



Appeal Decision

Site visit made on 8 May 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/W0734/W/24/3338963

Hawthorn Cottage, Five Acres, Stainton, Middlesbrough TS8 9FD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Colin and Mary Woodhouse against the decision of Middlesbrough Council.
 - The application Ref is 23/0418/FUL.
 - The development proposed is proposed annexe to rear garden area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In its delegated report, the Council questions the functional relationship between the host dwelling and the annexe and suggests that the proposal would actually function as a separate dwelling rather than an annexe building. The annexe would be sizeable and include all the facilities for independent day-to-day living.
3. Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health conditions of the individuals concerned. Nonetheless, the proposal would allow for care whilst retaining a degree of independence from the main house with suitable facilities to hand. I am satisfied that the need for the annexe is appropriately evidenced, and I do not doubt that there would be an element of care provided by the family members who would occupy the existing dwelling. The annexe would also share parking and garden facilities with the host dwelling. It would be subordinate in scale to the existing dwelling. For these reasons, notwithstanding the distance from the host dwelling, I am satisfied that the proposal would provide ancillary accommodation. Were I to allow the appeal, the occupation of the accommodation could be adequately controlled through a planning condition.
4. I have therefore determined the appeal on the basis that the proposal is for a detached annexe in line with the description of development.
5. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.

Main Issue

6. The main issue is whether the location of the proposed development would be acceptable with particular regard to the effect on the character and appearance of the area and the setting of the Stainton and Thornton Conservation Area (the CA).

Reasons

7. The appeal site comprises of a detached dwelling, Hawthorn Cottage, set towards the front of a large plot located on the edge of the settlement of Stainton. Similar properties are located to either side of the appeal site, both of which have extensive rear gardens. The garden of the appeal site is L-shaped, extending behind the rear garden of the adjacent dwelling, The Laurel, for the full extent of its rear boundary.
8. The rear garden is predominantly lawned and slopes down from the dwelling. Further away from the dwelling, the land becomes less manicured and more rural in character, incorporating vegetable plots and fruit trees, particularly the space to the rear of the Laurel. Other than small timber domestic structures, there are no substantial buildings within these spaces and the area is more open as it meets the open fields to the southern boundary.
9. The CA encompasses the historic cores of the two traditional villages of Stainton and Thornton, both with medieval origins, and more recently having housing developments built on their edges. The significance of the CA arises from its architectural and historic interest as a distinct pair of traditional villages, comprising of predominantly brick and pantile cottages and larger houses set within sizeable gardens. Its significance also arises from the open green spaces to the fringes of the settlements forming a transition to open countryside. Some of these green spaces help to provide continued separation between the two closely related settlements and overall contributes to a distinctly rural setting to the CA. The rural setting contributes positively to the character and appearance of the CA as a whole, and thereby to its significance as a designated heritage asset.
10. The appeal site lies adjacent to the western edge of the CA and is within its rural setting. As 1980s backland development, the appeal property contributes little to the setting of the CA, however its open garden and the adjacent fields form part of the rural setting of the CA and contribute to its significance. The garden of Hawthorn Cottage and the adjacent fields are visible from the higher land adjacent to Maltby Lane to the south, which includes a public right of way. From here the edge of the settlement of Stainton is visible.
11. Although within the garden of Hawthorne Cottage, the appeal site is located outside of the development limits of Stainton, where new development is more strictly controlled, as set out by Saved Policies E20 and E22 of the Middlesbrough Local Plan (1999) (the LP). Whilst the proposal is not for a new dwelling, the provision of a residential annexe does not fall within the list of allowed development set out within Policies E20 and E22, in the interests of protecting the open countryside. Nevertheless, I acknowledge the appellants' argument that alterations to domestic properties, including outbuildings are, to a degree, a form of development that can often be accommodated in the countryside without a harmful impact on the rural character.

