



Appeal Decision

Site visit made on 24 July 2023

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/K0425/W/23/3316866
155 Bowerdean Road HIGH WYCOMBE HP13 6XP

- 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 F Mehmood against the decision of Buckinghamshire Council. The application Ref: 22/07989/FUL dated 07 November 2022 was refused by notice dated 27 January 2023.
 - The development proposed is Householder application for the conversion of an existing outbuilding to annexe ancillary to main dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is whether the proposed development would result in a dwelling capable of independent occupation.

Reasons

3. The appeal concerns an outbuilding at the rear of 155 Bowerdean Road (No.155) which is a mid-twentieth-century semi-detached two storey family home in an area of similar housing. The underlying topography of the locality results in houses set above road level and with sloping amenity spaces.
4. The outbuilding has the appearance of an ancillary building, home office or similar and not of a freestanding dwelling, and what is proposed would contain a bedroom, living area with kitchen facilities and a bathroom/shower. The outbuilding is set at a level which is significantly higher than No.155 itself, approximately 12 steps up from the main floor level which is itself several steps above the Bowerdean Road frontage. The appellant suggests that this significant difference in levels is a justification for the installation of kitchen facilities. I note, however, that the outbuilding is adjacent to (but set down from) a parking area lying within the control of the appellant. This is accessed by means of a discretely located driveway connected to Wayside, a suburban cul-de-sac of houses lying to the east of the appeal site.
5. Due to the levels difference between the outbuilding and the Bowerdean Road frontage it seems to me that it is highly likely occupiers of the outbuilding would use this adjacent parking space whether or not they were in the same household as the main house, whereas occupiers of the main house would be

more likely to use the frontage or on-street parking than to use the alternative (upper level) parking area. However, whilst this would partly overcome problems of stepped access for anyone with limited mobility, it also points to the easy possibility of wholly independent use of the outbuilding.

6. I have been provided with a copy of an Enforcement Notice (EN) which took effect in September 2017 requiring the use of the outbuilding as a separate dwelling to cease and its kitchen facilities, with a separating fence, to be removed. In the round it is apparent that the difference between the requirements of the EN and the appeal proposal (noting also the previous planning history) is the provision of kitchen facilities in the outbuilding as it is this feature which would render it capable of independent occupation.
7. Policy DM36 (Extensions and Alterations to Existing Dwellings) of the adopted Wycombe District Local Plan (WDLP) and Section 18 (Self-Contained Residential Annexes) of the adopted Householder Planning and Design Guidance Supplementary Planning Document seek to prevent the creation of separate dwelling units by the conversion of outbuildings. Although the policy and guidance does not set out why the creation of an annex as a separate residence is, of itself, 'unacceptable' it appears to me that the result of separate occupation in this case (information to the contrary plainly absent), could be a potential deficiency in amenity and depletion in living standards which would usually be ensured through grant of discrete permission.
8. The appellant indicates the proposed accommodation would be used by a dependent relative and proposes a 'non-severance' condition. I therefore turn to the question as to whether a suitably-worded condition could make the development acceptable in planning terms.
9. However, although wording has been suggested, I have nothing before me to explain how such a condition might meet the tests set out in the Framework. To my mind the notion of 'severance' lacks precision as it implies legal separation whereas the planning consideration here is the opportunity for occupation by a separate household which could take place regardless of ownership or title. Secondly, given the circumstances of the appeal site, with its capacity for convenient and independent access to the outbuilding, a condition preventing occupation by another household to that occupying No.155 would not, to my mind, be enforceable given the arrangements found on site. Normal observation would not be conclusive as to detection of any breach and intrusive inquiry as to the personal circumstance of occupiers who may or may not be moving between the outbuilding and the main house from time to time, would not meet the test of being reasonable in all other respects. This is a matter attracting weight due to the existence of the EN.
10. I therefore conclude the proposal would not accord with Policy DM36 of the WDLP and its related guidance such that the proposal conflicts with the development plan taken as a whole. Consequently, there being no other consideration before me to outweigh that harm, the appeal cannot succeed.

Andrew Boughton

INSPECTOR