



Appeal Decision

Site visit made on 30 March 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 06 April 2023

Appeal Ref: APP/Y1138/W/22/3309494

The Old Parsonage Cottage, High Street, Hemyock, Cullompton, Devon EX15 3RG

- 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 K Philips against the decision of Mid Devon District Council.
 - The application Ref 22/00687/HOUSE, dated 5 April 2022, was refused by notice dated 26 August 2022.
 - The development proposed is retention of building for use as additional living accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for retention of building for use as additional living accommodation at The Old Parsonage Cottage, High Street, Hemyock, Cullompton, Devon EX15 3RG in accordance with the terms of the application, Ref 22/00687/HOUSE, dated 5 April 2022, subject to the following conditions:
 - 1) There shall be no external lighting installed on the building hereby approved without the written consent of the Local Planning Authority.
 - 2) The accommodation hereby approved shall be used solely as ancillary accommodation in connection with the existing dwelling on site (known as Old Parsonage Cottage) and no part shall be used, let or otherwise disposed of as a separate unit of accommodation.

Preliminary Matters

2. I have used the Council's description of development as this more comprehensively describes the proposal.
3. The development has already been carried out, so is retrospective in nature. References to the development should therefore be construed accordingly.

Main Issue

4. The main issue is the effect of the development on the living conditions of neighbouring occupiers.

Reasons

5. The appeal site, which is located in Hemyock, comprises a detached cottage which is set back from the main street, and includes a sizeable garden to the rear. The proposal seeks to retain a building which has been erected at the back of this garden, which is used as additional living space in conjunction with

the main dwelling. The building includes a living/study area, a small kitchenette and a separate bathroom.

6. A tall boundary fence now runs alongside the boundary between the appeal site and the neighbouring property to the north, known as Old Parsonage. Whilst the new outbuilding is slightly taller than the fence, the difference is not significant. The windows to the outbuilding also broadly sit below the top fence line. Together, these factors mean that the garden to this neighbouring property is not unduly overlooked. Similarly, there is a tall fence alongside the shared boundary with the neighbouring property to the south, known as Waterside, which again limits any direct intervisibility between the new building and the garden to this property. A shed also sits adjacent to this shared boundary, which further limits direct intervisibility between the two.
7. Whilst I acknowledge there may be some limited intervisibility between windows along the front elevation of the outbuilding and the rear windows to the neighbouring dwellings, including the studio to Old Parsonage, I am satisfied that there is sufficient intervening distance between the two, to preclude any undue impact with regard to privacy. There is also extensive fauna and trees within the rear garden to the appeal site, which provides additional screening at certain times of the year, further mitigating against such impact.
8. Given that the proposal is for annexe accommodation, it would not be permissible under permitted development rights. Nonetheless, the size and scale of the building would be substantively similar to what may be allowed under permitted development rights, were the building to be used for purposes incidental to the enjoyment of the main dwelling. Such purposes could include a garage, a hobby room or a music room, all of which would conceivably lead to a degree of a noise, not dissimilar to that which may be attributed to annexe accommodation. When considered in this context, I am not persuaded that the development gives rise to any material noise impact, over and above what may be allowed under permitted development. It is also worth highlighting that there are mechanisms in place to address any noise complaints under public health legislation.
9. The new building is sited to the rear of the garden. Broadly speaking, it is similar in height to a number of other nearby ancillary outbuildings, including a shed within the appeal site, and a greenhouse in the neighbouring garden to the north. The new building is therefore seen in the context of other ancillary outbuildings, which allows it to integrate effectively without appearing overly dominant. As mentioned, the building is only slightly taller than the shared boundary fences, which also means it should not have an unduly overbearing impact on either neighbouring property.
10. For these reasons, I am satisfied that the development does not cause undue harm to the living conditions of neighbouring occupiers. The development is consistent with Policy S1 of the Mid Devon Local Plan (2013-2033) (Local Plan), which promotes sustainable development which responds properly to local character. It also aligns with Policy DM1 of the Local Plan, which seeks to ensure development does not adversely affect the privacy or amenity of neighbouring properties. Similarly, the development is consistent with Policy DM11 of the Local Plan, which supports ancillary residential development provided it will not have significant adverse impact on the living conditions of

the occupants of neighbouring properties. The development also meets the overarching amenity principles of the National Planning Policy Framework (2021) (Framework).

Other Matters

11. The main dwelling benefits from a substantial rear garden, which means there is ample retained amenity space for the enjoyment of existing and future occupiers. In turn, I do not consider that the proposal constitutes over-development of the site.
12. The building achieves a good quality design, which is modest in size and scale. It sits comfortably within the garden to the appeal property, without appearing bulky or dominant. The development is also well screened by trees, planting and fauna, which means it is not readily seen from more distant public vantage points. Whilst the property is located within the Blackdown Hills Area of Outstanding Natural Beauty (AONB), owing to these factors, I am satisfied that the development does not harm the special quality of the AONB, nor the general character and appearance of the area.
13. The parking requirement in connection with the appeal property is not affected by the development, as no additional bedrooms are proposed. A condition is also imposed to ensure the building remains ancillary in nature to the main dwelling. This means it cannot be used as a standalone dwelling, nor as holiday accommodation.
14. Concerns regarding fire risk would be a matter for Building Control. Any encroachment by the building into a neighbouring property would be a civil matter. Property value would also not be a matter relevant to the planning merits of the proposal. Having viewed the site, I have no particular concern with regard to the building's proximity to trees. As for other utilities, there is no tangible evidence before me to suggest that the development has any adverse impact on such services.
15. A number of applications and appeals have been cited where annexe accommodation has been refused, either by the Council or on appeal. However, without more detail of these cases, including plans and comprehensive detail of the surrounding context, I cannot properly determine how relevant they are to the present case. In any event, each case must be considered on its own merits. In this instance, I am satisfied that the particular circumstances of the site and its surroundings, mean the development would not cause undue harm to the living conditions of neighbouring occupiers.

Conditions

16. I have reviewed the Council's proposed list of conditions and amended these in line with the Framework and Planning Practice Guidance.
17. I have included a condition which limits external lighting, to ensure the ecology and biodiversity of the site are appropriately safeguarded. This will also limit the scope for any light pollution or glare within the rear of neighbouring dwellings.
18. I have also included a condition to ensure the additional living accommodation can only be used in conjunction with the main dwelling. This will prevent the

building from being used as a separate standalone dwelling, or from operating as an independent planning unit.

19. Whilst the Council has suggested a condition setting out the commencement date, given that I have no substantive information in this regard, I do not consider it appropriate (nor necessary). In terms of plans, as the development has already been constructed, a plans compliance condition is not strictly necessary.

Conclusion

20. For the reasons given above, and having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be allowed.

James Blackwell

INSPECTOR