



Appeal Decision

Site visit made on 29 November 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/P3040/W/22/3302970

Land to side of Greystones, Station Road, Elton NG13 9LG

- 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 B Roberts against the decision of Rushcliffe Borough Council.
 - The application Ref 22/00515/FUL, dated 2 February 2022 was refused by notice dated 10 May 2022.
 - The development proposed is a 2 storey residential annex to Greystones.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. An alternative internal layout plan was submitted with the appeal documents showing the kitchen, pantry and utility room replaced with a fifth bedroom and bathroom on the ground floor. The overall size and footprint of the proposal would remain unchanged. The Council has made no comments on this alternative layout. Under the 'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE* 1982, the alternative layout plan submitted with the appeal would not fundamentally change the development and I am content that no parties would be unfairly disadvantaged by my acceptance of this plan. It is, however, unclear, whether this alternative layout is intended to replace the one submitted with the original application or to be considered as an alternative. For the sake of completeness, I have considered both plans in reaching my decision.
4. I note that the planning application form was resubmitted to the Council on 15 March 2022. However, in the banner heading above I have used the date that it was first submitted.

Main Issues

5. The main issues are:
 - Whether the proposed development would be an annex or an independent dwelling, and if the latter, whether a new dwelling would be appropriate having regard to the spatial strategy in the development plan.
 - The effect of the proposed development on the character and appearance of the appeal site and surrounding area.

Reasons

Use of the proposed development and location

6. Greystones is a detached dwelling and is the southernmost property in a short linear row of dwellings, facing Station Road which are surrounded by agricultural fields. They are in a rural setting, located some distance from the settlement of Elton.
7. The detached annex would be sited within a rectangular plot of residential land associated with Greystones. The site would lie within a gap between Greystones and the adjoining dwelling, fronting the road with open agricultural land to the rear. A two storey, four/five bedroom building would be constructed with four parking spaces to its frontage and it would share the vehicular access with Greystones.
8. It is a matter of fact and degree as to whether the proposed development would be an annex or an independent dwelling. In assessing this, it is necessary to consider whether the proposed building could function as an annex. It does not necessarily follow that because the proposed building is capable of independent accommodation it would not, or could not, be occupied for purposes ancillary to Greystones. That said, there should be functional linkages that require the occupants to have regular contact and interdependence. This could be achieved through the layout, size and design and should make severability unlikely.
9. The highway access into the site would be a shared physical feature. However, it is not uncommon for two separate households to share a single access. In this instance, once in the site, the driveway would branch in different directions and therefore access to the proposed development would be achieved without having to pass close to Greystones. In addition, the occupants of the two properties could park separately from one another. In this instance, the parking and access arrangements would not make for a strong functional link.
10. Moreover, the separation distance from, and orientation with Greystones on the site would mean the area to the rear of the proposed annex would function as a private garden. There would be no need for the occupants of the proposed annex to enter the garden area of Greystones. The plans submitted with the application incorporate a kitchen, study, a bathroom and all the other facilities needed for independent day-to-day occupation.
11. I note that the alternative layout plan shows the kitchen, pantry and utility room removed from the ground floor. However, the size of the annex has not been reduced, the dining room has been retained and in future a kitchen could readily be reinstated. For this reason, although it may be that the occupants would be permitted to freely move between Greystones and the annex, they would not need to, and the residents could live quite separately.
12. Significantly, the proposal would be two-storeys in height and have the appearance and scale of a separate house, and of similar form and massing to the nearby dwellings. The appeal scheme would not appear ancillary to Greystones. A residential annex is usually in the form of an extension to the existing dwelling, conversion of an outbuilding and, in some cases, a modest building within the residential curtilage. The Council suggest that this may typically be single storey with the accommodation limited with one or maybe

- two bedrooms, bath/shower room and a small living/dining kitchen. In this regard the Council gave advice that a modest extension should be explored.
13. The proposal would not have the appearance of an ancillary structure set within the garden of Greystones. Instead, it would have a visual independence due to its substantial scale, design and position. Thus, the proposal would not appear sufficiently subservient or ancillary to Greystones.
 14. The proposed accommodation would be occupied by family members associated with caring for the occupiers of Greystones, as well as caring for dependent children. Insufficient evidence has been submitted to explain why the accommodation on the scale proposed would be necessary to serve as ancillary family accommodation or accommodation for carers of occupants of a dwelling the size of Greystones. Thus, to conclude on this point, the appeal scheme could not be regarded as an annex as it would function and appear as an entirely separate dwelling.
 15. Policy 3 of the Rushcliffe Local Plan Part 1: Core Strategy 2014 (CS) sets out the spatial strategy to achieve sustainable development in the Borough with the majority of new homes to be provided in the main urban areas of Nottingham and key settlements. Further homes may be provided in other settlements solely to meet local housing needs. Paragraph 3.3.17 of the sub-text states that local needs will be delivered through small scale infill development or on exception sites.
 16. There is no definition in the National Planning Policy Framework (the Framework) of 'limited infilling'. Paragraph 3.10 of the CS defines infill development as 'the development of small gaps within the existing built fabric of the village or previously developed sites whose development would not have a harmful impact on the pattern or character of the area'. Whether the appeal site constitutes limited infilling is therefore a matter of planning judgement for the decision maker and there is a need to assess the position on the ground. The appeal site forms part of a short row of houses to the north of Elton but despite sharing a similar postal address to properties within the settlement, there is a substantial gap of several fields between the appeal site and Elton and the road is without pavement or streetlighting. It is well beyond the built fabric of Elton and the site lies distinctly within the countryside. It does not therefore meet the definition of an infill site as set out in the development plan.
 17. Policy 22 of the Local Plan Part 2: Land and Planning Policies 2019 (LP2) relates to development within the countryside and sets out the types of development that will be permitted in such a location. A new, open market dwelling is not one of the developments permitted.
 18. Whilst I recognise that the appeal site would be close to a train station and a bus service operates nearby, there is no pavement or streetlighting along the rural road which would make access difficult. Occupants would need to travel to larger settlements for their day-to-day needs and there would be a reliance on the use of a private vehicle. It would therefore not be in an accessible location to reach services and facilities. I do, however, recognise the benefit of caring for family members and working from home which might potentially minimise a number of these journeys. Although these latter matters have some merit, they are not reasons for allowing a development which would be contrary to the development plan which restricts development in the countryside and in

