



Appeal Decision

Site visit made on 15 July 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Appeal Ref: APP/K0235/D/24/3344202 28 Brampton Close, Bedford MK42 0HD

- 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 Salvatore and Carolina Garganese against the decision of Bedford Borough Council.
 - The application Ref is 24/00390/FUL.
 - The development proposed is front extension to garage and new raised roof with front and rear dormers and conversion to annexe (resubmission with added dormer to rear elevation).
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Decision

1. The appeal is allowed and planning permission is granted for front extension to garage and new raised roof with front and rear dormers and conversion to annexe (resubmission with added dormer to rear elevation) at 28 Brampton Close, Bedford MK42 0HD in accordance with the terms of the application, Ref 24/00390/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: JJ21-0028-001C and JJ21-0028-002A.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building except as otherwise indicated on the application form.
 - 4) The building hereby permitted shall not be used or occupied other than as part of or for purposes ancillary to the residential use of the dwelling known as 28 Brampton Close, Bedford MK42 0HD and shall at no time be occupied as a separate dwelling.

Application for costs

2. An application for costs was made by Mr and Mrs Salvatore and Carolina Garganese against Bedford Borough Council. This is the subject of a separate decision.

Main issues

3. The application is for the extension and conversion of a detached domestic garage to form living accommodation including a living room with kitchenette and a wc on the ground floor and an ensuite bedroom on the first floor.

Although this is described as an annexe, the Council has treated the application as effectively proposing an independent dwelling. It has refused the application for 3 reasons, which all appear to stem from that treatment.

4. Taking this into account, the main issues are:
 - i) Whether the proposal would create an independent dwelling;
 - ii) The effect of the proposal on the character and appearance of the property and Brampton Close;
 - iii) The effect of the proposal on the safety of public highway users, in terms of on-site parking provision; and
 - iv) Whether adequate provision would be made for the storage of household waste and recycling, including access for collection.

Reasons

Annexe or separate dwelling?

5. The application states that it is for an annexe to the house. The accommodation to be provided would be large enough and contain enough facilities for independent living, but the stated purpose is to provide a degree of independence for a family member with a disability. The need for this accommodation is supported by appropriate professionals. The Council says that the Community Infrastructure Levy form submitted with the application refers to the annexe being an independent dwelling, but I have not seen a copy of that form and give little weight to it as a supplementary item.
6. The creation of a second dwelling here would split the site into 2 planning units. The distinctive characteristic of a dwellinghouse is its ability to afford those who use it the facilities required for day-to-day private domestic existence. The *Uttlesford*¹ case, however, confirms that there is no reason in law why the provision of facilities for a degree of independence (such as bedroom, bathroom, lavatory, small kitchen, somewhere to sit and own front door) should consequently create a separate planning unit. The distinction between annexe and separate dwelling is a matter of fact and degree that needs to be assessed on a case by case basis.
7. I see no clear reason why some kitchen and other facilities should not be provided for annexe accommodation here. The proposed accommodation would be detached from the house but clearly within its curtilage, only a few metres away. It would share the driveway and parking area and unless further sub-division took place, it would also share the garden. It would be modest in scale compared to the main house and the plot. It would also appear to be proportionate to the stated need.
8. The Council refers to a 2019 appeal decision² in East Hertfordshire where an Inspector found that a proposed annexe would be tantamount to a new dwelling. In that case, the Inspector considered that the proposed annexe would have been significantly larger than normally associated with a one person dwelling, would not have been subservient in size compared to the modest dwelling, would have been located at some distance from the dwelling and would have had its own private amenity space. All of these circumstances

¹ *Uttlesford District Council v Secretary of State for the Environment and another* - [1991] 2 PLR 76

² APP/J1915/D/19/3232061

appear to be different to the present case. The Council also refers to another appeal case from about 20 years ago, for which it has no appeal reference number, where the circumstances were also notably different.

9. The appellants also cite a number of other appeal cases in support of their argument³. Some of my conclusions are similar to those reached by those Inspectors, but I have considered this case on its own merits.
10. The Council considers that a condition limiting use of the annexe would not be monitorable or enforceable, citing 2 more appeal decisions where Inspectors made similar comments⁴. I accept that it could be difficult to monitor future use of the annexe but that concern applies to many planning conditions. If any eventual use as an independent dwelling did have the effects suggested by the Council in its reasons for refusing the application, this could well result in local planning enforcement reports. The terms of a condition could be clear enough to enforce a breach once detected. Such conditions are commonly used, including in appeal decisions cited by the appellants, and one appears in the still extant list of model conditions at Annex A of Circular 11/95. I find that such a condition would meet the tests set out at paragraph 56 of the National Planning Policy Framework.
11. The Council has not drawn my attention to any development plan policy directly relevant to this issue. I see no sub-division of the planning unit here and consider that the overall use of the unit would remain as a single family dwelling. I conclude that the proposal should be treated as submitted - for the creation of annexe accommodation.

