



Appeal Decision

Site visit made on 20 September 2022

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal Ref: APP/Y1110/W/22/3297221

The Headland, Woodwater Lane, Exeter EX2 5AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Bradley Cannings against Exeter City Council.
 - The application Ref 21/1834, is dated 25 November 2021.
 - The development proposed is extension to and conversion of existing garage to ancillary, residential annexe.
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Decision

1. The appeal is allowed and planning permission is granted for extension to and conversion of existing garage to ancillary, residential annexe at The Headland Woodwater Lane, Exeter EX2 5AW in accordance with the terms of the application, Ref 21/1834, dated 25 November 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the approved plans: 1823/3, 1823/4, 1823/5, 1823/6.
 - 2) The annexe shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as The Headland.

Application for costs

2. An application for costs was made by Mr Bradley Cannings against Exeter City Council. This is the subject of a separate decision.

Procedural Matters

3. I have taken the description of development in the banner heading above from the application form, however as 'retention' and 'retrospective' are not acts of development, I have removed these elements.
4. I observed on my site visit that development had already been carried out and whilst the appellant's appeal statement suggests the proposed use has not been implemented, the building was in use. However, the development undertaken differs from the submitted plans. The roof pitch appears steeper and ridge higher, whilst the front gable features a half hip and an upper floor window not shown on the plans submitted as part of this appeal. Therefore, for the avoidance of doubt, I am considering the development proposed on the submitted plans as opposed to the development that has been built.

Background and Main Issues

5. As set out in the banner heading above, the Council failed to determine the application to which this appeal relates within the prescribed period. Since the appeal has been made, the Council has provided reasons that they would have refused planning permission for, had they retained jurisdiction to do so. With these reasons for refusal in mind, I consider the main issues to be:
- Whether the annexe is ancillary to the main dwelling or a separate independent dwelling unit;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of future occupiers and the occupiers of neighbouring properties, including The Headland, with particular regard to privacy; and
 - The effect of the proposed development on highway safety.

Reasons

Ancillary to the main dwelling or a separate independent dwelling unit

6. The appeal site comprises of a detached building located in the front garden of The Headland, a large detached two storey dwelling located at the end of a private road in a residential area. The building is positioned in close proximity to the host property, with a shared parking area and garden.
7. The Council argues that as the building is physically detached from the host property and because the scheme includes all facilities required for self-contained living, it could be used as an entirely separate self-contained residential unit.
8. The building has a close physical relationship with the main dwelling, whilst space around the two buildings is unrestricted by any physical boundaries that would prevent shared use and movement around and between them. In addition, there is a joint access, driveway and forecourt area. Whilst self-contained use of the building could be a possibility, the appellants have not indicated such an intention, and nevertheless, the application clearly states that the development is for an ancillary residential annexe. Further, the Council validated the application on that basis. All of these matters point to the ancillary nature of the annexe, and for these reasons, I do not regard the appeal building as being tantamount to a new dwelling.
9. As such, based on the evidence before me, the use of the site, in its entirety, would remain for single-family occupation. On this basis, it is clear to me that the building forms part of the original planning unit. Contrary to the Council's suggestion, the use and occupancy of the building could be restricted by a suitably worded planning condition and no compelling reasons have been advanced to persuade me that such a condition could not be monitored and readily enforced.

Character and appearance

10. Objective 9 and Policy CP17 of the Exeter Local Development Framework Core Strategy (CS) and Policy DG1 of the Exeter Local Plan First Review 1995-2011 (LP) provides that development is of high-quality design which enhances Exeter's character and relates well to the character and appearance of adjacent buildings and the townscape.
11. The appeal proposal is of a modest scale which appears subservient to the host dwelling and is largely screened from any public viewpoints. The design and materials are appropriate, and it does not appear out of context in this domestic setting. Whilst the position of the building close to the host dwelling, would appear incongruous for a separate dwelling given the large garden of the host dwelling and prevailing pattern of development, it is well suited to a purpose as an ancillary annexe, and is read as such.
12. Consequently, the proposal does not cause unacceptable harm to the character and appearance of the area. As such it would accord with Objective 9 and Policy CP17 of the CS and Policy DG1 of the LP which collectively seek, amongst other things, to ensure development is of high-quality design that relates well to the character and appearance of adjacent buildings and the townscape. The proposal would also accord with paragraphs 127 and 130 of the National Planning Policy Framework (Framework) in relation to achieving well-designed places which function well and are visually attractive as a result of good architecture and layout.

Living conditions

13. The appeal proposal is both a significant distance, and well screened from neighbouring residents. As I have found that the appeal proposal relates to an ancillary use to the host dwelling, it follows that there would be no detrimental impact on occupiers of the host dwelling, or the annexe building as this would be a single household. Therefore, and given the relationship with neighbouring properties, the proposal would accord with LP Policy DG4 which seeks, amongst other things, to ensure a level of living condition which allows residents to feel at ease within their homes and gardens.
14. Furthermore, the proposal would also accord with the Framework where it seeks to secure a high standard of amenity for existing and future users.

Highway safety

15. The appeal site is approached via a private lane that passes two other dwellings and joins the public highway onto Woodwater Lane. The Council have raised concerns that the proposed access has not been demonstrated to be safe and suitable in perpetuity therefore impacting on highway safety. However, notwithstanding these concerns, the ancillary use of the building will not significantly increase vehicular movements along the access, and furthermore sufficient turning and parking area is currently available and utilised at the site by the occupiers of the Headland.
16. Consequently, I find that the proposal will not result in any additional highway safety concerns in accordance with the provisions of the Framework which seeks to ensure safe and suitable access to the site can be achieved for all users.

Other Matters

17. The Council has made reference to the need for an appropriate assessment under the Conservation of Habitats and Species Regulations 2017 to be carried out in respect of potential effects on European Sites designated for their nature conservation importance. However, it has subsequently confirmed that this is on the basis that the Council considers an independent dwelling has been created. As this is not the proposal, nor what I am granting permission for, there is no substantive evidence that my decision would lead to adverse effects on the integrity of any European Sites. An appropriate assessment is not, therefore, required.

Conditions

18. The Council has provided a list of suggested conditions in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance (PPG).
19. I have found that the building is in use, although the development that has been built differs to the submitted plans on which I have considered the appeal. Therefore, whilst a statutory time limit condition is not required, a plans condition is required to provide certainty.
20. Suggested conditions 2, 3, 4, 5 and 6 are not necessary as I have found that the ancillary use of the building would not result in harm to highway users and that the character and appearance of the proposal is acceptable.
21. In order to prevent the building being occupied as a separate dwelling house, a condition is imposed requiring that the building shall only be occupied ancillary to The Headland.

Conclusion

22. For the reasons given above, I find that the proposal is in accordance with the development plan, considered as a whole. There are no considerations of sufficient materiality to indicate that the decision should be made other than in accordance therewith. Therefore, I conclude that the appeal should be allowed.

S Harrington

INSPECTOR