



Appeal Decision

Site visit made on 14 March 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal Ref: APP/X0360/D/21/3279712

1 The Hollies, Old Wokingham Road, Crowthorne RG40 3BU

- 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 & Mrs Jordan against the decision of Wokingham Borough Council.
 - The application Ref 210046, dated 7 January 2021, was refused by notice dated 28 May 2021.
 - The development proposed is external alteration to an existing barn to allow conversion for use as a habitable residential annex ancillary to the main dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the proposed development would amount to a separate dwelling in the countryside;
 - the effect of the proposed development on the integrity of the Thames Basin Heaths Special Protection Area; and
 - whether or not a contribution to affordable housing would be required.

Reasons

Separate dwelling

3. Policy CP11 of the Wokingham Borough Core Strategy Development Plan Document 2010 (the CS) sets out that in order to maintain the quality of the environment outside development limits, proposals for development will only be allowed which do not lead to excessive encroachment or expansion of development away from the original buildings and is contained within suitably located buildings which are appropriate for conversion.
4. The appeal site is located outside development limits and is within the countryside for planning purposes. The Council is concerned that the conversion would amount to a separate dwelling in the countryside in an unsustainable location where future occupants would be reliant on the use of the private car.
5. The Hollies is a terrace of 3 dwellings located off a private shared driveway. Number 1 The Hollies (No 1) is located at the western end of the terrace. It sits

- within a large plot in which there is a sizeable single-storey barn which the appellants are seeking to convert into residential accommodation.
6. The proposed barn conversion would provide a double bedroom, bathroom and living/dining room and kitchen area. The Council officer's report indicates the submitted drawings were amended during the application to remove the kitchen from the drawings. Whilst this is acknowledged, those drawings on which the Council based its decision, indicate a kitchen area.
 7. In any event, it is evident that there would be sufficient space to accommodate a kitchen area. Furthermore, it is not clear why a dining area for some 6-8 people would be provided if there was no intention of providing a kitchen within the property. It seems to me that given the distance between the host property and the proposed annex, it would be impractical to carry cooked meals to the annex, particularly during periods of inclement weather.
 8. The proposed accommodation would be capable of providing all the facilities required for day-to-day living to enable it to function as a self-contained unit without any form of dependency on the host dwelling. However, this alone does not necessarily mean it becomes a separate planning unit from the host property. This is a matter to decide on a fact and degree basis as confirmed in *Uttlesford District Council v Secretary of State for the Environment & White*¹ judgment.
 9. The appellants have stated that the barn is in the same curtilage as the host property. However, the Council has indicated that it is subject to a separate title from the host property, although both are currently under the same ownership. This has not been disputed.
 10. The barn is located some 21m from No 1 and physically separated from it by the existing driveway. The barn is a large size, indicated to be some 80sqm, which would be only a little smaller than the host property. It would also sit within a generous plot with an area of garden on its far side, physically separate and set away from the host property.
 11. The barn would be served by the same driveway as No 1. However, since the driveway is already shared between 3 independent properties there would be no reason why it could not equally serve 4 separate properties. As such, I find that the barn could be accessed, separated from and would have the space and facilities to function entirely independently of the host dwelling.
 12. The appellants have stated that the barn would be used ancillary to the main dwelling whilst their children and grandchildren would reside in the main house. The barn would share the same services as the main house, being billed as part of this. It would not have a separate postal address. This has been confirmed in a statutory declaration submitted by the appellants.
 13. In the *Uttlesford* case the Inspector identified the absence of separate utility meters, postal address and telephone line as significant factors when considering whether a separate unit had been formed. I have noted this finding and the appellants' intentions in respect of the appeal before me. However, it seems to me that it would be quite straightforward to sever these services and have them billed separately and there would be little to prevent this from happening.

¹ *Uttlesford District Council v Secretary of State for the Environment & White* [1992] JPL 171

14. I appreciate that there are appeal decisions where it has been found that no material change of use has occurred in relation to the formation of a 'granny annex' with the full range of facilities required for day-to-day living. I have been referred to an appeal at 30 Spencer Road, Isleworth² which reconfirmed that a material change of use is not defined in any statute or statutory instrument but is a question of fact and degree in each individual case.
15. I accept that in the Spencer Road appeal the Inspector concluded that the granny annexe would be ancillary. I do not know how the Spencer Road appeal compares to the scheme before me as I have been provided no details of the size, range of facilities or the relationship of the granny annexe with the host property. I am therefore unable to draw direct comparisons. However, in the appeal scheme, for the reasons above, I have found that the proposal would be tantamount to a new and separate dwelling.
16. I have taken into account the appellants' view that a condition to prevent the unit being occupied separately to the dwelling could be imposed. However, the physical form of the building, the facilities it provides, its location in relation to the host property and its means of access, make it capable of severance. In these circumstances, it seems to me that pressure for the building to be used as a separate dwelling could arise at some point in the future.
17. Taken together, the functional and physical separation of the barn in combination with the separate ownership title to the host property, leads me to conclude that it could form a separate planning unit. For this reason, I conclude that the proposed development would amount to a separate dwelling in the countryside. It would therefore conflict with Policies CP1, CP3, CP6 and CP11 of the CS and Policies CC01 and CC02 of the Wokingham Borough Managing Development Delivery Local Plan 2014. These policies together seek sustainable development that protects the quality of the environment by not permitting development outside of development limits; is appropriate to the character of the area; and located where they provide a choice in transport modes and minimise the distance people need to travel.
18. Policy CP2 of the CS quoted in the reason for refusal is related to inclusive communities and not directly relevant here.

Thames Basin Heaths Special Protection Area

19. The appeal site lies within approximately 1.26km of the Thames Basin Heaths Special Protection Area (the SPA). This is protected as a European Site of Nature Conservation Importance and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal.
20. The Council, in consultation with Natural England, considers that any net increase in residential development between 400m and 5km straight-line distance from the SPA is likely to have a significant effect on the integrity of the SPA, either alone or in combination with other plans or projects. This is due to a potential increase in recreational activity on the SPA.

² APP/F5540/X/13/2208455

21. On the basis that the Council considered the scheme would lead to the creation of a separate dwelling, it has completed an Appropriate Assessment (AA). This concluded that without any appropriate avoidance and mitigation measures in the form of Suitable Alternative Natural Greenspace and Strategic Access Management and Monitoring Measures, the proposed development would be likely to have a significant effect upon the integrity of the SPA.
22. As I set out earlier in my decision, I agree that the proposal would result in the creation of a separate dwelling. This means that, were I minded to grant planning permission, as the competent authority, I would need to undertake an AA to confirm that it would not adversely effect the integrity of the SPA. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.

Affordable housing

23. Policy CP5 of the CS requires all residential proposals of at least 5 dwellings (net) or covering a net site area of at least 0.16ha will provide up to 50% of the net additional units proposed as affordable dwellings, where viable.
24. Since I have found that the proposal would amount to a new and separate dwelling, and on the basis that the site exceeds the size threshold, as advised by the Council, the requirement for the provision of affordable housing would be triggered.
25. The scheme would only deliver one additional dwelling and it would not be practical to provide this in the form of affordable housing units, a commuted sum would therefore be appropriate in this case. No financial contributions have been secured and no viability assessment has been submitted to justify that position.
26. I therefore conclude that the proposal fails to make provision for affordable housing. It therefore conflicts with Policy CP5 of the CS as referred to above.

Conclusion

27. For the reasons set out above, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR