



Appeal Decision

Site visit made on 26 January 2023

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/D5120/D/22/3301474

23 Howard Avenue, Bexley, DA5 3BB

- 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 C Strong against the decision of The London Borough of Bexley Council.
 - The application Ref 22/00390/FUL, dated 21 February 2022, was refused by notice dated 31 May 2022.
 - The development proposed is the removal of garage in the garden to create a 1 bed granny annex.
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Decision

1. The appeal is allowed and planning permission is granted for removal of garage in the garden to create a 1 bed granny annex at 23 Howard Avenue, Bexley, DA5 3BB in accordance with the terms of the application 22/00390/FUL, dated 21 February 2022, and the plans submitted with it, subject to the attached Conditions Schedule.

Main Issues

2. The main issues are:
 - Whether the proposal constitutes ancillary accommodation, with reference to scale, integration with the existing dwelling and its back-land location; and the effect on:
 - the living conditions of neighbouring residential occupiers with reference to privacy; and
 - the living conditions of future occupiers with reference to flood safety and surface water drainage.

Reasons

Whether the proposal constitutes ancillary accommodation

3. The appeal property is a two storey, mid terrace house located in an area of similar terraced properties in a mainly residential area. The relatively small front garden is predominantly paved and given over to car parking. To the rear there is a long garden with a large single storey detached garage, which opens onto what appears to be an unadopted unmade rear access lane, which serves the houses on this side of the street. On the opposite side of the access lane is

a long green open area, through which a narrow stretch of the River Shuttle flows.

4. The proposal is to replace the existing flat roofed garage/workshop with a pitched roofed building with 1 en-suite bedroom and an open plan living/kitchen area, which it is proposed would form a granny annex. This would be slightly longer but narrower than the existing garage/workshop, which would allow for an open passage between the rear access lane and the rear garden.
5. The proposal follows an earlier refused application¹ for a similar granny annex. The appellant has indicated that the appeal proposal is intended to overcome the reasons for the refusal given in the Council's decision notice for this previous application, which were limited to character and appearance and living conditions of neighbouring residential occupiers.
6. The proposed building would have a side access door onto the proposed new open side passage and patio style doors that would open onto the existing rear garden. Further space for off-street parking would be provided at the rear of the proposed building, behind a new boundary structure with an electric roller door for vehicle access and a pedestrian gate to the side open access passageway.
7. In terms of size and scale the proposal appears to reflect that of other outbuildings in the local area that open onto the rear access lane and the open green area. Some of these appear to be garages, storage or workshop buildings or residential accommodation, all appearing to be ancillary to the use of their main dwelling house. In this regard the proposal would not appear to be incongruous in this back land area.
8. The proposed granny annex would allow for a high degree of independent living by any future occupier. However, it would be contained within the existing rear garden space and would have a functional and visual relationship with the main house on the property in terms of day to day use and management, particularly the shared facilities such as services, the garden and car parking.
9. Given my findings above, I do not find that the proposal constitutes a separate dwelling that would be inappropriate development in this back land location. Rather, I find that the proposal constitutes a granny annex that would form residential accommodation ancillary to the main dwelling.

Living Conditions of Neighbouring Residential Occupiers

10. The proposed granny annex would in all probability result in a greater intensification of use compared to the existing garage/workshop on the site. The noise of opening and closing of doors and other noises generated by the normal domestic residential use of the proposal would not, however, be any greater than that from the existing residential dwellings and would be some distance from them.
11. Similarly, I find that the normal domestic residential use of the proposal and the distances to neighbouring properties would not allow for any greater

¹ Planning Ref: 21/00857/FUL

degree of overlooking than that already allowed from the existing rear gardens and houses and would be to an extent expected in a developed residential area of this type. Therefore, the proposal would not result in a loss of privacy or residential amenity that would cause significant harm to the living conditions of neighbouring residential occupiers.

Flood Safety, Surface Water Drainage and Living Conditions of Future Occupiers

12. The appeal site is located in an area designated as a medium risk area for fluvial flooding from rivers. Close to the rear of the proposal and running through the centre of the linear green open area is a narrow stretch of the River Shuttle. Whilst a flood risk assessment report was provided with the application material, there is no indication given in material submitted with the application, as to whether the recommended mitigation measures in this report would be undertaken.
13. However, it is clear from the report and accepted by the Council that such mitigation measures would render the proposal safe from flooding. Compliance with these recommended mitigation measures can be made the subject of a suitable condition attached to an approval. Similarly, a suitable condition can be applied to an approval to demonstrate compliance with sustainable drainage requirements, to ensure that surface water drainage does not present further flood risk through unmitigated rainwater runoff.
14. Compliance with such conditions attached to an approval would protect the living conditions of future residential occupiers of the proposed granny annex from harm to their safety from unmitigated flooding risk.

Conditions

15. I have had regard to the suggested conditions proposed by both the Council and appellant. The Council have suggested a condition that would remove permitted development rights under the GPDO² or any future amendments to it. However, the proposed development would result in a detached granny annexe, similar in design and scale to a significant number of buildings in the local area that are ancillary to a dwelling house. In line with paragraph 54 of the National Planning Policy Framework (2021), I do not find that there would be clear justification to remove these rights.
16. To avoid the establishment of an additional independent dwelling and concomitant over-intensive use of the site and to provide clarity I have, as suggested by the appellant, imposed a condition requiring use of the granny annex for purposes ancillary to the residential use of the host dwelling.
17. To protect the living conditions of future occupiers with regard to flood safety I have imposed conditions requiring compliance with the flood mitigation measures set out in the appellant's flood risk assessment report and the submission of details of a flood evacuation plan and surface level drainage.
18. Along with the standard condition relating to the timing of implementation, I have attached conditions to ensure design quality which require compliance with the approved drawings, and submission of details of materials to be used.

² The Town and Country Planning (General Permitted Development etc.) (England) Order 2015 (as amended)

To protect privacy, I have also imposed a condition relating to the glazing of the bathroom window.

Conclusion

19. The appeal is allowed.

Victor Callister

INSPECTOR

Schedule of 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 not be occupied at any time other than for purposes ancillary to the residential use of the dwelling at 23 Howard Avenue, Bexley, DA5 3BB.
- 3) The development hereby permitted shall be carried out in accordance with the recommended flood mitigation measures in the FloodSmart Plus, Flood Risk Assessment by GeoSmart Information Ltd, dated 30 July 2021.
- 4) Prior to first occupation of the development hereby permitted a flood evacuation plan shall be submitted to and approved in writing by the Local Planning Authority and the approved plan and measures identified in it shall be fully implemented and retained for the lifetime of the development.
- 5) No development above ground floor slab level of any part of the development hereby permitted shall take place unless and until full details for the disposal of surface water through a sustainable drainage system in accordance with the Bexley Sustainable Drainage Design and Evaluation Guide (2018) have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the agreed details.
- 6) No development above ground floor slab level of any part of the development hereby permitted shall take place until details of materials to be used for the external surfaces and details of the design of the rear boundary structure have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the agreed details.
- 7) The windows to the bathroom in the development hereby permitted shall at all times be glazed with obscured glass and no part of that window that is less than 1.7 metres above the floor shall be capable of being opened.

End of Schedule