



Appeal Decision

Site visit made on 26 April 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/Y1945/W/21/3286327

8 Armand Close, Watford WD17 4SQ

- 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 Ryan Smith against the decision of Watford Borough Council.
 - The application Ref 21/00673/FUL, dated 7 May 2021, was refused by notice dated 31 August 2021.
 - The development proposed is a '2 bed self contained garden annexe'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although not given by the Council as a reason for refusing permission, the effect of the proposal on trees within an identified ancient woodland has been raised as a concern in representations made by the Council's Tree Manager and a number of interested parties. The appellant has had the opportunity to respond to these concerns as part of their evidence, and I am satisfied that they would not be unfairly prejudiced by my taking this matter into account.

Main Issues

3. In light of the above and the evidence before me, the main issues are:
 - i) the effect of the proposal on ancient woodland; and
 - ii) having regard to whether or not the proposed development would be ancillary to the host dwelling, the effect of the proposal on the character and appearance of the area and whether or not living conditions for occupiers of the site would be acceptable in respect of privacy and amenity space.

Reasons

4. The appeal site includes a detached dwelling known as 8 Armand Close which sits to one side of the head of the cul-de-sac of Armand Close. The majority of the boundary of the site with the neighbouring property at 6 Armand Close runs at an angle, and the site widens significantly towards the rear. This affords the appeal dwelling a generous rear garden which extends to the south east of the dwelling towards adjacent woodland known as Rounton Wood.
5. The appeal proposes an 'L-shaped' outbuilding which would sit close to the rear corner of the site alongside the woodland. The outbuilding is proposed as a self-contained annexe, and would include two double bedrooms, two bathrooms, a kitchen and living space.

Ancient Woodland

6. Rounton Wood is protected by a woodland Tree Preservation Order, and is identified as ancient woodland by Natural England's Ancient Woodland Inventory mapping system.
7. The National Planning Policy Framework (the Framework) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. My attention has also been drawn to standing advice published by Natural England and the Forestry Commission which sets out that development proposals, including gardens, should not be approved within a buffer zone of an ancient woodland.
8. The annexe would be close to the boundary of the site with Rounton Wood, and would be within a 15m buffer zone around the ancient woodland. However, the appellant provided a Tree Survey, Arboricultural Impact Assessment Arboricultural Method Statement and Tree Protection Plan ('AIA') during the Council's consideration of the application which includes an assessment of the development in relation to the root protection areas of the closest trees. The Council's Tree Manager has not disputed the findings of the AIA that the development could be constructed without adversely affecting the health and safe retention of trees within the woodland, and I have no firm reason to reach a different view. In addition, the outbuilding would not include windows facing towards the woodland, and I do not consider that there would be likely to be excessive shading of the building.
9. Nevertheless, at my visit I observed a large tree within the woodland that had apparently fallen very close to the site boundary. Given their very close proximity, I consider there would realistically be likely to be some perception of danger to the outbuilding from trees in Rounton Wood, and I share the view expressed by the Council's Tree Manager that safety concerns for occupiers of the outbuilding would be likely to give rise to future pressure to lop, top and/or fell trees within the woodland.
10. I appreciate that the garden of the appeal site is already within the buffer of the ancient woodland, and both main parties refer to permitted development rights that could allow for construction of an outbuilding in this location. However, these permitted development rights would only apply to a building that was required for a purpose incidental to the enjoyment of the dwellinghouse. The appeal proposal is for an annexe which would include primary living accommodation. It would therefore be likely to be occupied for much more prolonged periods, including for overnight sleeping, than if it were an outbuilding used for incidental purposes, and it seems to me that there would consequently be a far greater likelihood of safety concerns associated with the neighbouring trees. Indeed, I note that the appellant's AIA comments that the health and structural integrity of trees is liable to change over time, and recommends that all trees on or adjacent to the site are inspected on an annual basis.
11. The appeal proposal would not therefore be directly comparable to an incidental outbuilding constructed utilising permitted development rights. Consequently, the fact that such development could potentially be carried out within the buffer zone is not in my judgement a sufficiently compelling justification to

allow the appeal proposal which would by its nature be likely to increase future pressure for works to trees within the ancient woodland.

12. I am unable to find from the evidence before me that occupation of the development would not lead to future works to trees to address safety concerns. Nor can I be sure that such works could be carried out without adversely affecting the ancient woodland which is irreplaceable. Accordingly, I find that the proposal would be likely to cause loss or deterioration of the ancient woodland. The Framework therefore indicates that permission should be refused unless there are wholly exceptional reasons and there is a suitable compensation strategy in place.
13. The development is intended as accommodation for the appellant's family, and to facilitate provision of care and support. However, there is little firm information before me demonstrating the need for the proposal. Nor is it clear that any need could not be adequately met elsewhere on the site in locations where greater separation could be provided to ancient woodland, lessening actual and perceived safety concerns to occupiers of the development. I do not therefore find the appellant's personal circumstances to constitute a wholly exceptional reason to allow the proposal. Moreover, I have no substantive details to indicate that a suitable compensation strategy could be put in place.
14. For these reasons, I conclude that the proposal would cause unacceptable loss or deterioration of ancient woodland, and it would conflict with the Framework.

Character, Appearance and Living Conditions

15. The Council's Residential Design Guide 2014 Amended 2016 (RDG) includes guidance that stand alone detached buildings are only likely to be acceptable in the gardens of properties where they are solely for the use and enjoyment of the occupants of the property.
16. Given the nature and level of accommodation indicated, occupiers of the outbuilding would not need to rely on facilities within the host property. However, the appellant highlights the judgement in *Uttlesford DC v SSE & White* [1992] where the court considered that even if an outbuilding included accommodation providing facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling or result in a material change of use. Whether or not the outbuilding would be ancillary to the host property would instead be a matter of fact and degree.
17. In this case, the outbuilding would sit within the garden of No 8 with no private garden of its own, and there is no proposal to form a separate curtilage around the building. Although the outbuilding would be detached, it would face generally towards No 8 with windows overlooking its garden, and while the Council indicate that it would be set around 21m away, it would still have a reasonably close physical relationship with the host dwelling. Moreover, the annexe would not have parking provision or access separate from the host property. In my judgement, the sharing of the garden, access and parking would intrinsically connect the outbuilding to No 8, and it would not be readily severable from the host property. Notwithstanding the internal accommodation that would be provided, the annexe would therefore have a functional dependency on the host property.

18. Given the degree of interaction and the physical relationship and layout of the site, I find as a matter of fact and degree that it would not be easy to occupy the annexe as a separate dwelling resulting in a discrete planning unit from No 8. Even if it could be occupied as a separate dwelling, that is not the development that is before me to consider as part of this appeal and I can see no reason that such an outcome would be inevitable.
19. In addition, the use of the outbuilding could be restricted to one ancillary to the appeal dwelling by means of an appropriately worded condition as suggested by the appellant. The Council suggests that such a condition would be difficult to enforce and would not be appropriate having regard to guidance and tests for the use of conditions. However, given my findings regarding the physical and functional relationship of the annexe to the host property and that it would not be readily severable, I consider that it would be reasonably apparent if it were to be used as a wholly independent dwelling, and I am not persuaded that enforcement of such a condition would be unduly problematic or impractical.
20. I appreciate that the outbuilding would exist when no longer needed by the currently intended occupiers. However, there is no compelling evidence before me to suggest that occupiers of the host dwelling at that time would be unable to otherwise utilise the space, or that it would be necessary to require the removal of the building. I am therefore satisfied that a condition would in this case be enforceable and reasonable, and could appropriately maintain the nature of the outbuilding as ancillary to the host dwelling.
21. On this basis, the annexe would be for the use and enjoyment of occupiers of No 8, and the site would continue to function as a single household. Accordingly, I do not consider that it would be necessary for the development to satisfy standards or comply with planning policies that are applicable to new residential dwellings. I am further satisfied that the relationship between the outbuilding and host dwelling would afford suitable standards of privacy and access to amenity space for both buildings, and in this regard would ensure acceptable living conditions for the occupiers of the site.
22. The RDG indicates that detached buildings in gardens are only likely to be acceptable where such buildings form part of the existing character of the area, and that their acceptability will be subject to their size and the size of the rear garden. I saw structures of varying scale and design within the gardens of other dwellings nearby, and therefore an outbuilding would not be out of character in this area. The outbuilding proposed would certainly be one of the largest locally, and the Council suggests that its footprint would be larger than some of the neighbouring properties to the rear. However, the appeal site is also one of the largest in the area. The development would be single-storey and would occupy only a small proportion of the garden to No 8 so that its scale would not appear excessive or disproportionate, and it would not dominate the site or host dwelling. In addition, the form, limited height and depth, flat roof design, simple detailing and fenestration and the sedum roof and cedar cladding external finish to the building would combine to give the development a discreet and subordinate appearance that I consider would be appropriate to a residential outbuilding.
23. The fairly modest single-storey height of the development, and its position to the rear of the appeal site and screening by vegetation and boundary treatment further mean that it would not be clearly seen from public vantage

points. There would be views from surrounding properties, but given the above factors, I do not find that the proposal would result in an exceptional or incongruous feature. Nor do I find that it would comprise inappropriate back land development that would harmfully disrupt the pattern or form of its surrounding area.

24. For these reasons, I conclude on this main issue that the development would be ancillary to the host dwelling, that it would provide acceptable living conditions for occupiers of the site in respect of privacy and amenity space, and that the character and appearance of the area would not be harmed. Accordingly, I find no conflict with saved Policies SS1 or UD1 of Watford's Local Plan Part 1 - Core Strategy 2013 which, amongst other things, broadly require high standards of design and development that protects residential amenity and that respects and enhances local character. I also find no conflict with the Framework insofar as it seeks well-designed places and development that is sympathetic to local character.

Conclusion

25. Notwithstanding my conclusion on the second main issue, the proposal would cause unacceptable loss or deterioration of ancient woodland contrary to the Framework. I consider that this is a material consideration of overriding importance, and I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR