
Appeal Decision

Site visit made on 17 August 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2022

Appeal Ref: APP/W0340/W/22/3291473

Mudhall Cottage, Winterbourne Road, Boxford, Newbury RG20 8AY

- 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 and Mrs Mauree against the decision of West Berkshire Council.
 - The application Ref 21/02348/FULD, dated 13 September 2021, was refused by notice dated 19 November 2021.
 - The development proposed is conversion of part of existing detached garage to create annexed accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of part of existing detached garage to create annexed accommodation at Mudhall Cottage, Winterbourne Road, Boxford, Newbury RG20 8AY in accordance with the terms of the application, Ref 21/02348/FULD, dated 13 September 2021, and the plans submitted with it, subject to conditions in the attached schedule.

Procedural Matters

2. The site is located within the catchment of the River Lambourn Special Area of Conservation (SAC). Consequently, the proposal has been considered in the context of statutory duties set out within the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and is dealt with later in my decision.
3. The site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Consequently, the proposal has been considered in the context of statutory duties set out within Section 85 of the Countryside and Rights of Way Act 2000 and is dealt with later in my decision.

Application for costs

4. An application for costs was made by Mr and Mrs Mauree against West Berkshire Council. This application is the subject of a separate decision.

Main Issue

5. The main issue is whether the proposal would provide accommodation that is tantamount to the creation of a separate self-contained and independent dwelling.

Reasons

6. The site relates to a garage within the grounds of Mudhall Cottage. It is incidental to the use of the main dwelling, smaller in scale and subservient. The buildings within the grounds of Mudhall Cottage are within general close proximity to one another, with the garage around 28 metres away from the main dwelling. This is a distance that does not appear to undermine its incidental use or the functional link between the buildings in forming a single planning unit.
7. I am mindful the judge in *Uttlesford DC v SSE & White* [1992] considered that even if the accommodation provided facilities for independent day to day living, it would not necessarily become a separate planning unit from the main dwelling – instead it would be a matter of fact and degree.
8. In that case the accommodation gave the occupant the facilities of a self-contained unit although it was intended to function as an annexe with the occupant sharing her living activity in company with the family in the main dwelling. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.
9. In this context, whilst I note there are elements of the proposal that would provide the facilities for independent day to day living, there are a number of other factors that persuade me that it should be regarded as an annexe that is functionally linked and incidental to the main dwelling.
10. The proposal would come forward within the existing garage, and therefore would remain subservient in scale and an element of parking and toilet facilities would be retained as functional links incidental to the main dwelling.
11. Occupants of the proposal would share the same access, grounds, garden area, postal address, utilities, and services as the occupants of the main dwelling. Indeed, there would also be opportunities for occupants of the proposal and the main dwelling to interact within internal and external spaces¹. For example, whilst eating in the dining areas or recreating in the garden area.
12. As such, there are a number of factors demonstrating that the proposal would be functionally linked and incidental to the main dwelling.
13. The Council considers the distance between the proposal and the main dwelling to be a significant factor. However, I am not persuaded that this is the case, because the garage is already sufficiently close and well related to be regarded as incidental to the main dwelling.
14. There is no objective evidence demonstrating that it would be an inappropriate distance preventing an elderly occupant from engaging incidentally with the main dwelling under the proposal.
15. Altogether, notwithstanding the facilities for independent day to day living, there are a number of factors persuading me that the proposal, when all of the matters of fact and degree are comprehensively considered, should legitimately be considered an annexe.

¹ uninterrupted by boundary treatments, which only serve to delineate the stables.

16. Overall, the proposal would not provide accommodation that is tantamount to the creation of a separate self-contained and independent dwelling and would be an annexe. Therefore, it would not conflict with Policies ADPP1, ADPP5, CS1 and CS14 of the West Berkshire Core Strategy 2012 or Policy C1 of the Housing Site Allocations Development Plan Document 2017. Among other things, these policies seek to manage the development of new dwellings in the countryside.

Other Matters

17. I note reference to West Berkshire Council Supplementary Planning Guidance House Extensions 2004 and Part 8 Granny Annexes or Accommodation for Elderly or Disabled Relatives. However, this guidance appears to deal directly with new extensions physically related to existing dwellings. Consequently, the guidance does not relate to the proposal in this case, which is a conversion of a separate outbuilding.
18. Whilst the site is located within the catchment of the River Lambourn SAC, the proposal would not result in additional residential units or a significant increase in population where the associated wastewater has implications for the local wastewater treatment system. Other proposals of a similar nature within the catchment would not result in additional residential units either. As such, the proposal would not result in a significant discharge of treated effluent into the SAC, whether directly or through hydrological connectivity, alone or in combination. Whilst being mindful of the precautionary principle, I am satisfied that the proposal's effects on the SAC would be insignificant. Consequently, an appropriate assessment pursuant to the Habitats Regulations is not required.
19. Section 85 of the Countryside and Rights of Way Act 2000 requires me to have regard to the conservation and enhancement of the natural beauty of the area. The proposal is a conversion without any significant exterior works to the existing building. Furthermore, the proposal would be incidental to the main dwelling, and as such the level of domestic activity would remain consistent with what already exists. In this context, the character and appearance of the area, and by extension the natural beauty of the AONB, would be preserved.

Conditions

20. I am mindful of the general principles established in *Winchester CC v SSCLG & Others* [2013] EWHC 101 (Admin) upheld in [2015] EWCA Civ 563, where it was set out that a permission granted for a 'travelling show peoples site' could not be interpreted as a general permission for a residential caravan site, although no occupancy condition had been imposed, because a 'travelling show people's site' is a sui generis use.
21. In this context, if an outbuilding is proposed for incidental use, or for use as part of the main dwelling, a condition to restrict the use will rarely be needed. Even if the development could be used as a separate dwelling, such a use could not become established without further planning controls.
22. Indeed, if following a grant of permission, the building in this case is not used as proposed, or if there is a future material change of use to create a separate dwelling, then another grant of permission would be required, and the building or use would be at risk of enforcement action if permission had not been granted.

23. As such, a condition restricting the use in this context is not strictly necessary and would fail the tests based on the evidence I have at my disposal in this case.
24. The Council did not take the opportunity to suggest any planning conditions in their appeal submissions. As such, I have attached standard planning conditions in relation to time limits for commencement and accordance with the approved plans, which are necessary in the interests of certainty.

Conclusion

25. For the reason given, the appeal is allowed and planning permission is granted subject to conditions in the attached schedule.

Liam Page

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i) GTB – 814 – 16 A ((Existing (unchanged) Elevations));
 - ii) GTB – 814 – 16 A (Existing and Proposed Layout); and
 - iii) GTB – 814 – 17 A.

End of Schedule