



Appeal Decision

Site visit made on 16 September 2022

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2022

Appeal Ref: APP/J0405/D/22/3302748

The Wilds, Brackley Road, Westbury, BRACKLEY, NN13 5JN

- 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 S Chalmers against the decision of Buckinghamshire Council.
 - The application Ref 22/01101/APP, dated 24 March 2022, was refused by notice dated 20 June 2022.
 - The development proposed is the erection of a cabin to provide ancillary annexe accommodation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether or not the proposed cabin should be considered as an annexe to the main house at The Wilds or as a separate new dwelling, and
 - The effect of the cabin on the character and appearance of the area around the north-western edge of Westbury.

Reasons

3. The appeal property is a detached house situated within large gardens in a plot on the northern side of Brackley Road and on the north-western edge of the village of Westbury. It is surrounded by open land to the north, west and south, and by housing development to the east along Brackley Road. The property also includes a large detached garage to the west of the house, a newly constructed storage building to the north of the house, and a stables building to the north-east of the house. The proposed cabin has already been constructed and is located in the extreme north-western corner of the appeal site. It is around 11.5 metres in length and 4.6 metres in width, with a Gross Internal Area (GIA) of some 41 sq metres and height of 3.8 metres. It is timber clad and includes a bedroom, bathroom and kitchen/living area.
4. Policy B2 of the Vale of Aylesbury Local Plan (LP) indicates that all new development proposals should respect and complement, amongst other things the physical characteristics of the site and its surroundings, including the scale and context of the site and its setting. Policy D4 of the LP indicates that new housing development at smaller villages will be supported where it contributes

to the sustainability of that village and is in accordance with all applicable policies in the LP, provided that the proposed development fulfils certain criteria, including that it is located within the existing developed footprint of the village, or is substantially enclosed by existing built development.

5. The Council contends that the cabin, by way of its design and appearance, has resulted in encroachment into an open area of land, that, combined with its remoteness from the main dwelling, has resulted in harm to the rural character of the site and locality and therefore fails to respect the natural qualities and features of the locality.
6. The appellant contends that the use of the cabin annexe is ancillary to the main dwelling with strong family and functional links. Furthermore, it does not have its own address, post box, utility connections, or garden area, and it shares the access, driveway and parking with the main house. In addition, an annexe type use and future use could satisfactorily be controlled by way of an appropriate and enforceable condition.
7. With regard to the character and appearance of the cabin, the appellant notes that the building is of limited height and modest dimensions, appropriate to its function as an annexe. Moreover, the materials, along with the pitched roof and simple form, are compatible and consistent with the materials, scale and form seen on other ancillary buildings on the appeal site.

The nature of the proposed cabin

8. The cabin is a self-contained building, situated in the far north-western corner of the site, some distance from the main house. The Government's Technical Guidance on Permitted Development Rights for Householders indicates that, under Class E of Part One of Schedule 2 to the General Permitted Development Order, a purpose incidental to a house would not cover normal residential uses, such as separate self-contained accommodation, or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen. the proposed cabin could not, therefore, claim permitted development rights under this provision.
9. The appellant refers also to Section 55 of the 1990 Act, which provides that certain operations or uses of land shall not be taken for the purposes of the Act to involve development of the land. These include the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such. However, in this case, the proposed development relates to the erection of a new structure, namely the proposed cabin, which is a building operation, and not the use of an existing building. Section 55 does not, therefore relate to this proposal.
10. The Council's decision notice does not specifically refer to the cabin as a new dwelling, but I accept that the Council's reasoning for the decision does appear to consider this to be the case. The appellant notes that the application makes it clear that the proposal is for an annexe to the main house, and that he is prepared to accept a suitable condition to ensure such a use and has also provided a draft Unilateral Undertaking to underpin any relevant condition. Moreover, he stresses that the cabin has no separate access or parking facility, that all utilities are paid for by the appellant, and that the cabin is within the curtilage of the main property.

11. In my opinion, the fact that the cabin is a self-contained unit, does not of necessity mean that it cannot function purely as an annexe to the main house. However, I note that it is of a size that exceeds the minimum GIA for a one-bedroom dwelling as set out in the Government's Technical Housing Standards: Nationally Described Space Standards (THS). Moreover, it appears to have an access available through an existing opening at the rear of the neighbouring parcel of land to the west, which is in the ownership of the appellant, and the potential exists, therefore, to separate the cabin and surrounding parts of the garden from the rest of the appeal site, and to pay separately for utilities.
12. Balancing out all of the above points, I conclude that, whilst the cabin has the potential to become a separate dwelling, a suitable enforceable condition, accompanied by a Unilateral Undertaking of the type suggested by the appellant, would be sufficient to ensure that the cabin remained an ancillary annexe to the main house and would continue to occupy the same curtilage as the host building. On this basis, it would not conflict with Policy D4 of the LP, which relates to new housing developments.

Character and appearance

13. It would appear that the main house has been extended on a number of occasions, with the addition also of a large garage block, close to and to the west of the house, and an outbuilding used for storage purposes, to the rear of the plot. The latter was granted permission by the Council recently. The cabin represents another addition to the number of built structures on the site.
14. Whilst the garage block is situated close to the house, and views of the outbuilding at the rear are contained visually between the garage and the house, the cabin would, by way of contrast, extend the built elements of the property further to the west into the extreme north-western corner of the site. Views of the cabin from the public realm to the south are largely restricted to the roof, though there are some more significant views from across the neighbouring parcel of land to the west. Given the very open nature of the land around the appeal property to the north, west and south, such an intrusion of a new built element is harmful, and acts as something of a visual encroachment, albeit to a limited extent.
15. The house and garage at The Wilds clearly mark the end of the built environment in the village of Westbury, and the cabin effectively extends the village built envelope, albeit to a limited extent. On this basis, it does not respect and complement the physical characteristics of the site and its surroundings, including the context of the site and its setting. It is, therefore, harmful to the character and appearance of the locality at the north-western edge of Westbury, and conflicts with Policy B2 of the LP.

Conclusion

16. On the main issues, I conclude that, in this case, the cabin should be considered as an annexe to the main house at The Wilds, but that it is harmful to the character and appearance of the area around the north-western edge of Westbury. Accordingly, I dismiss this appeal.

J D Westbrook

INSPECTOR