



Appeal Decision

Site visit made on 24 January 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/J0540/W/22/3301580

45 Granville Avenue, Northborough PE6 9DE

- 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 Joey Reding against the decision of Peterborough City Council.
 - The application Ref 21/01718/HHFUL, dated 3 October 2021, was refused by notice dated 28 April 2022.
 - The development is described on the application form as 'We have a one bedroom log cabin in the bottom of our garden which we are using to house an elderly relative, this cabin is connected to our utilities'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On my site visit I saw that the development was complete and was occupied by the appellants' father.

Main Issues

3. The main issues are:
 - The effect of the development on flood risk;
 - Whether the accommodation is and would be an annex or independent dwelling;
 - The effect of the development on the character and appearance of the site and surrounding area; and
 - The effect of the development on the living conditions of the occupiers of 43 Granville Avenue and 52 and 54 Lincoln Road, with particular regard to outlook and privacy.

Reasons

Flood risk

4. The appeal site, including the whole of the bottom of the garden falls within Flood Zone 2, with part of the annexe falling within Flood Zone 3. In such circumstances the National Planning Policy Framework (the Framework), in footnote 55, indicates that a developer will be required to provide a site specific Flood Risk Assessment (FRA) for all proposals for new development, including minor development and change of use.

5. Policy LP32 of the Peterborough Local Plan 2019 (LP) requires a site specific FRA appropriate to the scale and nature of the development and risks involved, taking into account future climate change, for development proposals within Flood Zones 2 and 3.
6. The appellant asserts that the site has not suffered from flooding in living memory. However, this is anecdotal evidence and there is no substantive evidence to back up this assertion. Therefore, I am unable to give this matter limited weight in my consideration. Instead, an FRA would consider this matter in more detail, including downstream risks in a flood event and any mitigation measures such as flood proofing
7. The appellant also maintains that outbuildings could be erected using permitted development rights which would have a similar impact on flood risk. Whilst I accept that the General Permitted Development Order 2015 (as amended) allows the erection of some outbuildings without the need for planning permission, the risks arising from such development would not be directly comparable with the scheme before me. In particular, the log cabin is occupied as residential accommodation and could not be constructed as permitted development. Moreover, it is 'more vulnerable'¹ than other forms of development such as sheds or games rooms. Consequently, I have given this limited weight in my consideration.
8. Furthermore, the appellant has suggested that the matter of flood risk could be dealt with by a suitably worded planning condition. In this regard I find that it has not been established at this stage whether the principle of development is acceptable in terms of flood risk. Consequently, I find that the issue of flood risk cannot be addressed by a condition.
9. Accordingly, on this main issue, the proposed development would be contrary to Policy LP32 of the LP, and paragraphs 159 - 169 of the Framework. These policies require, amongst other matters, a site specific FRA appropriate to the scale and nature of the development and risks involved, taking into account future climate change, for developments in Flood Zones 2 and 3.

Whether the accommodation is and would be an annex or independent dwelling.

10. Policy LP34 of the LP seeks to ensure that any residential annexe development is solely provided as ancillary to the original dwelling and does not result in the creation of a new dwelling. It includes criteria relating to ownership, size, scale and design, shared facilities, the functional relationship between the occupant of the annexe and the host property, the provision of shared services/utilities and the avoidance of any other harm.
11. With a lounge/kitchen and bedroom with adjoining wet room, the accommodation has adequate facilities to be used as a separate household, therefore the Council's concern is not completely unfounded. That said, being capable of independent occupation, with limited reliance on the main dwelling, does not necessarily result in the creation of a new dwelling as suggested by the Council. Many 'Granny annexes' take this form and the issue of whether such development would be tantamount to a new dwelling, with a realistic

¹ Annex 3 to the National Planning Policy Framework

potential for separate occupation unrelated to the host dwelling, is a matter of planning judgement based on the site layout and other material considerations.

