

Appeal Decision

Site visit made on 25 September 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2024

Appeal Ref: APP/W2465/W/24/3343141

18 LUTTERWORTH ROAD, AYLESTONE, LEICESTER, LE2 8PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Tony Armstrong against Leicester City Council.
 - The application Ref is 20240307.
 - The development proposed is the erection of a granny annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council refers to discrepancies and inaccuracies in the submitted plans and a lack of detail about the site but these were not readily apparent to me at the site visit. I will therefore consider the plans as submitted and details about further site levels could be conditioned for subsequent approval if the development proposed was otherwise acceptable.

Main Issues

3. The main issues are:
 - The effect of the proposal on the living conditions of the occupiers of the existing dwelling at No. 18; and whether the annexe would provide good living conditions for the future occupier(s).

Reasons

Background

4. The appeal site comprises a detached bungalow with a large rear garden. It lies in a residential area with a mix of residential properties around it although there is a church and its grounds immediately to the south of the application site.
5. I note that the planning history of the site includes a number of applications for the erection of a detached dwelling in the rear garden but these were not successful. Although the current proposal is for the erection of a single storey

granny annexe the plans show that it would have two bedrooms, with one indicated for a carer, and a living room, kitchen and wet room. The Council therefore considers that given the nature of the accommodation and the scale of the building, the proposal is tantamount to the erection of a new dwelling and I agree that it would have all the facilities necessary for independent use as a dwelling house.

Effect on living conditions

6. In terms of the relationship with the existing dwelling the Council's objection relates to the separation distance between the flank wall of the proposed building and the rear of the host dwelling No. 18. This relationship, at between 6m and 12m, is materially less than the 15m prescribed in the Council's SPD on Residential Amenity. Moreover, at my site visit I found that the close proximity of the proposed annexe to the bungalow would have a cramped and imposing effect on the outlook and amenity of the existing dwelling, which would be accentuated by the rising slope of the garden.
7. Given the lack of compliance with the local standard and my observations on site I find that the siting and scale of the proposed building would have a harmful effect on the living conditions of the occupiers of No.18. I appreciate that the appellant is presently the owner/occupier of this property and may be prepared to accept the cramped impact especially for linked accommodation for a family member. However, considering the issue on its individual planning merits I find that it does not accord with the provisions of CS Policy 3 to promote high quality well-designed development which is appropriate to the local setting of the site.
8. In relation to the living conditions that the annexe building would provide, this is proposed to be sited quite close to the northern and eastern boundaries of the site. The fenestration facing north takes this into account where the windows to the hall and wet room could be obscure glazed and do not require much aspect, but the secondary window to the main bedroom faces a tight enclosed space. Further, the sole kitchen window faces the boundary fence shown as 4m away, and the main aspect to the living room window would largely be constrained by the boundary fence about 6m away. This relationship would not provide a reasonable outlook and living environment for a normal independent two-bedroom property. The proposal would conflict with the same policy mentioned above.
9. Overall on the main issue I find that the proposed annexe building would be tantamount to the erection of an independent dwelling due to the nature of the accommodation proposed. In addition, because of its scale and position within the site it would not have a satisfactory relationship with the existing dwelling nor provide reasonable living conditions for the future occupier(s). As such the proposal would not accord with the Core Strategy policy mentioned above. It would also conflict with the guidance set out in paragraph 135(f) of the National Planning Policy Framework (as applying in December 2023) as there would not be a high standard of amenity for existing and future users.

Planning balance

10. This finding has to be balanced with other considerations. The appellant says that the accommodation is proposed for his elderly mother to offer independent living but also cater for care later in life. Personal circumstances can be taken into consideration especially where the person involved has 'protected characteristics' or special needs, such as due to their age, frailty or medical conditions. The appellant describes the social role of sustainable development as specified in the NPPF and also mentions some national issues with care for the elderly described by AgeUK.
11. There is duty on me under the PSED¹ to have regard to the need to eliminate discrimination, advance opportunity and foster good relations for people with a protected characteristic. However, the evidence put forward is very general in nature and does not set out the needs of the individual(s) involved, or how the proposed annexe would be used in the long-term, bearing in mind it is proposed on a permanent basis with permanent materials and form.
12. The evidence put forward does not provide sufficient justification to outweigh the harm that I have identified that the proposal would cause. In planning terms the appeal should therefore not be allowed.
13. Dismissing the appeal could be an interference with the appellant's human rights to peaceful enjoyment of their possessions, family life and home. However, these are qualified rights and interference with them in this instance would accord with the law and in pursuance with the clear planning aim of ensuring a good residential environment for all new development. Moreover, having due regard to the PSED I conclude that it is proportionate and necessary to dismiss the appeal.

Conclusion

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

David Murray

INSPECTOR

¹ Public Sector Equality Duty