



Appeal Decision

Site visit made on 7 November 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/U1430/W/21/3286658

St Giles, High Street, Burwash, East Sussex TN19 7HT

- 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 Mrs Josephine O'Donnell against Rother District Council.
 - The application Ref RR/2021/1424/P is dated 17 August 2021.
 - The development proposed is a detached single storey annex building providing accommodation ancillary to an existing dwelling house.
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Decision

1. The appeal is dismissed and planning permission for a detached single storey annex building providing accommodation ancillary to an existing dwelling house is refused.

Application for Costs

2. An application for costs was made by Mrs Josephine O'Donnell against Rother District Council. It is the subject of a separate Decision.

Preliminary Matter

3. The Council did not determine the application within the statutory time limit. I have had regard to the two objections which it has indicated would have been its reasons for refusal, as referred to in its appeal statement. The appellant had the opportunity to consider these objections in making final comments, which I have taken into account.

Main Issues

4. These are:
 - whether the proposal would be suitable in location and use to provide ancillary living accommodation; and
 - its effect on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty.

Reasons

5. The appeal site comprises a large area of land located at one end of Burwash. It includes a two-storey detached house (St Giles) and its gardens but is mostly land used for equestrian purposes, including stables, a manège and paddocks or fields. It is proposed to erect a single-storey detached annex to provide ancillary living accommodation at St Giles.

Ancillary living accommodation

Location

6. Policy DHG10 of the Rother Development and Site Allocations Local Plan 2019 (LP) relates to residential annexes and applies to all locations. In this respect it is a moot point whether the annex would be in the defined settlement boundary of Burwash or in the countryside. While this policy advocates looking first to extend a dwelling then convert an outbuilding to provide ancillary living accommodation, the proposal before me is for a detached annex. As such, it is within the scope of this policy, but to comply with it the annex must be within a residential curtilage, in this case of St Giles.
7. Most of the annex would be sited where there is a small vegetable garden and greenhouse. However, a significant part would be where there is a stable block which faces a yard and another stable block. This part of the site can be accessed by a separate vehicular and pedestrian entrance to the public highway and is linked by a track to the manège and paddocks on lower ground to the north. While the stable block is owned by the appellant, it is part of a discrete equestrian use that is not inherently domestic in nature. It is not an essential component for living at St Giles and does not serve the purpose of the house in a necessary way.
8. Furthermore, this part of the site is next to, but nonetheless on the outside of, domestic hedgerows and fences that I consider demarcate the visual and spatial extent of the front and rear gardens of St Giles at this point. Taken with its equestrian use, and the wider extent of the equestrian use, this land is not so intimately associated with St Giles that it forms one enclosure as part and parcel of living in this house. Accordingly, while the annex would be near St Giles it would not be entirely within its residential curtilage.

Use

9. The appellant lives in St Giles with her partner. She intends that they both move into the annex, with a live-in carer, once her deteriorating mobility condition precludes living in St Giles over two floors. Meantime, her daughter and her family would occupy the annex as an extended single family unit living at the site. They would move into St Giles to help with later years care by then required by the appellant living in the annex.
10. The annex would contain space and facilities to meet the appellant's living and health care needs. It would also enable self-contained, independent use as a dwellinghouse. However, it would be near St Giles and smaller (overall) than this house. The occupants would use the same vehicular and pedestrian access and parking areas as St Giles, have access to St Giles' gardens and share some services or utilities. Moreover, the development applied for is an annex, not a dwellinghouse. The appellant agrees to the imposition of a planning condition to limit its use to an annex and it would not be unduly onerous for the Council to monitor compliance.
11. That is therefore how the annex should be occupied. Any planning permission runs with the land irrespective of the circumstances of the intended occupiers. If it was not used as proposed, or if there was a material change of use in the future to create a separate dwelling, then planning permission would be required. The annex would be at risk of enforcement action if such permission

was not granted. The annex in this case is intended to be used and occupied in a way that maintains a functional relationship and shared connection to St Giles as the main dwellinghouse. In these circumstances I am satisfied that it would be ancillary living accommodation, not a dwelling.

