



Appeal Decision

Site visit made on 23 May 2024

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2024

Appeal Ref: APP/X2410/W/24/3337287

6 Pulteney Avenue, Loughborough, Leicestershire, LE11 2NA

- 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 R Patel against the decision of Charnwood Borough Council.
 - The application Ref P/23/1755/2, dated 26 September 2023, was refused by notice dated 21 November 2023.
 - The development proposed is described as the conversion of existing outbuilding to a granny annexe for use of occupiers of ground-floor flat.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr R Patel against Charnwood Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are the effect of the proposed conversion on:
 - The living conditions of the occupiers of the flats within the appeal property, with particular regard to outdoor amenity space, ease of access, privacy, noise and disturbance, and
 - The character and appearance of the area around Pulteney Avenue.

Reasons

4. The appeal property is a semi-detached house that is apparently divided into two flats. It has a two-storey rear extension. At the time of my visit, the single front door was marked as 6A, and there was a further door in the rear elevation of the rear extension. I have no details as to the floor plans of the two flats. The outbuilding that is the subject of the current application is a large brick-built structure within the north-west segment of the rear garden. It has three rooms that were being used for storage at the time of my visit. The door to the building is on its long side facing east. The proposed development is to convert this outbuilding into a granny annexe.
5. Policy CS2 of the Council's Local Plan Core Strategy (LPCS) indicates that development proposals should respond positively to their context; should protect the amenity of people who live in the development; and function well and add to the quality of the area. Policy DS5 of the emerging Charnwood Local

Plan 2021-37 (LP) continues this general thrust and given the advanced nature of the preparation of this plan, I accord the policy substantial weight.

6. The Council considers that the use of the outbuilding reflects that of an independent dwelling and not an annexe ancillary to the ground-floor flat in the main building. On this basis, the proposed use of the outbuilding as a dwelling would significantly detract from the garden character of its immediate setting and would materially diminish the overall character of the wider area. In addition, due to a lack of information about the space and access arrangements of the flats, it has not been demonstrated that the proposal would retain acceptable levels of outside amenity space for these dwellings.
7. The appellant contends that the proposal is for use as an annexe only and that such use could be ensured by way of use of a suitable condition. Furthermore, on that basis, there would be no harm to the character of the area.
8. There is a complex planning history to the property, including a permission in 2018 to convert the flats back to a single dwelling with the outbuilding converted to a 'living annexe'. This permission has now lapsed. There have been further proposals in the past, including a planning application in 2017 to convert the existing outbuilding to a residential annex tied to Flat 6A which was refused, and another in 2016 to change the use of the outbuilding to a 1-bedroom dwelling, which was also refused and dismissed on appeal. From the appellant's statement it would appear that, in this case, the annexe would be used for additional accommodation for a guest of the ground-floor flat.

Living conditions

9. At the time of my visit, the outbuilding was located within a single rear garden area. There was, however, evidence of previous separation of the garden into two component parts by way of brick foundations. These appeared to delineate access to the outbuilding from the front by way of a narrow pathway running along the side of the property. It also appeared that the part of the garden closest to the rear of the dwelling, and between the house and the outbuilding, had been partitioned off separately.
10. In the absence of floor plans for the flats, the evidence before me, including that of my site visit, indicates that the front door serves No 6A, though it is unclear whether this is the ground-floor or first-floor flat. Only the rear door would have straightforward direct access to the rear garden, resulting in a somewhat awkward access to the rear garden for the occupiers of No 6A from round the side of the house. In any event, the position of the outbuilding to the rear north-west corner of the property would make it extremely difficult and inconvenient to subdivide the rear amenity space in such a way that occupiers of the proposed annexe, whether guests or family members, could share living accommodation and facilities with the occupiers of the ground-floor flat, whilst also providing adequate amenity space for occupiers of the other flat.
11. In addition to the above, it would appear that any sub-division of the rear amenity area that allowed for use of the outbuilding to be formally attached to the occupancy of either flat, would be unsatisfactory in terms of residential amenity. The scale of the potential additional occupancy generated by the annexe would be likely to create noise and other disturbance, as well as possible privacy issues due to the proximity of the outbuilding to the amenity area of the other flat, wherever that might be created.

12. Reference has been made by the appellant to an earlier appeal case relating to a proposed Granny Annexe (Ref: APP/K0235/D/23/3329478). Both this and the current case relate to a building that would be used as ancillary living space. However, the earlier appeal related to a single dwelling and not, as in this case, to a dwelling split into two flats, where issues of accessibility and shared outdoor amenity space also come into play. It is, therefore, not a precedent.
13. In conclusion on this issue, I find that the proposal would be harmful to the living conditions of the occupiers of both flats in the property by way of restrictions on provision of effective outdoor amenity space; awkwardness of access; and potential adverse effects relating to privacy, noise and disturbance.

Character and appearance

14. The annexe is shown on the submitted plans as having a living room, bedroom and bathroom, and the Council contends that it could be used as a separate dwelling. However, the application refers to the conversion of the outbuilding to an annexe and the submitted plans show it as being of limited size and lacking certain basic facilities. In certain circumstances, its use as an annexe could, therefore, be controlled by a suitable condition, but in this case, for my reasons given above, I do not consider that the use of such a condition would be appropriate due to the impact of the proposal on factors relating to residential amenities, and the unsatisfactory nature of its relationship to both flats.
15. The proposal would not require any alteration to the physical appearance of the outbuilding and it would not, on that basis, have any adverse impact on the appearance of the surrounding area. However, given that the property is already divided into two flats, with the consequential potential for more overall activity than would be generated by a single dwelling, the proposed use would be likely to add further to the scale of the usage of the property as a whole, with adverse effects on the levels of disturbance experienced by occupiers of nearby dwellings.
16. On this basis, I find that the proposal would have harmful effects on the generally quiet residential character of the area around Pulteney Avenue, albeit to a limited extent.

Other Matter

17. The Council's decision notice refers to the proposal as conversion to a separate dwelling and invokes consideration of paragraph 11 of the National Planning Policy Framework. However, the application does not specify the creation of a new dwelling and, in this case, I do not consider that paragraph 11 applies.

Conclusion

18. I find that the proposal would be harmful to the living conditions of the occupiers of the existing flats and also to the character of the area around Pulteney Avenue. It would conflict with Policy CS2 of the LPCS and with Policy DS5 of the LP. Accordingly, I dismiss this appeal.

J D Westbrook

INSPECTOR