
Appeal Decision

Site visit made on 7 September 2022

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2023.

Appeal Ref: APP/V0510/D/22/3303040

41 Centre Drive, Cheveley, Cambridgeshire CB8 8AW.

- 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 Michael and Irene Wallace against the decision of East Cambridgeshire District Council.
 - The application Ref 22/00147/FUL, dated 9 February 2022, was refused by notice dated 19 May 2022.
 - The development proposed is extension of existing outbuilding to create 2 bedroom annexe in rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for extension of existing outbuilding to create 2 bedroom annexe in rear garden at 41 Centre Drive, Cheveley, Cambridgeshire CB8 8AW in accordance with the terms of the application, Ref 22/00147/FUL, dated 9 February 2022, and the plans and documents submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: AH1021202/01; AH1021202/02; AH1021202/04.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the main dwelling.
 - 4) The annexe hereby permitted shall be used solely for purposes ancillary to the residential use of the main dwelling known as 41 Centre Drive Newmarket by the occupiers and their family and shall not be occupied as an independent unit of accommodation at any time. The annexe shall not be disposed of separately to the main house.

Main Issues

2. The main issues are:
 - whether the principle of the annexe would be appropriate in this location;
 - whether the living conditions of present and future occupants of the main house would be adversely affected by the proximity of the development to the main house in terms of overlooking and access to private garden and parking space.

Reasons

3. The appeal site lies on the north side of Centre Drive, part of a residential estate on the south eastern fringe of Newmarket. The north side of Centre Drive in the vicinity of the appeal site is developed with single storey, semi-detached and detached housing faced in brick or white render under slate or tile roofs and standing in deep plots.
4. Nos 41-47 Centre Drive are built to a uniform design with each of the semi-detached pairs having a side access drive leading to a detached garage enclosing the rear garden. The drive in the case of No 41 is separated from No 39 by hedging.
5. The rear garden to No 41 is bounded to both sides by close boarded fencing and shrubs and the rear boundary is enclosed by the existing outbuilding and behind it a screen of tall evergreen hedging.

Whether the principle of the annexe would be appropriate in this location

6. The proposed annexe would be constructed using an existing flat-roofed outbuilding, which is detached from the main dwelling, extended to provide a small, two bedroomed, pitch-roofed chalet with ensuite bathrooms and a modest living space including a kitchenette. Inasmuch as the annexe would have kitchen and bathroom facilities, sleeping and living space it would be self-contained.
7. It has been put to me that the physically separate, self-contained annexe would amount to the creation of a new, independent dwelling. However, I have been referred to the fact that case law has established (*Burdle and Another v Secretary of State for the Environment [1972]*) that “...the unit of occupation is the appropriate planning unit, unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally”. Subsequent case law (*Uttlesford DC v Secretary of State for the Environment and White [1992]*) has found that physical separation and a lack of a link to the main dwelling does not necessarily mean that a separate planning unit would be formed. Only when physically separate and distinct areas of a previously single unit of accommodation are occupied for different and unrelated purposes would a separate planning unit be created. If, as in this case, accommodation for a family member would provide facilities for supported living it does not necessarily mean that a separate planning unit has been created and case law instead has found that it is a matter of fact and degree.
8. The size of the proposed annexe in this case means that it would be unlikely to be suitable for permanent and long-term occupation independent to the main house, the kitchen and living area being particularly restricted in size. I am not therefore persuaded by the argument that the proposal would not be a ‘genuine annexe’. Moreover, the appellants’ statement makes it clear there would be facilities shared with the main house namely access, parking and garden as well as utility services. Whilst it would therefore be physically separate to the main house it would not be functionally separate. It would be perfectly possible and not uncommon in these circumstances to control any permission by condition to ensure the annexe could not be occupied other than for purposes ancillary to the residential use of the main dwelling and not disposed of separately and the appellants have indicated that they would be happy to accept such a condition.

