

Appeal Decision

Site visit made on 9 December 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 January 2022

Appeal Ref: APP/R3515/D/21/3279212

23 Brockley Crescent, Ipswich IP1 5HT

- 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 Melvin Last against the decision of Ipswich Borough Council.
 - The application Ref IP/21/00202/FUL, dated 25 February 2021, was refused by notice dated 26 April 2021.
 - The development proposed is erection of residential single-storey annex (retrospective) and single-storey front extension to annex (proposed).
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Decision

1. The appeal is allowed insofar as it relates to the erection of residential single-storey annex (retrospective), but is dismissed insofar as it relates to the single-storey front extension. Accordingly, planning permission is granted for the erection of residential single-storey annex (retrospective) at 23 Brockley Crescent, Ipswich IP1 5HT. The permission is granted in accordance with the terms of the application Ref IP/21/00202/FUL, dated 25 February 2021, subject to the following condition:
 - 1) The detached annex building hereby permitted shall not be occupied as living accommodation except by a dependant relative or other member of the household of the occupants of the dwelling known as 23 Brockley Crescent, Ipswich IP1 5HT. Except insofar as the building is so used as living accommodation, the building shall not be used other than for purposes incidental to the use of 23 Brockley Crescent as a dwellinghouse.

Preliminary Matters

2. The appellant indicates that the original description of development has changed. Therefore, the above description reflects the amended description shown on the appeal form.
 3. An application for costs was made by Mr Melvin Last against Ipswich Borough Council. This application is the subject of a separate decision.
 4. I note that the Council considered the proposal principally against Policy DM13 of the Ipswich Core Strategy and Policies Development Plan Document Review (2017) (the CSP), which concerns small scale infill and backland residential developments. The basis for the Council's consideration of the proposal as
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backland residential development rather than a building ancillary to the use of No 23, as applied for, is the *Space and Design Guidelines* Supplementary Planning Document (SPD) (2015). This says that planning applications for detached annexes will be considered against the normal criteria for new dwellings¹.

5. While I note this basis for the decision, the National Planning Policy Framework indicates that SPDs are documents which add further detail to the policies in the development plan; and they are capable of being a material consideration in planning decisions but are not part of the development plan². Policy DM12 of the CSP addresses the provision of ancillary buildings and, therefore, is directly relevant to the use proposed in this case. Therefore, for these reasons in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I have considered the proposal principally against Policy DM12 rather than Policy DM13.
6. In reaching this view, I note that Policy DM12 includes criteria which address the Council's main concerns included in its reasons for refusal, namely the effect on character and appearance, the amount of available garden area, the effect on neighbours' living conditions and the physical form of accommodation proposed.

Main Issues

7. Bearing in mind the above finding and having regard to the reasons for refusal, the main issues are:
 - whether the proposal would be tantamount to the creation of a new dwelling;
 - the effect on the character and appearance of the appeal site and surrounding area;
 - the effect on the available garden area of No 23; and
 - the effect on the living conditions of neighbouring occupiers of properties on Coral Drive, with regard to privacy and noise and disturbance.

Reasons

Whether the Proposal would be Tantamount to the Creation of a New Dwelling

8. No 23 is a semi-detached chalet style bungalow in a residential road of similar properties. The single storey annex building is located at the end of No 23's long rear garden. This backs onto the gardens of dwellings located on Coral Drive.
9. The appellant explains that the annex building would be used as family accommodation ancillary to the use of No 23 as a single dwellinghouse and would have no independent curtilage or means of pedestrian and vehicular access. It would share car parking, access, garden space and utility services with the host dwelling. The shared vehicular access and garden would comply with Policy DM12 of the CSP³. Nonetheless, as a separate building it fails to meet the requirement in Policy DM12 that a residential annex is an extension that would be subordinate in scale to the main residence and capable of being

¹ Paragraph 5.45.

² Annex 2: Glossary.

³ Policy DM12, criterion g.

integrated into the main dwellinghouse once the dependency need has ceased⁴. The supporting text explains further that an annex should form a linked extension to an existing dwellinghouse and retain some shared facilities, such as a kitchen or bathroom, to ensure that it cannot evolve into a self-contained unit⁵.