locations where there would be a reliance on car journeys to access services and facilities.

19. The appellant states that the development would enhance or maintain the vitality of the rural community of Elton and Orston. However, there is no explanation of the factors contributing to the vitality of the area and how the proposed occupants would help sustain it.
20. I have noted the appellant's statement regarding the Garden Village provision in the Greater Nottingham Strategic Plan, suggesting that in the future the appeal site may no longer be regarded as open countryside. However, the Council consider that this is factually incorrect, and I have received no adequate evidence to be able to consider the relevance of this matter and it will therefore not form part of my consideration. I have also discounted references to Green Belt policies as both parties agree that the appeal site is not in the Green Belt.
21. The appellant states that the Borough has not met its five-year housing land supply, a fact disputed by the Council, and I have not been presented with adequate evidence to show that the housing land supply has not been met. I do acknowledge, however, that the proposed dwelling would make a small contribution to housing supply by releasing the dwelling currently occupied by those intending to live in the appeal proposal, there would also be an economic benefit during the construction phase, and it would make an effective use of land.
22. Several recent planning applications nearby are referred to by the appellant. However, with no additional information it is not possible for me to identify any similarities with the appeal scheme. Thus, I must rely on the specific circumstances and context of this case as the main factors.
23. In conclusion, despite the description of development, the appeal scheme would not be an annex and thus an adjunct of Greystones. It is the combination of all the factors identified above that leads me to this conclusion. As a separate and self-contained dwellinghouse, the proposal would be at odds with, and would harmfully undermine, the spatial strategy in the development plan. It would therefore conflict with CS Policies 1, 3 and 14 and LP2 Policy 22. Policies CS 1 and 14 relate to the promotion of sustainable development and managing travel demand. It would also conflict with the Framework which states that new isolated homes in the countryside should normally be avoided.

Character and appearance

24. Although existing dwellings sit to either side of the appeal site, this is a short row of dwellings along one side of the road and the prevailing character of the area is distinctly open and rural. There are agricultural fields to the rear and opposite the row of dwellings and in places, open breaks between the dwellings reinforce the rural character.
25. Whilst the proposed dwelling would be of similar alignment, scale and design to neighbouring dwellings, it would occupy one of the open spaces between the dwellings which breaks up the built frontage and allows views through to the fields beyond. The dwelling's height and width would dominate the space and have an urbanising effect. Even with materials that echo the local area, rural styling and maintaining hedgerows, that essential open space would be lost.

26. The appeal proposal would therefore have a harmful effect on the character and appearance of the appeal site and surrounding area. It would be contrary to CS Policy 10 and LP2 Policies 1 and 22. These seek to conserve landscape character and achieve a high-quality design. It would also conflict with Paragraph 174 of the Framework which requires planning decisions to recognise the intrinsic character and beauty of the countryside.

Other Matters

27. I acknowledge the reasons why the appellant has applied for planning permission and have considered the sensitive nature of the personal information supplied to me as part of the appeal, and the wish to create a multi-generational home which reflects changes over a lifetime. The proposal would benefit the appellant's family and improve their living conditions, and these are personal circumstances to which I attribute weight in favour of the appeal. I also recognise the intention to design the property to incorporate environmentally friendly building techniques and energy-saving installations. The incorporation of a home office would also allow its occupiers to work from home and be nearby to provide care.
28. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
29. I am also mindful of the advice contained in the Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. Therefore, whilst I acknowledge the personal circumstances of the appellant, I conclude that these matters do not outweigh my findings in respect of the main issues. The harm identified clearly and demonstrably outweighs the benefits of providing a new dwelling.
30. Finally, the appellant has expressed concerns regarding a lack of communication with the Council during the application process. Whilst this must have caused the appellant some distress, this does not materially affect my consideration of the planning merits of the appeal proposal. I note also that the appellant states that local councillors considered that a property in this location would be a preferable solution to previous applications. However, that does not make the development acceptable.

Conclusion

31. The proposal would be contrary to 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 dismissed.

G Bayliss

INSPECTOR