



Appeal Decision

Site visit made on 17 April 2024

by Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.05.2024

Appeal Ref: APP/K0235/D/23/3335980

28 Box End Road, Kempston, Bedford, MK43 8RR

- 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 Mrs A McQueenie against the decision of Bedford Borough Council.
 - The application Ref 23/01961/FUL, dated 5 September 2023, was refused by notice dated 2 November 2023.
 - The development proposed is the conversion and extension of existing garage to form an annexe.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of existing garage to form an annexe at 28 Box End Road, Kempston, Bedford, MK43 8RR in accordance with the terms of the application, Ref 23/01961/FUL, dated 2 November 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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: Drawing No. JJ23-0028 001; and Drawing NO. JJ23-0028 002.
 - 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 building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Glendora, 28 Box End Road, Kempston, Bedfordshire, MK43 8RR.

Application for costs

2. An application for costs was made by Mrs A McQueenie against Bedford Borough Council. This application is the subject of a separate Decision.

Main Issues

3. These are, whether the proposal is tantamount to the creation of a separate dwelling; the effect of the proposal on the living conditions of the occupants of number 30 Box End Road (number 30), with regard to outlook; and whether the proposal would provide adequate tree cover on the site.

Reasons

Separate Dwelling

4. Number 28 Box End Road is a detached dwelling with a large rear garden on the edge of Kempston. The garden contains a detached outbuilding, which is currently used for domestic storage. The outbuilding is positioned relatively close to the existing dwelling.
5. The proposal is to extend and convert the outbuilding into an annexe that would be occupied by a family members (elderly parents). The extended and converted building would contain all facilities for day-to-day living, including a kitchen, bathroom and lounge areas. The conversion would also include alterations to the windows and doors of the building, including new openings on three elevations.
6. The Council contends that the proposal would be tantamount to a separate dwelling, because of its self-contained nature and with no clear functional link to the parent dwelling. Because it considers the proposal to be a separate dwelling, the Council states that it would be an overdevelopment of the site, that would be out of character with the pattern of development in the area. As such, it would conflict with Policies 6, 28S (i & ii), 29 (i & ii) and 30 (i & ii) of the Bedford Local Plan (LP). The appellant points to the fact that the development was described as an annexe and it was submitted and validated as a householder application.
7. Both parties refer to case law and appeal decisions to substantiate their cases and it is clear to me that a decision as to whether or not such a proposal would be tantamount to a separate dwelling is based on a number of factors. Not only is the level of accommodation a factor, it is also necessary, for example, to consider the position of the building in relation to the main dwelling, whether a separate curtilage would be provided, access/parking arrangements, service provision and, fundamentally, whether the proposal would result in the creation of a separate planning unit. It is, therefore, largely is a matter of fact and degree. Consequently, I have determined the proposal on its own merits.
8. Whilst a large part of the Council's reasoning is based on the level and type of accommodation proposed, I give great weight in my decision to the judgement in *Uttlesford DC v SSE & White [1992]* in which it stated that even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling.
9. I agree with the Council that a separate unrelated dwelling would be out of character with the pattern of development in the locality. However, notwithstanding the form of the accommodation proposed, I have concluded that the proposal would not amount to the creation of a separate independent dwelling. The building is sited close to the existing house and there is no indication that the existing garden would be subdivided or that separate access or parking arrangements would be formed. In other words, a separate planning unit would not be created. Furthermore, I consider that the occupation of the building could be controlled by a suitably worded condition, notwithstanding the Council's reservations on this.
10. Accordingly, in my opinion, the proposal would not be tantamount to the creation of a separate, independent dwelling. Given this conclusion, and the

fact that the bulk of the building already exists, the proposal would not result in an overdevelopment of the site, nor would it harm the character or appearance of the area.

Living Conditions

11. The proposal includes a single storey extension to the side and rear of the building, close to the shared boundary with number 30. It would be approximately 5.2m in length and 3.1m wide. The extension would provide a sun lounge. The Council considers that the proposal would have an unacceptably overbearing impact on number 30, due to its scale, mass and close proximity to the boundary.
12. The Council states that the proposal would conflict with Policy 32(iv) of the LP and with Design Code N7 of the Council's Supplementary Planning Guidance – Residential Extensions, New Dwellings and Small Infill Developments 2000 (SPG). Policy 32 states that planning applications should consider factors which may give rise to disturbance to neighbours whilst Design Code N7 advises that development should not have an overbearing effect on another property, because of its scale, massing and proximity.
13. During my site visit, I viewed the appeal building and the proposed extension from the both the dwelling and the garden of number 30. The garden at number 30 is large and the appeal building is partially screened by existing trees and other vegetation. In addition, it is relatively distant from the rear of the dwelling at number 28 and, therefore, I am not persuaded that the proposal would have an adverse impact in terms of the outlook from either the dwelling or the garden. Consequently, the proposal would not conflict with the provisions of the LP or the SPG, as referred to above.

Tree Cover

14. Policy 36S of the LP requires development proposals within the Forest of Marston Vale to provide detail of how they will provide 30% tree cover across the site. The Council states that the proposal fails to do this. However, the Council Officer's report states that this does not normally apply to householder developments. Given that the planning application was validated and considered as a householder development, I conclude that the requirement is not necessary.

Conditions

15. The Council has suggested conditions in the event of the appeal being allowed. In addition to the standard condition requiring that the development commences within 3 years, a condition specifying the approved plans is also necessary. A condition requiring the use of matching external facing materials is also imposed. This is necessary to ensure a satisfactory external appearance. A further condition that restricts use of the annexe to ancillary accommodation is also necessary, because of the adverse impacts a separate dwelling unit would have on the character and appearance of the area.

Conclusion

16. For the reasons given above, it is concluded that the appeal be allowed.

Ian McHugh

INSPECTOR