9. The appeal site lies within the development envelope of the Newmarket Fringe where housing development to meet local needs will normally be permitted under *East Cambridgeshire Local Plan* (ECLP) Policy Growth 2 provided there is no significant adverse effect on the character and appearance of the area. The *National Planning Policy Framework* (the Framework) at section 11 supports the efficient use of housing land subject amongst other things to maintaining an area's prevailing character and setting including residential gardens. The ECLP at Policy ENV2 reflects this policy objective amongst other things. The proposal, which is to provide an annexe which will facilitate supported living for the parents of the occupiers of the main house, makes efficient use of housing land. The form of the annexe as a modest, low, single storey chalet would be subordinate to the main dwelling and constructed in the same materials as the main house and would not have an adverse effect on the character and appearance of the area. The proposal therefore would meet ECLP policies GROWTH 2 and ENV2 inasmuch as they relate to the character of the area.

Living Conditions

10. Whilst I accept that, were the annexe to be occupied as a separate dwelling, the relationship to the main dwelling would be unacceptable, this is not what has been applied for.
11. The proposed use is for the parents of the occupiers of the main dwelling to live close to their family with their support and sharing the facilities of No 41 Centre Drive.
12. As such the provision of a separate private garden, parking area and access to serve the proposed development should not be a requirement and is not relevant. The rear garden at No 41 is a deep plot. There is no reason why an extended family occupying the main dwelling and the annexe could not share the plot and the separating distance between the main dwelling and the annexe means that there would be no significant overlooking. The two parts of the household can maintain reasonable privacy.
13. The property has a long side drive, garage and a front hardstanding bounding the road, areas which are more than adequate to accommodate the extended household's cars on site without giving rise to any highway congestion or highway safety concerns.
14. I am not therefore persuaded that there would be any adverse impact on the living conditions of either the occupiers of the main dwelling or the annexe.
15. In view of third party concerns I took the opportunity at the site visit to also consider the development in the context of the neighbouring properties at Nos 39 and 43 even though this was not raised as part of the reason for refusal. As stated above, the side boundaries to the neighbouring plots are screened by close boarded fencing. By designing the annexe to be a low, single storey chalet with no windows in its sides and rear and using rooflights to light the rear rooms there would be no overlooking to sides or rear. Although the main windows face south towards the main dwelling and its neighbours at Nos 39 and 43 the depth of the plots is such that the separation distances are well in excess of 20 metres. As such there would be no real opportunity for overlooking and no loss of privacy.
16. Accordingly, there would be no impact in terms of living conditions for either the occupiers of No 41 or the neighbouring properties at Nos 39 and 43 and the requirements of ECLP policies ENV2 to ensure there would be no detriment to

residential amenity and COM8 requiring appropriate parking provision would be met.

Other Matters

17. Concern has been expressed regarding the loss of two fruit trees that would result from the development and that an arboricultural impact assessment should have been carried out. Whilst I acknowledge that the apple tree is an attractive mature tree, the plum tree reportedly on the site had already been removed at the time of my visit following storm damage. Given that the proposal includes the planting of two new fruit trees, near the western side boundary, any impact on character and appearance from the loss of the apple tree would be mitigated.
18. It has been put to me that the proposal if allowed would create a precedent for similar development in the future leading to backland development of garden land. However, each case must be considered on its merits. Given the circumstances of this case, the personal need for supported living that it would address and, provided the use and occupancy of the annexe is conditioned, I am not persuaded that allowing the appeal would create a precedent for general development in the backland or which would undermine the ability of the Council to manage such future development.

Conditions and Conclusions

19. The Council suggested a number of conditions, which I have considered in the light of the advice in the Framework and *Planning Practice Guidance*.
20. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.
21. A condition requiring that the annexe is constructed in materials to match the main dwelling is also required to ensure that the character and appearance of the surroundings is respected.
22. Finally, as it would be inappropriate for the annexe to be occupied separately and independently to the main dwelling by another household a condition restricting its use and occupation and preventing it from being disposed of separately is required.
23. The proposed annexe would be appropriate in this location for the reasons set out above providing that its use is appropriately controlled. Accordingly, the appeal is allowed and permission granted for the development subject to the conditions set out above.

P. D. Biggers

INSPECTOR