
Appeal Decision

Site visit made on 14 December 2021

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23RD December 2021

Appeal Ref: APP/K0235/D/21/3278936

100 Bunyan Road, Kempston, Bedford MK42 8EX

- 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 Parvinder Ram against the decision of Bedford Borough Council.
 - The application Ref 21/00156/FUL, dated 19 January 2021, was refused by notice dated 28 April 2021.
 - The development proposed is erection of a single storey detached annex to be used as ancillary living accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant's appeal submission refers to an amended block plan and alternative scheme involving the removal of the new separate access, parking, cycle and refuse storage provision associated with the proposed development. As, however, this would result in material changes to the proposal before me and potentially prejudice the interests of interested parties if no opportunity is provided to comment on these changes, having regard to the 'Wheatcroft' principles, I have determined the appeal on the basis of the same details that were before the Council when it made its decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - (i) whether the annex would be ancillary or incidental to the main dwelling or a separate independent dwelling unit;
 - (ii) the character and appearance of the area; and
 - (iii) the highway safety in the area.

Reasons

Ancillary or incidental to the main dwelling or a separate independent dwelling unit

4. The appeal site forms part of the garden area at the rear of a two storey semi-detached dwelling on the south-east side of Bunyan Road.

5. It is a matter of fact and degree as to whether or not the proposed development would be occupied as an annex to provide ancillary accommodation to the main dwelling or an independent separate dwelling. In assessing this, it is necessary to consider whether the building could function as an annex. The appellant has outlined that the annex would provide ancillary living accommodation to meet the needs of his disabled daughter. It would enable her to have her own space, whilst still being able to get the daily support she requires from her parents, who are her sole carers to meet her specific needs.
6. The proposed development involves the construction of a detached annex with a kitchen/lounge diner, bedroom, bathroom and an ensuite. Although the annex is not physically attached to the rear of the main dwelling, the proposed building would be sited set back in a relatively large garden plot and within the curtilage of the main dwellinghouse.
7. However, access to the annex would be provided via a separate doorway into the garden and vehicular and pedestrian access would be via the existing access driveway to the side of the main property. These allow access to the annex without any need to pass through the main dwelling. The main dwelling would retain the existing parking forecourt and a small enclosed outdoor amenity area for the existing occupiers at the rear of the property. The occupant of the annex would be provided with a new parking and turning area and small enclosed rear garden with refuse and cycle parking storage.
8. The submitted drawings show the proposed building would have all of the accommodation available for independent occupation separate from the main dwelling. It would also be detached and sited away from the main property, which together could further facilitate occupation independent of the main dwelling.
9. I have noted the appellant's arguments regarding the additional outbuildings that could be constructed on the site under the General Permitted Development Rights. However, the layout of the annex does not portray what would be expected to be an ancillary or incidental addition to the main dwelling. Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) allows buildings that are required for purposes incidental to the enjoyment of the dwellinghouse.
10. I have considered the appellant's arguments that the proposal would fall within the definition of a residential annex, as it would be within the same plot, within the same ownership and would be occupied by a family member. However, the layout of the annex does not portray what would be expected to be an ancillary or incidental addition to the main dwelling. Whilst these incidental purposes are capable of including a wide range of uses, the Courts have held that they do not include primary residential accommodation required for day-to-day private domestic living such as a kitchen or bedroom.
11. Therefore, taken together the evidence suggests very strongly that, as a matter of fact and degree, what is proposed, on the balance of probabilities, would be able to function as a separate independent dwelling unit. Given the reasonable likelihood that the building could be occupied as a separate independent dwelling unit, I do not consider that a planning condition requiring ancillary occupation of the annex to address the unacceptable impacts of the development would be effective and enforceable in this case.

Character and appearance

12. The appeal site forms part of the rear garden area of No. 100 Bunyan Road, a two storey semi-detached extended dwelling set back from the road within a relatively narrow spacious plot. The proposal would involve the construction of a single storey detached annex with a rendered finish and a pitched tiled roof.
13. The surrounding area is predominantly residential in character. It is characterised by a mixture of properties of varied styles and design fronting onto the highway behind small front gardens/driveways but with some backland style two storey development at 94 and 94A Bunyan Road immediately to the north-east of the site. To the south-west of the appeal site are the garden areas and the outbuildings associated with the adjacent properties and to the south-east, a block of single storey garages. Where garages, outbuildings and other structures exist behind the residential properties, these are very low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area.
14. The existing character of the site would change significantly as a result of the development on this open undeveloped area of land and a change in the nature of the site would be an inevitable consequence of this. Variety does not necessarily lead to harm. The appeal site is in a relatively large plot and as such the proposed development would not appear overlarge, relative to the overall plot size. The new vehicular accessway would be seen in the context of the existing vehicular driveways at the appeal site and along Bunyan Road.
15. Whilst visually the design of the proposed annex would be acceptable, the scale and form of the proposed single storey building would nevertheless still be a significant addition in this location. Such positioning, on what would be an atypically narrow plot, would erode the visual gap behind the properties. The proposed annex positioned in close proximity to the side boundaries and the extensive areas of hardstanding around the building, would provide limited opportunity to soften the impact of development through a comprehensive landscaping scheme. As such, although they would be set back behind the existing development, the proposed annex, by virtue of its scale, siting and layout, would appear visually cramped, compromising the sense of space and openness in the area.
16. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed annex on the street scene. In any case, the site is viewed from the rear of the surrounding properties. As such, I consider the proposed annex, by virtue of its scale, siting and layout would result in incongruous and out-of-keeping addition that would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
17. I have considered the appellant's arguments that the design and layout of the proposed annex has been carefully considered and redesigned in order to take into account the comments on the previously refused applications and appeals on the site and to minimise any impacts on the area. However, whilst the use of materials, fenestrations and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.

18. Consequently, even if my conclusion on the first main issue is disputed, as a result of other material considerations, in this case, I am not satisfied that the appeal scheme can be appropriately assimilated within the curtilage of the existing dwelling without harming the character and appearance of the area. It would be contrary with the overall aims of Policies 28S (ii), 29 (i) (ii) and 30 (i) (ii) of the Bedford Borough Local Plan 2020 and Design Code N3 of the Council's Residential Extensions, New Dwellings and Small Infill Developments Supplementary Design Guidance 2000. These policies and guidance, amongst other things, seek to ensure that all developments should be of the highest design quality that contribute positively and respond to the character and identity of the surrounding area and provide sufficient space around buildings.

Highway safety

19. Vehicular access to the proposed annex would be via the existing access driveway to the side of the main property onto the Bunyan Road, a classified road where a 30mph speed limit applies. The road in the vicinity of the access has a straight and wide alignment with double yellow lines, street lighting and footpath provision.
20. For this class of road, the Council's Highway Officer recommends minimum vehicular visibility splays of 90m x 2.4m and pedestrian visibility splays of 2.0m x 2.0m should be provided on either side of the accessway. The Council's Highway officer has objected as the development does not meet these requirements. The Council's Highway Officer has also objected to the proposal on the basis of the existing driveway width, inadequate turning facilities for service vehicles and the car parking provision.
21. From the evidence provided and from my observations on site, I consider that this section of Bunyan Road is sufficiently safe and suitable to cater for the limited traffic movements from the proposed development. Whilst the existing brick pier and low timber fence along the common shared boundary with No. 98 Bunyan Road at the front of the site would provide some restricted visibility for vehicles to the north-east of the site, due to the current configuration of the site and the proposed access arrangements, vehicles moving into and out of the site would be travelling and manoeuvring at low speeds. Given the above, I consider that the proposed access arrangements and current road conditions on the straight section of the road would allow sufficient visibility for vehicles to enter and leave the site safely and minimise any conflicts between traffic and cyclists or pedestrians.
22. The proposal shows one car parking space for the proposed one bedroomed annex and the retention of the existing parking forecourt with two parking spaces for the main property. I acknowledge that some properties in both Bunyan Road and the surrounding streets rely on on-street parking and there is likely to be competition for parking spaces at peak periods. However, whilst there are parking restrictions outside the appeal site along Bunyan Road, there are no parking restrictions on residential streets opposite the site and at the time of my site visit, there were parking spaces available along the nearby streets, although this was obviously only a snapshot in time. The Council's Highway Officer has provided little substantive evidence to demonstrate there is no residual parking capacity in the surrounding area.
23. In my mind, the scale and layout of the proposed development would provide sufficient space and flexibility to achieve adequate off-street parking, access

and turning facilities for the proposal without resulting in a significant adverse effect on highway safety. I have not been provided with any substantive evidence as to show how the Council seek to be more flexible for a small scale development in such an accessible location as advocated in the Framework.

24. In view of the modest scale of development and the evidence before me, I consider that the traffic generated by the proposed development would not be significantly materially different to the existing situation on the site and the extra demand for on-street parking generated by the development would be relatively small in the context of the overall supply and availability of parking in the area. Therefore, I consider that the effect is likely to be only marginal and certainly not severe, the test set by the Framework for preventing development on highway grounds¹.
25. Consequently, I conclude that the proposal would not have a significant adverse effect on highway safety in the area. It would be consistent with the overall aims of Policies 29 (viii) and 31 (i) (iii) (iv) of the Bedford Borough Local Plan 2020 and the Council's Parking Standards for Sustainable Communities: Design and Good Practice Supplementary Design Guidance 2014. These policies and guidance, amongst other things, seek to ensure that development proposals do not have any significant adverse impact on access to the public highway by ensuring suitable access arrangements and providing adequate car parking provision to meet the functional needs of the development.

Other Matters

26. I have considered the appellant's comments regarding the family's personal circumstances and the benefits to the family arising from the proposed additional accommodation to meet the needs of his disabled daughter. I also note the appellant's comments regarding the need to provide housing for different groups under the aims in the Framework and to have due regard to the Public Sector Equality Duty contained in the Equality Act 2010. I have considerable sympathy for the appellant's circumstances.
27. However, the Courts have generally taken the view that planning is concerned with land use in the public interest. Although personal circumstances can sometimes justify a personal or temporary permission, that would not be appropriate here where a permanent structure is intended. There is insufficient justification for both the scale and form of the annex proposed in this particular case. As such these are matters to which I can attach only moderate weight in making this decision.
28. I note the other developments drawn to my attention by the appellant. However, the two storey dwellings at 94 and 94A Bunyan Road relates to a different scale and form of development that was granted some time ago in a different policy context. The detached garage granted, but not implemented at the rear of No. 102 Bunyan Road, is for a different form of development to the appeal scheme. The appeal decisions relating to ancillary annexes permitted elsewhere have different development characteristics and are in a different local planning authority area. On the basis of the limited evidence provided I am not convinced that their circumstances are compellingly similar to the appeal proposal.

¹ Paragraph 111 of the Framework

29. I note the appellant's comments regarding the previous planning permission for a detached garage with ancillary accommodation above granted, but not implemented on the appeal site². However, this relates to a different scale and form of development that was granted some time ago in a different policy context and should not be taken as an acceptable context for or justification of the appeal scheme.
30. I have considered the appellant's statement on the fall-back position on the appeal site and the appellant's options to build a detached outbuilding using permitted development rights. Be that as it may, there is little specific evidence before me to support there is the reasonable likelihood that such a building would be built if this appeal is dismissed. The scale and form of such a development, in my view, would not be as substantial as the proposal now before me and would have more limited impact on the character and appearance of the area. As such it is a material consideration to which I can attach only limited weight in making this decision.
31. The appellant considers the proposal would constitute a sustainable form of development in line with the requirements of the Framework. I have considered the various benefits put forward by the appellant that the proposal would bring, including the scheme's design and good environmental standards, providing additional accommodation to meet the family's needs, the effective use of land and contributing to the local economy through additional building work and increased Council tax receipts. While I have given them some weight, these modest benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

32. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR

² 03/01222/FUL