proposal would be roughly to the north-west of No 8 and it would be constructed at a ground level several metres below the neighbouring dwelling. Its front elevation would be somewhere around the building line of the end side

elevation of the neighbouring attached garage. There are no windows in the end elevation of the neighbouring garage or the facing side elevation of No 8.

20. Taking account of its siting, the change in levels and its orientation, the proposal would not result in a loss of daylight or sunlight to neighbouring habitable room windows. The proposal would overshadow part of the neighbouring garden, garage and parking area later in the day. However, the affected part of the garden is a steeply sloping area of lawn. There is little to suggest that it forms part of the principal functional private outdoor space of No 8. The partial overshadowing would not be significantly detrimental to the neighbouring residential occupiers.
21. Therefore, the proposal would not harm the living conditions of the residential occupiers of No 8, with particular regard to loss of light and overshadowing. It would not conflict with the aims of CS Policies 23 and 24. It would not conflict with the guidance in the SPD or the residential amenity aims of the Framework.

Parking provision

22. Two off-street parking spaces would be created in the garden of No 4 close to its boundaries with Nos 1-3 Anderton Close and Hardman Drive. This part of the garden drops steeply away from the cul-de-sac turning head towards the appeal property and towards the rear of Hardman Drive.
23. The proposed site plan illustrates the parking in plan form. It does not clarify whether an elevated platform would be constructed or if the parking spaces would be on a potentially steep gradient, in which case vehicles entering in forward gear would need to reverse up to the turning head. Part of the brick wall to the rear of the highway would be removed to create the access, but the retained walls would limit visibility particularly for reversing vehicles. The proposed access from the turning head would be close to the boundary of No 3 and in close proximity to the domestic garages to the rear of Nos 1-3. There is evidence that the turning head is well-used and it is under on-street parking pressure, increasing the potential for conflict around the access.
24. In the absence of substantive evidence that the parking spaces would be permitted development, this is not a valid fallback position and it does not weigh in favour of the scheme. I note the suggestion that this matter could be dealt with by a planning condition requiring the parking spaces to have a bound porous surface. This would prevent loose material from being transported onto the highway and it would minimise surface water run-off. However, it would not overcome the more fundamental safety concerns. As an acceptable form of development has not been demonstrated, I am not satisfied this matter could be addressed by planning condition.
25. Therefore, taking into account the constraints and the characteristics of the site and its surroundings, I conclude that the proposal fails to demonstrate that the parking provision would be adequate, that it would minimise the scope for conflict between road users or that a safe and suitable access could be achieved for all users. The proposal would conflict with the aims of CS Policy 8. It would conflict with the aims of the Framework.

Other Matters

26. The residential occupiers of properties on Hardman Drive are concerned about the height of the proposed parking spaces relative to their first floor windows.

Taking into account the marked change in levels between Anderton Close and Hardman Drive, it does seem reasonably likely that the use of the proposed parking spaces would result in illumination of the neighbouring habitable room windows from vehicle headlights. If this was the case, the proposal would be detrimental to the living conditions of the neighbouring residential occupiers. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further.

Conclusion

27. The proposal would be suitable to be occupied as a self-contained and separate dwelling. Nevertheless, it is proposed as a residential annexe and this is a matter that could be controlled by planning condition or obligation. The proposal would not harm the living conditions of the neighbouring residential occupiers. However, it would harm the character and appearance of the area and it would not provide safe and suitable access and parking provision.
28. For the reasons set out above, the proposal would conflict with the development plan and there are no considerations that would outweigh that conflict.
29. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR