



Appeal Decision

Site visit made on 13 June 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Appeal Ref: APP/J1860/W/23/3315359

Honey Stile Cottage, Orleton, Stanford Bridge, Worcestershire WR6 6SX

- 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 Clive Anscombe against the decision of Malvern Hills District Council.
 - The application Ref M/22/01125/HP, dated 23 July 2022, was refused by notice dated 2 November 2022.
 - The development proposed is for a one-bedroom granny annexe to replace deteriorated annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that the work has not yet started, however by the time of my site visit, I saw that the annexe was complete and in use. I have dealt with the appeal on that basis.

Main Issues

3. The main issues are
 - whether or not the proposal would be tantamount to the creation of an independent dwelling; and
 - if the proposal would comprise an independent dwelling, whether its location would result in a new isolated home, having regard to access to services and facilities.

Reasons

Whether or not tantamount to an independent dwelling

4. The appeal site is located on a narrow road without footpaths or street lighting, and at my site visit I saw no nearby shops or facilities, or evidence of public transport provision. The site is outside of a development boundary and Policy SWDP2 of the South Worcestershire Development Plan, adopted February 2016 (SWDP) seeks to restrict development beyond development boundaries because they have less access to local services and employment opportunities tend to be poorer.
5. The appeal site has two points of vehicular access, the nearest of which to the house provides space to park a vehicle. The other point of access is at the end

of the rear garden to the house, where there is a wooden garage with a concrete pad in front, large enough to park a car. The concrete pad is double the width of the garage and there are gates attached to the side which open to allow access along a concrete drive leading up to a detached double garage and the annexe.

6. A double garage sits between the annexe and the house at the end of the concrete drive. There is a path which links both the annexe and double garage to the house. The concrete drive physically separates two large areas of amenity space and the area nearest the annexe is not directly overlooked by the house. Likewise, the rear garden of the house is not directly overlooked by the annexe. To the side of the annexe is a secluded patio area. Within the annexe I saw a shared kitchen and living room space, bathroom, hobby room and a bedroom. There was no washing machine in the kitchen area.
7. Guidance in the South Worcestershire Design Guide Supplementary Planning Document, adopted March 2018, suggests that accommodation for use by a dependent relative "should only provide limited accommodation and it should share facilities with the main property" (e.g. kitchens, outside amenity space, parking) and be physically linked.
8. The judgement on Uttlesford DC v SSE & White¹ confirmed that whether or not accommodation amounted to a separate planning unit from the main dwelling would be a matter of fact and degree. The description of development is for a single bedroom granny annexe. However, the annexe would require little if any alteration to be used completely independently. Although there was no washing machine at the time of my visit, one could be added. There would be no physical changes required so that the annexe had separate parking to the house. For example, it could utilise the separate access, concrete drive and double garage, leaving the main house to use the wooden garage, concrete pad, and the other access nearest the house. Furthermore, no physical changes would be required so that separate private amenity space is provided for the house and the annexe. This is because the distance, orientation and segregation between these buildings and garden areas, naturally provides privacy. For these reasons the annexe is tantamount to an independent dwelling.
9. The Inspector stated in the appeal² referenced by the appellant that they considered it unlikely that the ancillary accommodation subject of that appeal, would be occupied independent of the main dwelling, and attached a model condition to restrict occupancy. A condition to restrict its use to one that is ancillary to the house would not be enforceable in the circumstances set out above. There would likely be no appreciable change whether it was occupied as ancillary accommodation or an independent dwelling, so monitoring compliance with such a condition would be onerous and impractical.
10. A condition is suggested by the appellant which only allows occupancy of the development for 9 months of the year to prevent anyone permanently living there. However, such a condition would no more prevent the annexe from being used as a separate dwelling or make monitoring compliance with the condition any less onerous or impractical than a condition to restrict occupancy would be.

¹ Uttlesford DC v SSE & White [1992] JPL 171

² APP/B3438/A/12/2188171

11. I have had regard to a recent planning appeal³ for an annexe where the Inspector considered that the necessary subdivision to provide each property a separate garden, parking and access would lead to a contrived layout and appearance, and that occupants of the proposed annexe would experience awkward living conditions. This case is different to the proposal before me because the layout already exists and demonstrates subdivision is possible without resulting in any awkward living conditions.
12. The appellant suggests there is a fallback position, and that the annexe benefits from the 4-year rule which means certain built development is immune from enforcement action. However, the appellants statement advises that the annexe was rebuilt in 2021, less than 4 years ago, and based on the appellants photos of the "previous annexe", it is substantially different to what I saw on site. This combined with the lack of a Certificate of Lawfulness of Existing Use or Development, which might substantiate their claim, means I ascribe little weight to this suggested fallback position.
13. The location of the annexe was once the location of a caravan which obtained planning permission from the Council in 1984, and which included a personal condition. Because of the significant changes to the planning system since the time of that permission, the determinative issues would not be the same as this case which is determined on the current policies and evidence before me.
14. I conclude that for the reasons given above that the development would be tantamount to a separate dwelling. It would therefore be contrary to policy SWDP2, part C of the SWDP, which seeks to limit development in the open countryside, subject to exceptions including, accommodation for rural workers, rural employment, a rural exception site, or a building for agriculture and forestry, none of which the development would benefit from. In addition, it is not submitted as a replacement dwelling, nor does it comprise a house extension, or one that would be specifically permitted by any other SWDP policy.

Location with regard to access to services and facilities

15. Policy SWDP2 of the SWDP defines open countryside as land beyond the development boundary and provides a list of exceptions. The proposed development would not benefit from any of these exceptions. SWDP2 seeks to direct growth to rural settlements that enjoy a reasonable range of local services, focusing new development in larger settlements where there is greater access to local services, and consequently less reliance on travel by private car and associated emissions. In this instance the appeal site is not demonstrated to have access to services without the use of a private car and I did not see at my site visit any public transport links to the site or safe routes for pedestrians and cyclists.
16. Consequently, in comprising a proposal that is tantamount to an independent dwelling, it would not be acceptable in this location, having regard to access to services and facilities, along with minimising the need to travel and offering sustainable travel choices. It would therefore be contrary to Local Plan policy SWDP2 objectives, and with relevant elements of the Framework.

Other Matters

³ APP/L3245/W/20/3248282

17. I have had regard to the merits of the scheme, that it was found to be acceptable in terms of design and visual impact, provides acceptable residential amenity, that there are no highway safety, ecology or surface water drainage issues. However, in reaching my decision I have had regard to these other matters, but they do not overcome the harm that I have identified above.
18. Whilst I have given the appellant's personal circumstances careful consideration, I am mindful of the advice contained in Planning Practice Guidance⁴ that in general planning is concerned with land use in the public interest. It is also probable that the proposed development would remain, long after the current personal circumstances cease to be relevant. For these reasons, I therefore find that this factor is not sufficient to outweigh the harm that would be caused contrary to the development plan.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

S Crossen

INSPECTOR

⁴ Paragraph 008 Reference ID 21b-008-20140306 – 'What is a material planning consideration?'