The Planning Inspectorate

Appeal Decision

Site visit made on 7 February 2023

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01st March 2023

Appeal Ref. APP/N3020/D/22/3309114
21 Georges Lane, Calverton, Nottingham NG14 6JS

- 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 Barry O'Sullivan of Urbane Ltd against the decision of Gedling Borough Council.
- The application ref. 2020/0624, dated 6 July 2020, was refused by notice dated 25 July 2022.
- The development proposed is described on the application form as "*Renewal of a previously granted Planning Permission for an Annex, & extension of existing garage"* but more accurately on the Council's decision notice as "*Two-storey side extension to the NE elevation to create an annexe and single storey extension to existing garage*".

Decision

1. The appeal is allowed and planning permission is granted for a 2-storey side extension to the north-east elevation to create an annexe and a single-storey extension to existing garage at 21 Georges Lane, Calverton, Nottingham NG14 6JS in accordance with the terms of the application ref. 2020/0624, dated 6 July 2020, 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 numbered: 01; 4; 6; 9; 10; 11 Revision A; 14; 16; 18; and 19.

   3) The annexe hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the existing dwelling house known as 21 Georges Lane, Calverton, Nottingham NG14 6JS and shall not be put to use as an independent dwelling at any time.

   4) The flat green roofed area over part of the annexe shall not be accessed for any purpose at any time other than for essential maintenance works.

   5) The proposed vehicular access shall not be brought into use until the drive/parking area has been surfaced in hard-bound materials (not loose stones or gravel). Such hard-bound materials shall be maintained over that area thereafter.

Preliminary matters

2. Planning permission was granted (ref. 2012/0702) on 3 August 2012 for "*Annex to main building to provide accommodation for the householders (sic) elderly parents*". The permission expired on 3 August 2015, after which there was no extant planning permission that could be renewed. Hence, I have adopted the Council's description of the proposed works in the decision above.

3. The appellant is under the impression the vehicular access was removed from the proposal early in the process and a pedestrian access was included instead in line with the earlier approved application. However, drawing no. 19 shows a new site access with a dropped kerb and a driveway 2.5 m wide. Drawing no. 18 shows 2 outside car parking spaces; one in front of the extended garage and one next to the proposed annex. These are the plans the Council considered and the Highway Authority commented on in their final consultation response of 21 October 2020.

4. It has not been made clear why it took the Council over 2 years to process the application. Still, the appellant had the right of appeal against a failure to determine the application in the prescribed period. This was not exercised.

5. From what I could gather on my unaccompanied site visit, it would appear that the single-storey extension to the existing garage may have been completed. This is of little consequence as I note that the Council did not object to this part of the proposal. I see no reason to take a contrary view.

Main issue

6. The main issue is whether the use of the 2-storey side extension may be considered as a residential annexe ancillary to the use of the host dwelling, or whether a separate dwelling would be created and allied to that matter, the effect of the development on the character and appearance of the site and the surroundings and on the living conditions of future occupiers of the 2-storey side extension, with particular regard to outlook and private amenity space.

Reasons

7. I have not been made aware of any development plan policies which specifically cover the creation of residential annexes whether that be through extensions to existing properties as proposed here, the erection of new detached buildings or the conversion of existing buildings.

8. The triangular-shaped appeal site contains a detached chalet-style bungalow. It has a distinctive contemporary design, especially across its roof where there are unusually angled and upturned roofing sections with glazing under some of the verges. Located between 23 Georges Lane and some dwellings on Lamp Wood Close, it is part of a predominantly residential area in Calverton.

9. The appellant states that the annexe is still required for family use and wishes, in the first instance, to provide a residential annexe for his elderly mother with an additional bedroom available for a live-in carer if required. More generally, looking further ahead, the appellant, in his design and access statement, suggested that the annexe would provide flexible space and independence for younger or older family members as required. The intended occupation of the 2-storey side extension is therefore as a residential annexe.

10. The Council seems to have approached the case on the basis that the proposal would effectively amount to a separate dwelling from the main house. The appellant says that "*All further assertions and decisions from the Planning Department were made on this erroneous basis*." In any event, it is important that I consider the proposal as applied for on its merits. There is no separate dwelling before me. The application was registered, validated and advertised as a proposal that includes an annexe in accordance with the description of the proposal on the application form and the Council's decision notice. The red edge of the application site surrounds the whole site of 21 Georges Lane.

11. Even though the annexe would provide the facilities required for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling. As a matter of fact and degree, the extension would plainly be capable of being occupied as an annexe, taking into account the following: the main intended occupiers would be a close family member and potentially a live-in carer employed by the family, who are likely to share various living activities with the family in the main dwelling; the level of accommodation provided would not exceed those stated needs; the whole site of 21 Georges Lane would remain owned by the appellant with no suggestion of there being separate titles, bills or postal addresses or any letting to tenants; the residential accommodation would be very closely related and linked to the main house; the garden area is clearly capable of being shared; no subdivision of the plot is proposed; and the floor space of the annexe as a whole would be far smaller than the floor space of the main dwelling.

