



Appeal Decision

Site visit made on 30 November 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/E2205/D/21/3278709

Oaklands, Sandy Lane, Great Chart, Ashford, Kent TN26 1JN

- 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 J. Cardwell against the decision of Ashford Borough Council.
 - The application Ref 21/00340/AS, dated 22 February 2021, was refused by notice dated 19 April 2021.
 - The development proposed is described as the 'erection of building for use as a double garage with additional living accommodation (revision to 17/00591/AS).'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. From my site visit, it was evident that a building similar to that which is proposed in this appeal has been erected on site. However, it differs from that shown in the submitted drawings, noticeably in respect of the solid garage doors to the front elevation having been replaced with glazed openings. Accordingly, and for the avoidance of doubt, I confirm that I have based my decision on the proposed building shown in the submitted drawings and not the building as erected on site.
3. The appellant's appeal statement refers to the building interchangeably as being for incidental and ancillary accommodation. However, the letter which accompanied the planning application makes it clear that the proposal is for ancillary accommodation. This was the basis on which the Council considered the proposal and I too have considered the appeal on this basis.
4. A revised Framework¹ was published by the Government between the determination of the planning application and the appeal coming before me. I am satisfied that this latest version of the Framework does not raise any new considerations in relation to this appeal. The substantive elements of it remain the same as the previous version with regard to the main issues of this appeal.

Main Issues

5. The main issue in this appeal is whether or not the proposed development would represent an ancillary annexe building to the main dwelling.

¹ National Planning Policy Framework (2021)

Reasons

6. Policy HOU9 of the Local Plan² supports the provision of a standalone annexe building subject to certain criteria. A key element of this policy is ensuring that not only is there a close physical link between the host dwelling and annexe but that there is also a functional link between the two. This is necessary in order to avoid the possible introduction of completely independent units of accommodation without other appropriate considerations being taken into account.
7. The proposed accommodation is said to be required for members of the appellant's extended family following a change in circumstance. I have not been provided with any details of how this would operate on a day-to-day basis but no doubt, aside from providing basic accommodation, the intention is for mutual support to be provided between the appellant and his family in the respective buildings. Consideration of how ancillary accommodation would function relative to the main dwelling inevitably involves an element of the occupier's personal circumstances. However, other factors also inform an assessment of the acceptability of such buildings. These are reflected in Policy HOU9.
8. Oaklands is located in open countryside to the west of Ashford. It is one of a number of properties positioned sporadically along Sandy Lane. The appeal site itself comprises a number of buildings, which in addition to the host dwelling and appeal building also includes stables and other buildings/structures, which appear to serve the commercial operations on the site. The appeal building is positioned on the opposite side of the stables to the host dwelling. Although positioned adjacent to the stables and other buildings, the annexe nevertheless appears to be the building furthest away from the host dwelling.
9. These other buildings and the annexe all benefit from an existing vehicular/pedestrian access and parking area which is separate from that serving the host dwelling. Given their relative positions, it would not be possible to attach a condition which restricted the annexe building to sharing the same access or parking as Oaklands.
10. The inference from the criteria listed in Policy HOU9, and the explanatory text, indicate that it is unlikely that a standalone annexe located outside the curtilage of a host dwelling would be supported in principle. There is a large, grassed area between Oaklands and the annexe building, which appears to serve as the curtilage of Oaklands. There is a gate which allows pedestrian access from the annexe building through to this grassed area. Thus, whilst the annexe is located close to the curtilage of Oaklands and is within the same ownership, it does not appear to me that the annexe building is actually within the curtilage of Oaklands.
11. Although it is pointed out that the annexe does not have its own delineated curtilage, as an ancillary building it would not be expected to have one. Accordingly, this factor would represent a lack of harm which, by definition, would be incapable of weighing against the harm of not being within the curtilage of Oaklands. Accordingly, the annexe not having its own curtilage would be neutral in any balance.

² Ashford Local Plan (2019)

12. Although the annexe building appears to have a smaller footprint than Oaklands, it has two internal levels and thus is a taller building. When approaching the site along Sandy Lane from the south east, it is the most prominent building on the site. Given the building's size, it is able to provide two floors of accommodation. Part of the ground floor is intended to provide garage accommodation for two cars. Nevertheless, the remaining part of the ground floor would provide for a good-sized open plan living room and kitchen area. The upper floor would contain two bedrooms and a separate bathroom.
13. At the time of my visit the building had not been fitted out internally, and no cooking or washing facilities are shown on the drawings for the ground floor. However, from my own observations there would clearly be space for such facilities within the kitchen area. A bathroom is proposed on the upper floor and so certain services are intended to be connected to the building. The insertion of cooking or washing facilities would not in itself be an act of development and is not a matter which could be effectively controlled through the use of a planning condition. As such, the absence of cooking or washing facilities being shown on the drawings is not determinative of the building being ancillary.
14. Given the distance and lack of close physical relationship between Oaklands and the appeal building; the independent access and parking arrangements; the size and design of the living accommodation, the annexe would be a building capable of operating on an independent basis, providing day-to-day living accommodation, without any clear physical or functional reliance on Oaklands. As such, I do not consider it to be a standalone annexe to the main dwelling.
15. The proposal is in conflict with Policy HOU9 of the Local Plan. This policy requires, amongst other things, that a standalone annexe be clearly ancillary and achieve a clear dependency with the main building. As such, this decision would accord with Paragraph 47 of the Framework, which amongst other things, highlights that proposals should be determined in accordance with the development plan, unless material considerations indicate otherwise.

Other Matters

16. I have been referred to the previous planning permission on the site for a similarly sized building. I have not been provided with the full details, but that permission provided for a garage, store, home office, games room and welfare facilities in connection with the stables. The permission pre-dates the current Local Plan. The nature of that accommodation and how the building would have been used is very different from the proposal which is now before me. As such, I do not consider that it represents a direct parallel and accordingly the weight I attach to it is limited.
17. The appellant draws my attention to other appeal decisions to support their case. However, I do not have the full details of those schemes before me and therefore, similarly, cannot be sure that they represent a direct parallel, particularly as they appear to pre-date the current development plan. In any case, I have determined the appeal on its own merits.
18. The appellant's statement refers to the balance of probabilities, but this is an application for planning permission, not a certificate of lawful development. Accordingly, I must have regard to the development plan policies, which in this

case set out a clear list of criteria against which any proposed standalone annexe building must be judged.

19. The appellant's statement also refers to the Framework, but the paragraphs quoted generally relate to the provision of land for new housing, which would not be directly applicable to this case. I have had regard to the current iteration of the Framework in reaching my decision.
20. I have considered whether the imposition of a condition that limited occupation to the appellant's family could overcome the planning harm of siting such a building in this location. However, the Planning Practice Guidance³ advises that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission but there do not appear to be sufficient grounds in this case to justify such an approach.

Conclusion

21. The proposal would not represent development in accordance with Policy HOU9 and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan.
22. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR

³ Paragraph: 015 Reference ID: 21a-015-20140306