



Appeal Decision

Site visit made on 18 November 2022

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/J1860/W/22/3299771

Aymestrey Court Bromyard Road, Crown East, WORCESTER, WR2 5TR

- 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 P Brooks against the decision of Malvern Hills District Council.
 - The application Ref 21/02319/CU, dated 23 February 2022, was refused by notice dated 20 April 2022.
 - The development proposed is described as 'Proposed conversion of former gymnasium to dependent relative unit (Granny Annexe)'.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed conversion of the former gymnasium to an independent relative unit (granny annexe) at Aymestrey Court Bromyard Road, Crown East, Worcester WR2 5TR in accordance with the terms of the application, Ref 21/02319/CU, dated 23 February 2022, 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: Location Plan Scale 1:1250, Proposed Block Plan PB2, Proposed Elevations PB4, Revised Proposed Floor Plans (Council received by email on 12.04.2022).
 - 3) Prior to commencement of development, or any associated works (including site clearance, demolition, material delivery, vehicular movements and erection of site huts) temporary fencing for the protection of all retained trees/edges on site and adjacent to the site boundaries shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction).

The protective fencing shall remain in place until the completion of development and nothing should be stored or placed (including soil), nor shall any ground levels be altered, within the fenced area. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge
 - 4) The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as No. 4 Aymestrey Court.

Preliminary Matters

2. The description of development in the banner heading above is taken from the appellant's appeal form as opposed to the original application form. I

understand that the main parties agreed to this alternative description of development during the original application and the scheme was determined on this basis. I have also determined the appeal on this basis.

3. The Council has indicated that it has withdrawn its second reason for refusal in relation to the effects of the proposal on biodiversity. From my review of the evidence, I have no reason to disagree with the Council's updated approach. Accordingly, this has not formed a main issue of the appeal.

Main Issue

4. The main issue is whether the proposal would be tantamount to the creation of a new dwelling in the countryside contrary to both local and national policy.

Reasons

5. Aymestrey Court is a former school that has previously been converted to residential properties, including the host property (No 4). It is surrounded by well-manicured and landscaped grounds within a rural setting on the western outskirts of Worcester.
6. The appeal proposal relates to an existing outbuilding within the grounds of Aymestrey Court. It is located to the south-west of the main building at Aymestrey Court and positioned approximately 60m from No. 4, with two additional units located between (both also within the appellant's ownership).
7. The appeal building is accessed from a long, shared drive that serves the other residential properties within Aymestrey Court and it sits alongside a recently built garage and associated parking area.
8. Policy SWDP2 of the South Worcestershire Development Plan (adopted 2016) (the Local Plan) sets out the development strategy and settlement hierarchy across the plan area. The policy, amongst other matters, seeks to strictly control new development in the open countryside, allowing only for limited types of development including house extensions. The Council has identified that this includes domestic outbuildings.
9. The development that is before me and the subject of this appeal is for a proposed annexe. The appellant explains that the proposed development would be used to accommodate elderly relatives. The principal need for the annexe relates to the health of the relatives, who require a significant degree of support. A statement supporting the family's need for the annexe building in this context has been provided from a medical professional. However, given that the proposed development would be permanent and endure beyond the appellant's current circumstances, this is a matter that I have given limited weight.
10. The proposed layout would utilise the building's existing footprint and indicates a simple layout, with a single en-suite bedroom, sitting room/living area, entrance hall and separate toilet. The proposed level of accommodation would provide comfortable living conditions without being excessive in scale or nature. It would also remain subservient in scale to the host property.
11. The building at approximately 60m to 100m from the host property, alongside its relationship with other nearby neighbouring dwellings, has a level of separation that is not necessarily typical of annexe accommodation. Despite

being located within the wider grounds of Aymestrey Court, the proposal would also benefit from a rather secluded area of garden space. This garden space whilst not entirely delineated would for all intents and purposes function as an area of private amenity space. This is due to the position of the former gymnasium within the site, including its relationship to existing built form and boundaries/planting.

12. However, the purpose of annexe accommodation is ordinarily to enable the occupant(s) a degree of independence whilst also having available support nearby. In this instance, I do not find that the distance involved or the proposal's relationship to the host dwelling preclude it from being ancillary to the host property. There is also no objective evidence to demonstrate that it would be an inappropriate distance preventing elderly occupants from engaging incidentally with the main associated dwelling or its occupants, including for meals.
13. It is recognised that the South Worcestershire Design Guide Supplementary Planning Document (SPD) (adopted 2018) indicates that granny annexes should be physically linked to the host dwelling. The proposal would conflict with this guidance. However, I see merit in the appellant's arguments that the proposal would utilise an existing vacant building and negate the requirement to extend the more characterful and architecturally interesting main building. I am also mindful that the SPD is guidance as opposed to a policy requirement, while I am aware the Council has previously approved standalone annexe accommodation.
14. In addition to sharing the main driveway, the proposal would also share its drainage and utility services with No. 4 and be dependent upon the occupants of No. 4 for laundering of clothes. These factors, alongside the building's position in relation to the host dwelling, remain consistent with the previously dismissed appeal scheme at the site (ref: APP/J1860/W/21/3277370). In that case, the Inspector found the proposal to be conducive to an independent dwelling due to a combination of factors. In particular, the proposal was deemed to have all the facilities necessary for day-to-day living, while the building was to be extended to provide additional living space and the accommodation was deemed to ostensibly be on a separate plot.
15. Unlike the previously dismissed proposal, the current scheme does not seek to increase the size of the building. The current proposal also does not include parking spaces within the front garden area. Nevertheless, I do not consider these matters alone would sufficiently ensure that the proposal would be ancillary to the host property.
16. As such, there are undoubtedly several factors that cumulatively could enable the proposed annexe to be tantamount to a new dwelling. However, notably, the proposal before me is for an annexe and does not include a kitchen. It would therefore necessitate a clear functional link to No. 4, without which, the building would not be capable of being used as a separate dwelling.
17. The appellant has indicated a willingness to accept a condition preventing the installation of a kitchen within the building. Installing a kitchen does not comprise operational development the Council therefore contends that such a condition would not be enforceable. Irrespective, of whether the installation of a kitchen is itself development, should the annexe be altered in this manner it would sever the functional relationship with the host property, such that I

consider a material change of use would occur. This is a view also acknowledged by the appellant.

18. I therefore do not consider a restriction on the installation of a kitchen to be necessary. The use of conditions relating to the approved plans and restricting the use and occupancy of the building, should be sufficient to prevent the proposal from becoming an independent dwelling. Such conditions are customarily used in connection with annexe developments and would be suitably enforceable, despite potentially entailing some infrequent monitoring. The appellant has also indicated a willingness to accept conditions relating to the approved plans and restricting the use of development, in the event that planning permission is allowed.
19. In reaching my decision I am mindful of the judgement in *Uttlesford DC v SSE & White* [1992]. The judgement considered that even if the accommodation provided facilities for independent day to day living, it would not necessarily follow that it would result in a separate planning unit, but instead it would be a matter of fact and degree. 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.
20. In this instance, permission is being sought for a dependant granny annexe. Furthermore, the lack of proposed kitchen facilities would not provide the accommodation with the necessary facilities for independent day to day living. It therefore differs from the *Gravesham BC v SSE & O'Brien* (1982) Judgement that is referred to by the Council.
21. Various appeal decisions have also been raised by the Council and an interested party. I do not have the full details of the appeal schemes, however, from the information available their contexts appear different from the scheme before me. Notably, each of the appeals involved schemes that would provide a full or extensive range of facilities to enable the proposals to act as independent dwellings (e.g. inclusion of kitchens, bathrooms, living space etc).
22. The proposed annexe could result in additional vehicle trips, in a location that has limited accessibility other than via private car. Nonetheless, given the scale and nature of the proposal it is likely that it would only result in a limited increase in vehicle trips. This includes potentially through shared trips between the occupiers of the proposed annexe and the host residential property. The likely transport impacts would therefore be rather modest.
23. Overall, based on the scheme that is before me, I find that the proposal would not be tantamount to the creation of a new dwelling in the countryside. Accordingly, it would not conflict with Policy SWDP2 of the Local Plan. I also find no conflict with the aims of the Framework, particularly in relation to the development of isolated homes in the countryside.

Other Matters

24. Third parties have questioned the previous use of the building as a gymnasium and suggested that it is a temporary structure that was built at the former school. Be that as it may, there is no robust evidence before me to verify this. From my observation on site the building appears to have been longstanding

and have a significant level of permanence. The Council has also agreed to the description of development with regards to its former use.

25. It has been suggested that the host property has sufficient space to accommodate dependent relatives, or that other properties within the appellant's ownership at Aymestrey Court could also be used, including through modifications (if necessary). The suitability of the alternative accommodations and feasibility for adaptation is disputed by the appellant. However, I do not find the proposal amounts to the creation of a new dwelling, nor do I find it would lead to other wider harms or conflict with the adopted development plan. Accordingly, my decision does not turn on whether alternative options suggested by third parties are instead suitable or available.
26. If following a grant of permission, the appeal building 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. If such permission has not been granted, the building or use would be at risk of enforcement action.
27. The appellant has suggested that the proposal would conserve the appeal building and has compared it to a structure that has previously been preserved at Avoncroft Museum of Buildings (AMB). The appeal building is not a designated heritage asset and I have very little background detail of its significance with no heritage statement having been submitted. Likewise, only limited information has been provided in relation to the building at the AMB and its former context. However, from the limited information that is before me the buildings are of a different appearance and served different purposes. Accordingly, this is not a matter that I have considered to weigh in favour of the appeal scheme.

Conditions

28. The Council has suggested conditions which the appellant has also commented upon. I have considered the suggested conditions against advice in the National Planning Policy Framework and Planning Practice Guidance. Where necessary I have amended them for consistency and clarity.
29. In addition to the standard time limit, it is necessary for the development to accord with the approved plans for reasons of clarity. A pre-commencement condition requiring the use of temporary fencing during the construction period, as well as a restriction on the burning of materials, is necessary to protect trees and hedges at the site, in the interest of the character of the area and biodiversity. A condition restricting the occupancy of the proposed development is necessary in order to prevent its use as a separate dwelling, which would conflict with Policy SWDP2, albeit the Council's suggested wording has been amended for reasons outline above.

Conclusion

30. For the reasons given above, having regard to the development plan and all other material considerations, the appeal is allowed.

Lewis Condé

INSPECTOR