12. The Council points to the independent additional vehicular access. Indeed, the delegated report indicates that the removal of this part of the scheme may result in a revised proposal being considered more favourably. I understand the Council's concern but this matter is not determinative in itself. A single property with 2 accesses does not automatically lead to 2 separate dwellings. A further planning application would be required for a new dwelling in any event. Even without the vehicular access, it would be possible for occupiers to park on the wide grass verge, as I saw already occurs at no. 21 and at some of the other neighbouring dwellings to the south, or on the carriageway itself, and then use a new pedestrian access, just as approved under the 2012 scheme. Looked at another way, the new vehicular access and parking space may be of assistance to a live-in carer or even the occupiers of the main dwelling as the current outside parking space within the site's curtilage is constrained.

13. Whilst the side extension for the annexe would have 2 floors and be a notable structure in its own right, it would not come close to challenging the dominance of the main dwelling in terms of its overall size, scale, built form and height and would not appear inappropriate when taking in its surroundings. Being set into the ground as proposed and with the substantial roadside banking and hedge line largely retained, the extension would have only a limited impact on the street scene. Moreover, the strong contemporary design, which would follow the shape of the plot, would contain an interesting array of architectural treatments, roof planes and well-chosen materials (including a sedum-covered flat-roofed section), that reasonable observers might associate with a well-designed and complementary adjunct or annexe to the main dwelling. I consider that the development would be designed to a high quality that reinforces local distinctiveness.

14. When assessed as an extension for a residential annexe, this would not be a cramped and over-intensive form of development as no new private amenity space needs to be provided as such. I agree with the Council that the limited space around the structure, no doubt further reduced by the need for excavations and a tanked retaining wall, would be wholly unsuited to a proposal for an independent dwelling, both in terms of the area's character and the requirement for a satisfactory private amenity space. The Council feared that the green roof could be adapted to provide an independent amenity area but then conversely asserted, correctly in my view, that a condition could be attached restricting access to the same roof to prevent any undue overlooking of neighbouring properties. The first floor bedroom would be served by a roof light. This is not ideal but the roof light would be sizeable and there would not be such a significant adverse impact on the amenity of future occupiers as to warrant a refusal of permission, especially bearing in mind the same layout was accepted under the 2012 permission which remains a material consideration.

15. The development is likely to remain in place long after the original need which gave rise to the application has gone. As noted in the Council's Questionnaire, it would be possible through the imposition of a planning condition to restrict the future use of the annexe extension such that it shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as 21 Georges Lane. This will reflect the purposes stated by the appellant, whilst the extension's use for other purposes is likely to raise wholly different considerations which could well be unacceptable in planning terms.

16. I find on the main issue that the 2-storey side extension may be considered as a residential annexe ancillary to the use of the host dwelling and that its effect on the character and appearance of the site and the surroundings and on the living conditions of future occupiers, with particular regard to outlook and private amenity space, would not give rise to any material harm. The relevant design criteria in Policy 10 of the Gedling Borough Aligned Core Strategy 2014, Policy BE2 of the Calverton Neighbourhood Plan 2017, Policies LPD 32, LPD 34, LPD 35 and LPD 43 of the Local Planning Document 2018 (LPD) and the National Planning Policy Framework would be respected. LPD Policy LPD 40 seems to be aimed at schemes for unrestricted new build residential developments; it has had limited relevance to my findings about this annexe.

Conditions

17. In addition to a condition setting a time limit for the commencement of development, a condition requiring that the development is carried out in accordance with the relevant approved drawings is necessary as this provides certainty. I have also imposed the condition the Council suggested in its Questionnaire regarding the use of the extension for the reasons I gave in paragraph 15 above. The Council also seeks the use of matching materials but in this case the materials of construction are described sufficiently on the plans and the application form, so a separate condition is not necessary. I have added a condition restricting the use of the flat green roofed area for the reasons covered in paragraph 14 above. To the extent that a similar condition appeared in the planning permission granted under ref. 2012/0702 and was suggested in the delegated report for the application the subject of this appeal, such a condition should not come as a surprise to the parties.

18. I have added one of the 4 conditions suggested by the Highway Authority in the interests of highway safety; this would require hard-bound materials for the drive/parking area. The dropped vehicular footway and verge crossing will require the separate approval of the Highway Authority, whilst a drainage scheme (ACO drain channel) and an acceptable gradient for the drive are recorded on the approved plans. So, planning conditions covering those 3 matters are not necessary.

Conclusion

19. My findings on the main issue are decisive to the outcome of this appeal. For the reasons given above and having regard to all other matters raised and the lack of objections from local residents and organisations, I have concluded that this appeal should succeed.

Andrew Dale

INSPECTOR