10. The principal need for the annex relates to the acute illness of a family member, which involves considerable care and support, including from care assistants visiting the property on a regular basis during the day and at night. Statements supporting the family's need for the annex building in this context have been provided from medical and other care professionals. Given the importance of the space provided by the annex building expressed in these statements, I give them considerable weight in my consideration of this issue.
11. From the site inspection it is clear that the building is physically related to No 23 and lies within a common domestic curtilage and, as such, I see no basis to suggest that it cannot function effectively as a residential annex to the host dwelling. However, due to the internal facilities proposed, it would in principle be capable of residential occupation independent of any familial relationship with occupiers of the host dwelling, although I acknowledge that is not what is proposed here. However, the use of the building needs to be considered in the long term as well as in relation to any initial occupation. As such, it is important that it would retain its original purpose and remain ancillary and tied to use of the main dwelling. An appropriately worded condition could achieve this, in particular ensuring that occupation is undertaken only by a dependant relative or other household member and that any other uses are incidental to the use of No 23, recognising both the immediate need and longer-term use.
12. The Council contends that due to the building's location, independent occupation could be undertaken without its knowledge. Policy DM12 requires that an annex could not be accessed separately from the main dwelling⁶. However, the only means of access is to the side of No 23 and then through the rear garden. In these circumstances, any independent use would involve an occupant gaining access by walking the full length of No 23's relatively narrow but long garden. This would effectively negate the reasonable use and enjoyment of their garden by the occupiers of No 23. These physical circumstances combined with a condition limiting occupation as described, would address concerns about long-term use as well as addressing the current needs described above.
13. Accordingly, taking these findings as a whole, I conclude that while there is a conflict with the requirement in Policy DM12 for a residential annex to be an extension that is capable of being integrated into the main dwellinghouse once the dependency need has ceased, in the particular circumstances of this case this is materially outweighed by the need for the building to address the appellant's family's care needs. Moreover, current and longer term use of the building can be controlled by an appropriate condition.

⁴ Policy DM12 criterion e.

⁵ Paragraph 9.88.

⁶ Policy DM12 criterion f.

Character and Appearance

14. The annex building is not visible from Brockley Crescent or Coral Drive and therefore accords with Policy DM12 in that it does not have an adverse visual impact on the immediate street scene⁷. While the building is visible from the rear windows and gardens of surrounding properties, it is surrounded on three sides by relatively large outbuildings in neighbouring gardens and is positioned within a generous rear garden. While it is larger than the surrounding outbuildings and is brick-built with a tiled roof, it is not so prominent, disproportionate or incongruous to result in material harm to the character and appearance of the residential setting.
15. I have had regard to the Council's *Urban Character Study* SPD (2019), which identifies the appeal site as being within the Westbourne sub-area of the Castle Hill, Whitehouse and Whitton Character Area. While I accept the Council's contention that there is no precedent for a building of this type within the immediate area, I have found that no material harm results from the physical appearance or location of the building in this case.
16. The proposed extension would bring the whole frontage of the building further forward and would create a substantively larger and bulkier built form in this domestic setting. This would be particularly apparent from the building's side profile seen from properties to the west on Coral Drive. As such, for all the above reasons, I conclude that while the existing building does not result in an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area, the proposed extended building would result in such harm. Consequently, the proposed extension is contrary to Policy DM5 of the CSP, concerning design and character, which requires development to protect and enhance the special character and distinctiveness of Ipswich.

Available Garden Area

17. Policy DM12 requires that a separate building would not result in more than approximately 50% of the useable private garden area of the original dwellinghouse being occupied by buildings⁸. The appellant provides detailed calculations which demonstrate that taking account of all existing buildings, including the annex building, the remaining unoccupied garden area is just over 64% of the total area. Therefore, on this basis, I conclude that the proposal does not conflict in this regard with Policy DM12 and there is no materially harmful effect on the available garden area.

Living Conditions

18. While the building is located close to the garden boundaries of three neighbouring properties, it is single storey and includes a limited number of windows to the side elevations and none to the rear. As such, it is not possible to overlook neighbouring gardens or dwellings and, therefore, there is no loss of privacy to neighbouring residents from use of the building.
19. The Council and an interested party have raised concerns about disturbance to enjoyment of neighbouring gardens from noise related to live music being

⁷ Policy DM12 criterion d.

⁸ Policy DM12 criterion a.

played in the building. While I acknowledge these concerns, it is possible that an outbuilding in this location could be used for the same purpose and there are separate means of seeking to control such noise, where necessary, in a residential setting such as this. More generally, due to the separation of the appeal building from surrounding properties and the likely level of occupation, there is no basis to conclude that its use as proposed will result in harmful noise and disturbance to neighbouring residents.

20. An interested party also raises concerns about the effect on outlook from neighbouring dwellings. The building is visible above the boundary fences, but its single storey profile and shallow pitched roof, together with a hip to the rear, reduces its height and bulk such that it is not an overbearing or dominant presence seen from neighbouring dwellings and gardens.
21. Accordingly, for these reasons, I conclude that the annex building does not result in harm to the living conditions of neighbouring occupiers of properties on Coral Drive. As such, the proposal is not contrary to Policy DM12(c) or to Policy DM26 of the CSP, which require development not to result in harm to the amenity of neighbouring residents.

Conclusion

22. As the proposed extension is distinct from the annex as already built, it is possible in this case to make a split decision with regard to the different elements of the overall proposal. Therefore, for the above reasons, the appeal succeeds in respect of the residential annex, but fails in respect of the proposed extension to it. As the building has been completed externally and the floor plans relate to the proposed extended building, no other conditions are necessary.

J Bell-Williamson

INSPECTOR