Character and appearance

12. No 28 sits at the end of this residential cul-de-sac, out of main views. The existing garage is set well back into the plot, screened from some views, so that it is not at all a notable feature in the street scene. The proposal would bring the building's front wall forward a small amount, increase its height by about 1.8m and add front and rear dormers. It would continue to have a dual pitched roof and would remain subsidiary to neighbouring houses, in terms of height and size. The Council accepts, and I agree, that the proposed scale and design would be reasonably complementary to the local area.
13. The Council's sole concern in regard to this issue hinges on its consideration of the proposal as being for a separate, small dwelling. It says this would not relate well to the pattern of development in the area, of mainly detached houses with good sized front and rear gardens. As I have decided that the proposal is for an annexe, not an independent dwelling, no such harm would arise.
14. I conclude that the proposal would not harm the character or appearance of the property or Brampton Close. It accords with Bedford Borough Local Plan 2030 (LP) policies 28S(ii), 29(ii) and 30(i and ii) and the Council's Supplementary Design Guidance *Residential Extensions, New Dwellings and Small Infill Developments* (RENSID), which aim to secure high quality development that respects its context and integrates well into the area, including in terms of in terms of scale, density, massing, height, materials and layout.

³ APP/K0235/D/23/3329478, APP/Q5300/D/18/3219506 and APP/B0230/D/20/3248323

⁴ APP/L3815/A/01/1079596 and APP/B1930/W/18/3217177

Highway safety and parking

15. The Council's objection here is again based on its assessment of the proposal as a separate dwelling. There would instead continue to be just one dwelling on this site, albeit larger than before. The Council's Supplementary Planning Document *Parking Standards for Sustainable Communities – Design and Good Practice* (PSSC) indicates that a house with 4 or more bedrooms should have at least 3 parking spaces. It appears that 3 on-site spaces could continue to be provided here reasonably comfortably. The property is at the end of a lightly trafficked cul-de-sac. I have seen no evidence to suggest that there are particular problems with on-street parking here, so some on-street parking could be accommodated anyway.
16. I conclude that the proposal would make adequate provision for on-site car parking and would not prejudice the safety of highway users. It accords with LP policies 29(viii) and 31 and the PSSC, which aim to ensure that car parking is well integrated and to avoid any significant adverse impact on access to the public highway.

Waste storage and collection

17. As this would still be a single dwelling on a reasonably sized plot, there would still be ample areas on site for refuse and recycling bins to be stored and presented for collection. There is direct access from the site to the cul-de-sac. I see no need for specific details to be provided, as suggested by the Council. I conclude that the proposal would make adequate provision for the storage of household waste and recycling, including access for collection. It once again accords with LP policy 29(viii), and also with the Council's *Technical Guidance - Waste and Recycling in New Developments*, which together aim to ensure that functional needs such as refuse/recycling storage are well provided for and integrated.

Other matters

18. The existing single storey garage sits towards the back of the plot, next to the rear conservatory and garden of the next door house, No 26. The occupiers there have objected in regard to the impact on their living conditions.
19. No significant new overlooking would be created. The new windows would not look directly at the conservatory, windows or garden No 26. Much of the additional bulk of the garage would come forward, where it would sit next to the side of the house at No 26 rather than the conservatory. Some morning sunlight to the conservatory would be lost but this would be a relatively minor affect. The rear of No 26, including the conservatory, would continue to benefit from good general daylighting (light from the sky). The Council states that the proposal meets the relevant tests regarding light in the RENSID and I have no reason to doubt this.
20. The increased height of the building would present a visually dominant structure to one side of the conservatory, but this room would continue to benefit from outlook to the other side and the rear. Having considered this point carefully, I find that the proposal would not be so overbearing as to justify a refusal. Taking all these matters into account, I find myself in agreement with the Council, that there would be no undue impact on living conditions at No 26.

Conditions

21. I impose a condition specifying the relevant plans to provide certainty. A condition requiring the use of matching materials is needed to protect local character and appearance. As above, a further condition limiting the use of the annexe is needed to help ensure that it does not become an independent dwelling without a further planning application. I have used wording recommended by the Inspectorate. The Council's suggests a limit to 'ancillary' use only but as I understand it this could prevent use of accommodation such as a bedroom and a living room, as is proposed.

Conclusion

22. The proposal accords with the development plan for the area, taken as a whole. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR