
Appeal Decision

Site visit made on 15 May 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/G1630/D/23/3317562

57 Gretton Road, Gotherington, Cheltenham, Gloucestershire GL52 9QU

- 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 Steven Bull against the decision of Tewkesbury Borough Council.
 - The application Ref 22/00973/FUL, dated 31 August 2022, was refused by notice dated 22 December 2022.
 - The development proposed is described as 'Side and Rear Extensions to Summer House'.
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Decision

1. The appeal is allowed and planning permission is granted for Side and Rear Extensions to Summer House at 57 Gretton Road, Gotherington, Cheltenham, Gloucestershire GL52 9QU in accordance with the terms of the application, Ref 22/00973/FUL, dated 2 September 2022, and the plans submitted with it, 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: CWS 967 04, CWS 967 03d, CWS 967 01b.
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 4. The outbuilding accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 57 Gretton Road.

Main Issues

2. The main issues in this case are:
 - whether the site is a suitable location for the proposed development with particular regard to whether it would amount to the creation of a separate independent dwelling; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Location

3. The appeal property is a substantial detached 2-3 storey dwelling located within the settlement boundary of Gotherington. However, the Council set out that the outbuilding (summer house) located in the rear garden of the property is located outside the boundary, within the open countryside. The appellant does not dispute this.
4. The Council has objected to the appeal scheme because of concerns about the creation of a separate dwelling within the open countryside contrary to national and local planning policies on the location of housing. If a new independent dwelling was created then the appeal scheme would conflict with the restrictions on new homes outside settlements and in the countryside included in Policies RES3, RES4 of the Tewkesbury Borough Local Plan 2011-2031 (LP) and Policies GNDP03 and GNDP11 of the Gotherington Neighbourhood Development Plan 2011- 2031 (GNP).
5. The existing outbuilding incorporates a lounge/kitchenette area with a separate toilet. The proposal would add a first floor that would increase the amount of accommodation, with the additional floorspace including two first floor bedrooms. It would therefore have all of the facilities for independent living. However, the courts have held that even if accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling, and that this would be a matter of fact and degree.
6. The outbuilding would not have a separate access to the main dwelling, and is sited immediately to its rear. Even at two storey it would remain subservient to the extensive main house. I acknowledge that the accommodation proposed internally provides such facilities that none would need to be shared with the main house, however, it is also apparent that there is no obvious front door to the building, with access being provided through a large glazed area which faces the rear garden of the main house. In addition, there is no obvious separate access to the outbuilding except through using the access to the main house. As such, there is a clear functional connection between the two buildings.
7. Notwithstanding this, the appellants have made it clear that the intention is to use the additional accommodation as ancillary and occasional temporary accommodation for visiting family members, not as a separate dwelling. Furthermore, LP Policy RES10 sets out that *'where an extension or outbuilding/annexe is capable of being occupied as a separate self-contained residential unit, any planning permission will be subject to a condition restricting its occupation to being ancillary to the main dwelling.'* I note that the Council suggest such a condition, and this would secure the building as ancillary accommodation.
8. Consequently, although it would be self-contained, given the scale and physical relationship of the proposed outbuilding to the main dwelling, there is no compelling evidence before me that allowing this appeal and extending the outbuilding would create a new planning unit, or that the outbuilding would be tantamount to a separate dwelling. If the structure is not built or used as proposed, or if there is a material change of use in the future to create a

separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted.

9. For the reasons outlined above I conclude that the development would not amount to the creation of a separate independent dwelling and therefore that the site is a suitable location for the proposed development. There is therefore no conflict with the requirements of LP Policies RES3 and RES4, and GNP Policies GNDP03 and GNDP11.

Character and Appearance

10. LP Policy RES10 sets out that with regards to the erection of domestic outbuildings and annexes, the scale of the proposal should be '*appropriate to the character and appearance of the existing dwelling and its surrounding area*'.
11. The existing main property is a large 2-3 storey dwelling set within a large plot. The extended outbuilding would sit comfortably within the substantial garden area of the main property, and whilst a large two storey building, as set out above, when seen in the context of the much larger two-three storey main house and the extensive curtilage of the property, it would remain subordinate and appropriate in scale.
12. In the wider context, I note that there is a varied building line in the vicinity, with the appeal property set considerably back from the highway behind No 55. Given its location, the outbuilding would not be visible from the highway, and there are outbuildings sited in a similar rear position away from the roadside. Whilst they are single storey in nature, there are also visible recently constructed large detached two storey dwellings in a similar position to the west. As such, a two storey structure in this position would not result in an unacceptable visual intrusion nor be unduly prominent.
13. I conclude therefore that there is no conflict with LP Policies SD4 and RES10 and GNP Policy GNDP07, which collectively seek to protect of the character and appearance of the surroundings.

Conditions

14. A list of suggested conditions has been provided and I have considered these in light of the Planning Practice Guidance (PPG) and the tests set out in the Framework.
15. In addition to the standard time limit condition, requiring the development to be carried out in accordance with the approved plans and controlling the external finish of the dwelling, a condition securing the use of the outbuilding as ancillary to the main house is necessary as set out above.

Conclusion

16. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

B Phillips INSPECTOR