

Appeal Decision

Site visit made on 3 September 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Appeal Ref: APP/B3030/W/24/3341482

Pit Stop Shop, 16 Mansfield Road, Clipstone Village, Mansfield NG21 9EH

- 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 Onker Kang against the decision of Newark and Sherwood District Council.
 - The application reference is 23/01432/FUL.
 - The development proposed is described as 'change of use of annexe to use as separate dwelling (not ancillary to existing dwelling) (retrospective) and erection of fence.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 30 July 2024, the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation", alongside a Written Ministerial Statement (WMS) entitled "Building the homes we need". I have had regard to these as material considerations, albeit noting the Framework text is in draft and subject to change, which limits the weight to be afforded to it at this stage.

Background and Main Issues

3. The appeal relates to a building to the rear of 16 Mansfield Road, which comprises a retail shop on the ground floor and a flat above. The rear yard is fully hard surfaced. The appeal building was originally approved as a garage in 2002 before permission was granted for conversion to a residential annexe in 2012. A condition of this permission was that the annexe was to be occupied for purposes ancillary to residential use of the dwelling at No 16.
4. The appellant states that the annexe has been in use as a separate residential unit since September 2014. However, I have no evidence before me to substantiate this claim or the timelines suggested. Conversely, the Council indicates it has an open enforcement investigation into the use of the building and issued a breach of condition notice in May 2023. However, my assessment is limited to the planning merits of the proposal as applied for. Issues relating to enforcement or demonstrating lawfulness by other means are matters to be addressed separately.
5. Against this background, the main issues are whether use of the annexe as a separate dwelling is acceptable, having regard to i) the provision and quality

of external amenity space; ii) the provision of parking spaces for dwellings and the retail unit on the site and iii) the character of the area.

Reasons

External Amenity Space

6. The rear of 16 Mansfield Road includes the annexe, a conservatory linking the annexe to the main building and a large shipping container opposite the conservatory. The rear of the site is otherwise hard surfaced, with a vehicular access gate on to Clay Cross Drive behind. To the side of the site are a row of garages and a narrow area of open storage, separated from the rear of No 16 by a timber fence with concrete posts. This area is indicated to be within the appellant's ownership.
7. The proposal seeks to create separate amenity spaces for the existing property at No 16 and the annexe by altering the position of the fence between the site and the garages. The space behind the garages and a section of the rear yard behind the shipping container would be for No 16, whilst a rectangular area between the annexe and the rear boundary would be an external amenity space for the proposed separate dwelling.
8. Policy DM5 of the Newark and Sherwood Allocations and Development Management Development Plan Document (July 2013) (the ADM) states that developments should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. It adds that new development that cannot be afforded an adequate standard of amenity or creates an unacceptable standard of amenity will be resisted.
9. The external space for the annexe would be a small yard to the rear of the building. The open railings to the rear boundary mean this space is exposed to the public realm and as a result offers no privacy for users. Indeed, the building has full width doors and windows to the rear elevation and the fact that the curtains were fully drawn at the time of my visit is an indicator that the openness of the rear also limits privacy for occupants within the building.
10. Moreover, the plans indicate a tandem parking arrangement next to the amenity space. The local highway authority advises that the spaces would not be sufficiently wide as they would abut a fence on one side. I saw on site that, as the parking and amenity areas are not physically separate, in practice cars could be parked with room to open doors on both sides. However, the effect on this would be vehicles impinging into the amenity space, creating a hemmed in, cramped space. Importantly, such parking would further narrow an already tight access to the front door of the annexe on the side elevation. The proposed location of bin storage immediately by the front door would further undermine the quality of the space.
11. With respect to No 16, the proposed space would be offset from the dwelling, extending behind the adjacent dwelling at 6 Dunsil Row. It would have a narrow, awkward shape that would severely restrict its utility as a space for recreation, being hemmed in between the garages and the dividing fence. It would also run alongside the entrance to the annexe, meaning neither space would have adequate separation from the other or sufficient

privacy. Even setting aside the Council's concerns that this land is not in fact within the appellant's control, I find it would represent an anomalous space that would relate poorly to the dwelling at No 16 and would fail to reflect the pattern of development where gardens extend directly behind the dwellings.

12. This attempt to provide separate amenity spaces within an already intensively developed site would result in a convoluted arrangement where neither amenity space would provide privacy for users. I accept that there would be space for storage, drying clothes and sitting out, should occupants be prepared to do so, but this would be in the context of small, physically confined spaces mixed with car parking, domestic bin storage and a physically and visually imposing shipping container, all of which would severely undermine the quality of the spaces created.
13. The appellant states that the dwelling has been used separately for many years. Even if this is the case, in seeking to confirm the use in planning terms, the standard of accommodation must be considered. Whilst noting that the internal space is restricted to the first floor level due to sloping ceilings, the dwelling would have sufficient internal space and facilities as required by national housing space standards.¹ However, the confined, subdivided nature of the external space would result in a poor external environment, difficult access and lack of privacy that would harmfully detract from the quality of the accommodation.
14. For these reasons, I find that the proposal would result in an unacceptable standard of external amenity space for both the existing residential unit at 16 Mansfield Road and the proposed separate dwelling in the annexe. This would be contrary to the aforementioned requirements of Policy DM5 of the ADM and the Framework which requires developments to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Parking Provision

15. The tandem parking shown on plan is indicated to be for the annexe dwelling. The appellant points out that the existing property at No 16 benefits from two parking spaces in the adjacent car park. In simple terms, this level of provision would accord with the Council's parking standards.
16. However, the Council points out that the rear access also serves the retail unit at No 16, and there is anecdotal evidence from interested parties that parking associated with the combined uses at No 16 extends at times onto Clay Cross Drive, causing inconvenience for other users.
17. The proposal would close off rear access to the shop, as the parking area would become part of the proposed annexe dwelling. The appellant indicates that the shop can be serviced from the front, via the side passageway. Although a busy road, there is space between the car park entrance and the start of double yellow lines where vehicles could pull in to make deliveries. As such, this would not be a harmful aspect of the proposal.

¹ Technical housing standards – nationally described space standard (March 2015)

18. However, the local highway authority has pointed out that the on-site parking does not meet the standard width for parking where bound on one side by a wall. Although there is more room than this given the amenity space to the side is not physically separated, it would not be acceptable for the amenity space to be compromised to accommodate parking, and if laid out as per the plans, the spaces would be tight. Moreover, the tandem arrangement would require additional manoeuvring of vehicles and may lead to additional on-street parking where this proves inconvenient for occupants.
19. In addition, the spaces intended to serve No 16 are some distance from the dwelling, out of sight from the flat and in an area readily accessible from the main road. Such an arrangement may discourage use of these spaces by occupants and instead lead to further parking on Clay Cross Drive if it is perceived to be safer and more convenient for loading and unloading. Given the number of dwellings surrounding the rear of the site, any additional on-street parking may lead to blockages and inconvenience to other residents, particularly as access to dwellings at 1 to 5 Clay Cross Drive passes immediately next to the rear boundary of the site, an area which is also a turning area for vehicles and so should remain clear of parked cars.
20. Overall, the creation of a separate dwelling in the annexe would require a convoluted parking arrangement for the respective uses spread across the front, side and rear of the property. The need to accommodate parking on site is a factor in the substandard quality of the external amenity space for the proposed dwelling. Residents of the existing flat would also have detached parking and external spaces that would be inconvenient to use compared to on-site parking that would be available were the annexe to remain an ancillary part of a single residential unit on the land. In these respects, I am not persuaded by the appellant's arguments that the effect on parking would be no worse than at present.
21. For these reasons, I conclude that the proposal would fail to provide appropriate and effective parking arrangements and so would undermine the standard of accommodation for occupants of the existing and proposed residential units, and cause inconvenience for neighbouring residents. This conflicts with the requirements of Spatial Policy 7 of the Amended Core Strategy (March 2019) (the ACS) which requires development to provide appropriate and effective parking provision, both on and off-site.

Character

22. The Council did not expressly refuse the application in terms of visual impact, as no external alterations are proposed. However, I agree with the Council that the annexe has a somewhat commercial appearance owing to the presence of white, roller shutters to each of the ground floor openings. Though not a proposed change, and therefore not reason also to dismiss the appeal, these rather harsh features add to my overall concern with the quality of the external space which would be provided for occupants.
23. Moreover, there is no pattern of dwellings to this side of Clay Cross Drive, with the built form limited to the annexe building and the adjacent garage blocks. The creation of a dwelling addressing the rear would therefore conflict with the prevailing character. The subdivision of the site would also

result in a denser form of development at odds with the consistent pattern of linear housing on rectangular plots, whilst the narrow, confined amenity areas, tandem parking and narrow access to the dwelling entrance would all be revealing of a development squeezed onto the site in a cramped manner.

24. For these reasons, I conclude that the proposal would significantly harm the character of the area, contrary to Core Policy 9 of the ACS which requires development to achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context, complementing the existing built and landscape environments. There would be similar conflict with the Framework's expectations of high quality design being a key aspect of sustainable development.

Other Matters

25. Concern is raised by a resident regarding their privacy due to overlooking from the external area in front of the annexe. However, I saw these views were at an oblique and upward angle where glare on windows restricts views into rooms. The views also extend across the public realm and would be no more invasive than from the street outside. I do not consider the proposal would cause harm in this respect.
26. Comments are made regarding the use of the land to buy and sell vehicles. However, I have no detailed evidence pertaining to this, and it is not a matter attracting weight in my considerations.
27. The annexe is stated to no longer be needed as ancillary accommodation for 16 Mansfield Road. However, that does not negate the need to assess the impacts of a separate dwelling, and does not alter my findings above.

Conclusion

28. The proposal would fail to provide an acceptable standard of accommodation due to the unacceptable standard of external amenity space and parking arrangements. The creation of a separate dwelling would also conflict with the pattern of development and undermine the prevailing character. This results in conflict with the development plan, taken as a whole.
29. The proposal would deliver an additional small dwelling that would add to the housing stock and accord with national aims to boost the supply of housing, which have been given further importance in the recent WMS. However, the benefits of this are tempered significantly by the poor quality external environment which would be provided. Any economic boost from additional residents in the area would be very limited, given the proposal's small scale.
30. Overall, material considerations in this case are not sufficient to outweigh the identified conflict with the development plan, to which I afford significant weight. Therefore, the appeal should be dismissed.

K.Savage

INSPECTOR