12. The proposed annexe would be a single storey building with a kitchen/dining room, lounge, utility and bedroom with two bathrooms. Its footprint would be substantial and it would have the appearance of a detached bungalow. It would be located around 30 metres from the host dwelling and positioned in the space beyond the rear garden of The Laurel rather than being aligned with the host dwelling.
13. I acknowledge that what is proposed is an annexe building and not a separate dwelling. However, the proposal would be located within a part of the garden that is a significant distance from the host dwelling or any other dwelling. Given its scale and position, it would give the impression of an isolated backland dwelling some distance from any other built form that would appear as an encroachment into the predominantly undeveloped rear garden and the rural fringe. The introduction of a building resembling a detached bungalow in this location would represent an incongruous form of development that would erode the rural character of this space. Whilst I accept that there is intervening tree cover, the annexe would be visible through trees from the land to the south, including the public right of way. This visibility would likely increase in the winter months when the trees are not in leaf.
14. I saw that the new housing estate and the street of Sunflower Lane to the west of the appeal site, beyond the garden of the neighbouring property, protrudes beyond the southern limits of the proposed annexe. However, this is a compact housing development of houses and streets that is distinct from the open undeveloped character of the appeal site. I am therefore not convinced that the presence of this nearby housing development justifies a new annexe in this location, a significant distance away from any other dwelling.
15. I acknowledge that there are sheds and other outbuildings within the rear gardens here. However, none are of a scale that is comparable with that of the appeal proposal nor do any resemble a detached dwelling. The appellants argue that a domestic building of a similar scale to the appeal proposal could be constructed without planning permission. However, buildings constructed through permitted development are subject to a number of criteria. Without details of these proposals or a certificate of lawful development I cannot be certain of the effect of a similar building compared to the scheme before me. This limits the weight I can give to this as a fallback position.
16. The appellants' statement argues that the site of the proposed annexe is as close as practicable to the host dwelling without compromising the well-established garden layout. However, most of the closer part of the garden area is open lawn and there would appear to be more than adequate space for an annexe closer to the dwelling. Furthermore, notwithstanding the appellants' comments on the availability of space for a side extension, it is unclear why an extension could not be provided as a projecting rear wing, given the extensive space to the rear.
17. The erosion of the rural character of this part of the setting to the CA would diminish its significance as a designated heritage asset. With reference to Paragraphs 207 and 208 of the National Planning Policy Framework (the Framework), in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the extent and nature of the proposed development, I find that the harm in this instance is 'less than substantial' but, nevertheless, of considerable importance and weight. Under

such circumstances, Paragraph 208 advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.

18. Whilst I am satisfied that a need for an annexe has been demonstrated, its provision would primarily benefit the appellants and their family rather than constituting a public benefit. Public benefits would arise from the construction of the building however these would be limited due to the modest scale of the development.
19. Overall, the considerable importance and weight I attach to the identified harm to the CA would not be outweighed by the limited public benefits which would accrue from the proposal.
20. For the above reasons, the location of the proposed development would not be acceptable, and it would have a harmful effect on the character and appearance of the area. It would also adversely affect the significance of the CA through harm to its setting. The proposal would therefore conflict with Policies DC1, CS4, and CS5 of the Middlesbrough Core Strategy (2008); and Policies E20 and E22 of the LP and the provisions of the Framework which together, and amongst other things, seek to ensure new development constitutes high quality design that protects the countryside, preserves the character and appearance of rural areas and protects historic heritage.
21. There would also be conflict with Policy ST1 of the Stainton and Thornton Neighbourhood Plan (2022) which seeks to ensure new developments do not adversely affect the distinctive local character of the open landscapes of the parish.

Other Matters

22. The Council's third reason for refusal relates to concerns regarding wastewater arising from the development and the nutrient loading effects of this upon nearby Habitats sites – the Teesmouth and Cleveland Coast Special Protection Area and Ramsar. If I were minded to allow the appeal, I would need to be satisfied that the proposal would have no adverse effects on the Habitat sites' integrity. However, I am dismissing the appeal because of my findings within my first main issue. Therefore, there is no requirement for me to undertake this assessment.
23. I have had regard to the appeal decisions referred to by the appellants. However, it is not clear that either of the examples provided is of a similar distance from the host dwelling or has a similar effect on rural character. Accordingly, their circumstances are not directly comparable with those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Planning Balance and Conclusion

24. The proposal would provide clear benefits through the provision of more manageable accommodation for the appellants and allowing family to be close by to provide care. Nonetheless, as set out above, it is not clear that the appeal proposal would be the only means of achieving those benefits or that the accommodation needs to take the form before me. As such, whilst these considerations carry moderate weight in favour of the appeal, they do not clearly outweigh the conflict with the development plan arising from the harm I

have identified to the character and appearance of the area and to the significance of the CA through erosion of its rural setting.

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

Paul Martinson

INSPECTOR