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## Appeal Decision

Site visit made on 24 March 2022

**by James Blackwell LLB (Hons)**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 May 2022**

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**Appeal Ref: APP/X0415/W/21/3283947**

**6 Highmore Cottages, Little Missenden, Bucks HP7 0RB**

- 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 Mrs L Wainscoat against the decision of Buckinghamshire Council.
  - The application Ref PL/21/1906/FA, dated 28 April 2021, was refused by notice dated 6 July 2021.
  - The development proposed is single storey rear extension for care worker accommodation.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposed development would be located within the Green Belt. It is common ground between the parties that it would comprise an extension to an existing building, and would not constitute inappropriate development in the Green Belt. There is no compelling reason before me to disagree.

### Main Issue

3. The main issue is whether the proposed development would constitute annexe accommodation, or whether it would be tantamount to a separate dwelling in conflict with local policy.

### Reasons

4. The appeal property is a first-floor maisonette with its own private access at ground floor level. It also benefits from a private area of outdoor amenity space to the south. The proposal seeks to introduce a single storey rear extension within this garden area, to create a 1 x bedroom annexe. This would be accessed via a new porch, which would also serve the entrance to the existing maisonette.
5. The proposed annexe would be substantial in footprint and would include a bedroom, bathroom and living space. Whilst no kitchen is proposed, works affecting only the interior of a building would not constitute "development", and so nothing would prevent kitchen facilities from being implemented at a later date. Indeed, there would be sufficient space to accommodate such facilities. Irrespective of the appellant's current intention, this means the annexe could conceivably accommodate all the facilities typically associated with a standalone dwelling, which would allow it to function independently.

6. The potential for the annexe to function independently from the maisonette would be exacerbated by the extent of physical separation between the two. The annexe would be located on a different floor to the maisonette, which means this degree of physical separation would be significant. Moreover, whilst the new porch would create a single front entrance to serve both the maisonette and the annexe, the annexe would still have its own internal entrance door, further compounding this separation. This would allow the annexe to be accessed separately, which means it could be occupied independently without any reliance on the maisonette above.
7. On account of these factors, the proposed annexe would be capable of functioning independently, and irrespective of the appellant's intention, would therefore be tantamount to a standalone dwelling. Without a legal agreement to ensure the annexe use subsists long-term, this risk would not be adequately mitigated. This is because any planning condition seeking to protect against such risk would be very difficult to enforce, given the lack of readily identifiable action that would denote independent use.
8. As a result, the development would conflict with Policy H19 of the Chiltern District Local Plan (1997)<sup>1</sup>. The overriding objective of this Policy is to ensure that annexe accommodation remains truly ancillary to the primary dwelling. The Policy highlights that detached annexes should only be allowed in exceptional circumstances, where the risk of independent occupation can properly be prevented. Whilst the annexe would not be detached in this instance, its degree of physical separation from the maisonette means the risk of independent occupation would be comparable. As such, the risk of independent use should be prevented in the same way as if it were detached.

### **Other Matters**

9. In terms of the outside amenity area, any risk of subdivision (to create a separate garden area for the annexe) could potentially be overcome through the imposition of a condition restricting permitted development rights for the erection of boundary treatments. Nonetheless, this in itself would not overcome the risk of the annexe functioning as a separate dwelling.
10. The appellant contends that the outside amenity space would be accessed through the annexe, which would create a functional reliance between the annexe and the existing maisonette. However, the external amenity area would wrap around the annexe, allowing it to be accessed via a gate from the pathway leading to the front entrance. This means it could still be readily accessed from the maisonette without any need to go through the annexe, thereby overcoming any reliance between the two in terms of accessing this space.
11. The ability of the annexe to be mortgaged as a separate dwelling would fall outside of the planning merits of the proposal. Indeed, any mortgage potential (or lack thereof) would not in itself prevent independent use.
12. Whilst I acknowledge the care needs of the appellant and the resultant requirement for the annexe accommodation, unfortunately this factor would not justify development which could function independently as a separate dwelling, and therefore contravene policy.

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<sup>1</sup> Chiltern District Local Plan, Written Statement, adopted 1 September 1997 (Consolidated September 2007 and November 2011)

13. Following recent Natural England advice<sup>2</sup>, the appeal property is now within the Zone of Influence of the Chilterns Beechwoods Special Area of Conservation (SAC). The SAC seeks to protect habitats comprising beech forests, grassland and scrubland within the Ashridge Commons and Woods Site of Special Scientific Interest. However, as I am dismissing the appeal on other grounds, further consideration of this factor, including the need for an appropriate assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) to determine any impact of the proposal on the SAC, is not required.

### **Conclusion**

14. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

*James Blackwell*

INSPECTOR

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<sup>2</sup> Letter from Natural England dated 14 March 2022 to Buckinghamshire Council and others, entitled "Developments to the emerging evidence relating to the recreational impacts upon Chilterns Beechwoods Special Area of Conservation (SAC) and the need for a Mitigation Strategy"