



Appeal Decision

Site visit made on 30 August 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9 September 2022

Appeal Ref: APP/M2840/W/21/3289355

9 Leys Avenue, Desborough, Kettering NN14 2PY

- 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 Carl Sharman against the decision of North Northamptonshire Council.
 - The application Ref NK/2021/0707, dated 24 September 2021, was refused by notice dated 7 December 2021.
 - The development proposed is a separate dwelling at the bottom of my garden comprising of 3 bedrooms, bathroom and a kitchen/living area. This building is an annex to the existing property for in-laws to live in, not a separate saleable house/bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single storey residential annex at 9 Leys Avenue, Desborough, Kettering NN14 2PY in accordance with the terms of the application Ref NK/2021/0707, dated 24 September 2021 and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan (received 11 October 2021), Elevation A, B, C and D and Floor Plan (all received 13 September 2021) and Block Plan.
 - 3) The external materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.
 - 4) The building hereby permitted shall not be occupied at any time other than as a part of the single residential use of the dwelling known as 9 Leys Avenue, Desborough, Kettering NN14 2PY.

Background

2. The description of development was changed by the Council to a 'separate single storey dwelling within the rear garden'. The appellant explains that the intention of the application is to provide family accommodation, ancillary to the use of their dwelling, and not to create a separate dwelling. The property would be solely to care for elderly relatives and would then be used as a summer house when no longer required. It would share the existing vehicular access

with the host dwelling situated at the front of the property with its pedestrian access to its side and along the rear garden.

3. The Council is concerned that an independent access might be formed onto the private track at the rear of the garden and thereby potentially capable of forming a separate household. However, the appellant has confirmed that they have no right of access to this track. Furthermore, based on the position of the proposed appeal building close to the rear boundary, it would not appear realistic to consider that a separate access could be formed. At the very most this would be pedestrian access and it would lead onto a rough track well away from the highway. These physical circumstances, combined with a condition limiting occupation, would address concerns about long-term use as well as addressing the current needs of the appellant.
4. Should the property be used for any other purpose i.e. an independent dwelling, then a material change of use would have occurred and the Council could take any necessary action. I have therefore determined this appeal on the basis of it being ancillary accommodation to the host dwelling and for the avoidance of doubt I have changed the description of development in my decision.

Main Issues

5. The main issues are:

- Whether the development would provide acceptable living conditions for the occupants of the property with regard to outlook and amenity space; and
- The effect of the development on the character and appearance of the surrounding area.

Reasons

Living Conditions

6. The proposed annex would be situated close to the high boundary fence at the far end of the rear garden. Windows to the two rear bedrooms would be very close to the rear boundary fence giving a limited outlook, and the rear door would provide very restricted access. However, this is not in itself a reason to refuse the development, particularly as the kitchen window and bi-fold doors to the living room would allow a view over the shared garden, and their south westerly aspect would provide a good level of natural light.
7. The proposed annex would lie within a common curtilage and would look back towards the rear of the host dwelling. As a consequence, it is not unexpected that the plans before me do not show any separate demarcation or layout of the private outdoor amenity space, and a degree of intervisibility would be anticipated. However, the intention of the appellant is to allow the proposed annex to have some private space and having viewed the size of the garden I consider that this would be possible, even though it would not be essential.
8. As an ancillary domestic building I therefore give the Council's concern that it would not provide adequate private outdoor amenity space and cause overlooking very limited weight. It would therefore provide acceptable living conditions for the occupants of the property with regard to outlook and amenity space. In this respect there would be no conflict with Policy 8(e) of the North

Northamptonshire Joint Core Strategy 2016 (JCS) and paragraph 130(f) of the National Planning Policy Framework 2021 (the Framework). These seek to ensure that developments provide a high standard of amenity for existing and future residents.

Character and appearance

9. No 9 Leys Avenue, is a detached property within an established residential area. The landscaped rear garden is enclosed by a substantial timber fence supported by concrete posts providing a high degree of privacy and enclosure. Properties in the surrounding area are of mixed character but typically share a formal layout with a small garden and parking to the frontage and long linear gardens to the rear.
10. The private track at the rear of the appellant's garden, leading from Dunkirk Avenue, provides access to a number of rear gardens situated predominantly on Furlong Drive. Whilst this track is not accessible from the rear garden of No 9, there are a number of larger outbuildings and garages of a permanent and substantial construction along this track, and these are visible within the immediate area and form part of its character and appearance. In addition, some nearby dwellings have detached outbuildings within their rear garden, most notably the single storey detached building in the rear garden of No 5 Leys Avenue, which was originally built with planning permission as a billiards room. Although I note that there is some dispute regarding the current authorised use of this structure, it is relatively large, and regardless of its use, its size was considered acceptable by the Council when it was approved. This structure, together with the other buildings along the private track and other garden buildings in rear gardens are part of the character of the immediate area and do not look out of place.
11. The proposed building would be visible above boundary fences, but its single storey profile and shallow pitched roof would not make it especially prominent in the area and it would have no adverse visual impact on the street scene. It would be positioned in a generous rear garden and would still maintain the spaciousness of the plot. I recognise that the appeal building may well be potentially larger than other outbuildings in this immediate area, but it would not be so prominent, disproportionate or dominant as to result in material harm to the character and appearance of the residential setting, especially with a condition controlling materials. It would not, therefore, result in a pattern of development uncharacteristic of the area.
12. The appeal proposal would not result in an unacceptably harmful effect on the character and appearance of the surrounding area. Thus, there would be no conflict with JCS Policy 8(d) and Policy HOU1 of the Kettering Site Specific Part 2 Local Plan (2021) which seek to ensure that development responds to local character and appearance. It would also accord with the high-quality design expectations of section 12 of the Framework.

Conditions and Conclusion

13. I have attached conditions to require the use of matching materials in the interests of appearance and to list the plans in the interests of certainty. The Council has also suggested a condition relating to occupancy to ensure that the accommodation is only lived in by a dependant relative or other household member recognising the immediate need and longer-term use. The unit of

accommodation is not in a satisfactory position to be occupied separately from the main dwelling in the interests of amenity.

14. The proposal would accord with the development plan as a whole and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

G Bayliss

INSPECTOR