12. The log cabin is a single storey building of modest proportions located within the enclosed rear garden of the main dwelling and is clearly visible from it. Moreover, the principal aspect from the log cabin is over the rear garden to the main dwelling, to which it has direct and immediate access, with no boundary demarcation between the two. Whilst the rear garden can be accessed via the drive that runs alongside the main dwelling, this is a similar arrangement to other neighbouring properties and in my view does not imply a separate use. Consequently, it appears as a subservient building to the main dwelling.
13. Furthermore, the log cabin is shown as falling within the same ownership as the main dwelling and does not have a separate address. It shares the facilities and services of the main dwelling. As a result, the building is well related, and has a functional link, with the main dwelling. All of these factors demonstrate, in my judgement, that a clear connection exists between the log cabin and the main dwelling.
14. The use of an annexe can be controlled by a planning condition. The model condition for granny annexes put forward in Appendix A to Circular 11/95: Use of conditions in planning permission, is specifically designed to prevent the creation of a separate dwelling. Such a condition would protect the living conditions/privacy of the main dwelling. Moreover, it would be capable of being enforced and no compelling reasons have been advanced to persuade me that the Council would not be able to investigate and take action with regard to any alleged breach of the condition.
15. Subject to a suitably worded condition to restrict the use of the accommodation to an ancillary annexe, I conclude on this main issue, that the development does not amount to a separate unit of accommodation and that it would be ancillary to the main dwelling. I therefore find no conflict with Policy LP34 of the LP, which, amongst other matters, seeks to ensure that any residential annexe development is solely provided as ancillary to the original dwelling and does not result in the creation of a new dwelling.

Character and appearance

16. The appeal site is located within an established residential area characterised by a mix of semi-detached houses, and bungalows, with modest sized rear gardens. The gardens are enclosed by a diverse range of fences and hedges and contain a limited number of single storey outbuildings. The semi-detached houses in the immediate vicinity of the appeal site are separated by private drives which, in some cases, lead to detached garages located to the rear of the property.
17. The upper parts of the log cabin, including its roof, are visible from Granville Avenue, between Nos 43 and 45. However, despite its timber construction and metal roof, the building does not appear as a prominent or discordant feature within the street scene.
18. Notwithstanding the above, the building is visible from the rear gardens of properties located in Granville Avenue, and Lincoln Road. The footprint of the log cabin is slightly greater than other outbuildings in the locality and its height marginally higher. However, given its low roof pitch and muted materials, I find

that the log cabin does not significantly detract from the existing open character and appearance of the area.

19. Accordingly, on this main issue, I conclude that the proposal preserves the character and appearance of the site and the surrounding area and therefore accords with Policy LP16 of the LP which, amongst other matters, seeks developments that respect the context of the site and surrounding area.

Living conditions

20. The log cabin would be visible from the upper floors and the rear garden of No 43. However, given its size, siting, and the presence of intervening garages, it does not have an overbearing effect on the occupants of No 43. In this regard the occupier of No 43 has indicated that he does not have an issue with the cabin.
21. I have also considered the relationship of the development to properties within Lincoln Road, with specific reference to potential overlooking from the kitchen window. On my site visit I saw that a tall dense hedge was located on the common boundary between the appeal property and Nos 52 and 54 Lincoln Road. I also noted that a film had been applied to the kitchen window so that views through it were obscure. Given this relationship, and on the basis that the obscure nature of the window could be conditioned to be retained in the future, I consider that overlooking of the neighbouring properties is very restricted and privacy is not harmfully compromised.
22. Accordingly, on this main issue, I conclude that the development would not have an adverse impact on the living conditions of the occupiers of 43 Granville Avenue and 52 and 54 Lincoln Road. Therefore, the proposal accords with Policy LP17 of the LP which, amongst other matters, seeks developments that do not result in an unacceptable impact on the amenity of existing occupiers of nearby properties, by reason of outlook and privacy.

Other Matters

23. The development provides accommodation for an elderly resident in a location where he can be close to his family and be provided with care and support. It also provides a practical solution to the families requirements in so far as it provides accessible, ground floor, accommodation which is not available in the main dwelling. However, this benefit would not outweigh the harm with regard to flood risk that I have identified above.
24. I have had due regard to the Public Sector Equality Duty set out under s149 of the Equality Act 2010, but the flood risks to the residential accommodation outweigh its benefits in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability.
25. The appellant has offered to provide additional landscaping with the aim of enhancing the appearance of the appeal site and increasing privacy. Whilst additional planting might provide aesthetic improvements, including softening the appearance of the development, I have given these benefits only limited weight.

Conclusion

26. I have found no conflict with the development plan with regards to the use of the log cabin as ancillary accommodation, subject to an appropriate condition restricting occupancy to an ancillary annexe. I also accept that the development also accords with the development plan with respect to its impact on the character and appearance of the site and surrounding area, and with regard to its impact on the amenity of neighbouring occupiers. However, the absence of harm in respect of these matters does not outweigh the harm that I have identified in respect of flood risk. As a result, there is conflict with the development plan taken as a whole. There are no other material considerations, of sufficient weight, that would indicate a decision should be taken other than in accordance with the development plan. The appeal is therefore dismissed.

John Gunn

INSPECTOR