Findings on ancillary accommodation

12. Although the proposal would be suitable in use to provide ancillary living accommodation, it would not be suitable in location and conflicts with LP Policy DHG10.

High Weald Area of Outstanding Natural Beauty (AONB)

13. The AONB is a nationally designated landscape with the highest status of protection in relation to conserving and enhancing its landscape and scenic beauty. In the vicinity of the site its distinctiveness includes a mosaic of small fields bounded by hedgerow with trees and wooded shaws, set in an undulating landform with sporadic built form. This part of Burwash is an unlit settlement along a ridge top road and contributes to intrinsically dark landscapes. These features make a significant positive contribution to the character, appearance and visual amenity of this part of the AONB.
14. The annex would be subservient in height to St Giles but large in footprint, especially in proportion to the ground floor of this house. Despite a low pitched, single-storey design it would be set on a raised plinth with high overhanging eaves, overlapping mono-pitched ridges, some tall gabled elevations and a large projecting suspended terrace. It would be a substantial building with significant physical presence where there is presently little built form. Even though similar materials are used elsewhere in Burwash and near the site, the contemporary design and external materials used for this extent of building would be at odds with the traditional brick, tile and hipped roof appearance of St Giles and its conventional fenestration. Access to land at a lower level next to it would encourage a spread of residential use and activity beyond the formal gardens of St Giles across a wider extent of land.
15. The annex would not be conspicuous in public views from High Street in front of St Giles or from Spring Lane on one side. Nonetheless, it would be on an exposed corner nub of protruding land on an elevated, commanding part of the site. From this point there are extensive panoramic views over undulating open countryside to the north. While I have not been referred to any public footpaths, a lack of greater, or any, public visibility does not mean absence of intrinsic harm to the overall quality of this landscape. The annex would result in an undesirable consolidation and expansion of built form to the west of St Giles with a commensurate reduction in openness and tranquillity. Albeit in a small way, this would significantly undermine the integrity of the AONB.
16. A condition that blinds shall be used in the evening or at dusk would unduly restrict outlook from habitable rooms at times when they would be in use. This would not be reasonable and could not be enforced. There is no evidence that electrochromic or tinted glass would not affect outlook or prevent light spill, as opposed to provide shade from sunlight. Even if LED bulbs reduced the intensity of internal lighting, it would nonetheless permeate across this largely unlit part of the site given the extent and orientation of curtain glazed walls. Proposed landscaping, green living roofs and other natural materials would not

alleviate fundamental and permanent adverse impact on the intrinsic character, appearance and visual amenity of this part of the AONB.

17. The Council has granted planning permissions for an outbuilding and related development at Dingleden Cottage¹. However, it is not at Burwash and is in a different part of the AONB. The distinctive features of that site and that part of the AONB are not likely to be the same as in the current case. Officer recommendations corresponded to the stage of emerging development plan policy, but this had changed by the time resolutions to grant planning permission subject to planning obligations came into effect and decisions were issued. These cases are therefore not directly comparable to the appeal proposal which I have considered on its individual planning merits.
18. I find that the proposal would not conserve or enhance the landscape and scenic beauty of the AONB. Consequently, it conflicts with Policies ENV1 and EN3 of the Rother Local Plan Core Strategy 2014 and with LP Policies DEN1, DEN2, DEN7 and DHG9. These policies aspire to development that respects the character of a site and its surroundings, including in scale, form, materials, overall design and siting in relation to a main dwelling. It should also maintain and reinforce the distinctive landscape setting and character of the AONB, including dark skies and tranquillity.

Planning Balance and Conclusion

19. The proposed development would not accord with the development plan overall. There are no other material considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
20. For the reasons given above the appeal does not succeed.

Robin Buchanan

INSPECTOR

¹ RR/97/2689/P, RR/2001/245/P, RR/2019/1612/P and RR/2021/2111/P