



Appeal Decision

Site visit made on 28 February 2025

by R Gravett BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Appeal Ref: APP/D5120/D/24/3355515

78 Olyffe Avenue, Bexley, Welling DA16 3JE

- 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 R Zaman against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 24/01532/FUL.
 - The development proposed is granny annex in the rear garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a revised plan which removes the kitchen/dining area from the 'Proposed Outhouse Plan,' replacing it with a 'Living Area' only. This revision, however, has not been made on the 'Site Plan' with the internal layout still showing a 'Living/Dining/Kitchen' area. Despite this discrepancy, I accept that the revision does not involve a substantial difference or fundamental change to the proposal.
3. However, I have also considered whether accepting the revised plan would cause procedural unfairness to interested parties. I note that representations made in respect of the planning application raised specific concern about the requirement for a kitchen. I therefore find that accepting the revised plan at this stage would deprive those entitled to be consulted the opportunity to make representations which, given the nature of the revision, they may have wanted to make. Consequently, I have based my decision on the plan before the Council when the application was determined.

Main Issues

4. The main issues are:
 - the effect of the proposed granny annex on the character and appearance of the host dwelling and surrounding area; and
 - whether the proposal would result in a material change of use through the creation of a separate dwellinghouse, and the effect of this on the appeal site and surrounding area.

Reasons

Character and appearance

5. No 78 Olyffe Avenue (No 78) is a two-storey semi-detached dwelling, with a generous back garden. To the rear of the garden, sited on the common boundary with the attached neighbour, is an existing large single storey outbuilding. It is proposed to construct a second 'L'-shaped outbuilding (a 'granny annex') which would be a maximum of around 11m in depth and would, in part, wrap around the existing outbuilding.
6. The annex would be sited in the far corner, very close to the rear and side plot boundaries of No 78 and would extend almost the full width of the garden. No 78 has been extended to the rear and it is agreed by the parties that the footprint of the proposed annex is at least similar in size to the footprint of the host dwelling. I note that there is a difference between the Gross Internal Area for the development provided on the planning application form, and the footprint derived from the dimensions on the 'Proposed Outhouse Plan.' Irrespective of the correct size of footprint, the proposed annex would not be compact, occupying much of the rear garden.
7. The proposed annex would be single storey in height, with a flat roof, and would therefore be noticeably lower than its two-storey host. However, despite its height, the excessive footprint and significant depth of the annex, particularly in combination with the existing outbuilding, would appear an excessive amount of built form. It would be disproportionate in scale to the plot and would not be subordinate to the host dwelling.
8. The existing double gates to the side of No 78 restrict public views toward the rear garden from Olyffe Avenue. The scale of the annex, and particularly the large expanse of flat roof, would nonetheless be striking from first floor rear windows of those houses fronting Queen's Road and from the flats to the east of No 78 on Church Road. The established trees beyond the rear boundary of No 78 would not be effective in softening the visual presence of the annex in these views.
9. The scale of the annex, and notably its significant depth along the side boundary, would also make the structure unduly prominent from the gardens to the south on Olyffe Avenue where the boundary fences between neighbours are relatively low. I observed that the various outbuildings and sheds in the rear gardens of these neighbouring dwellings are typically modest in both their size and construction. In comparison, the proposed annex would be a large and dominant form of development, out of character with the surrounding area.
10. The appellant has drawn my attention to examples of 'sizeable outbuildings' in the surrounding area, including examples at 8 Leigh Place, 92 Olyffe Avenue and properties along Queen's Road. However, no further information has been provided and I do not know the size or scale of these outbuildings, or the circumstances under which they were constructed. I cannot, therefore, draw any direct comparison with the appeal proposal that would weigh in its favour.
11. Therefore, I conclude on the first main issue that the proposed annex would cause significant harm to the character and appearance of the host dwelling, and surrounding area. It would conflict with Policy D4 of The London Plan (2021) and

Policy DP11 of the Bexley Local Plan (2023) (LP) which together require high quality design which is of a scale complementary to the surrounding area.

Whether or not a separate dwellinghouse

12. The proposed annex would comprise an open plan kitchen/living/dining area, a bedroom and bathroom. The Council's concern is that because of this accommodation, and the size of the annex, it would be tantamount to a separate dwellinghouse, which would be a material change of use in turn resulting in over-intensification of the use of the site. I accept that the proposed annex would accommodate all the necessary facilities for day-to-day living. However, even where accommodation provides facilities for independent day-to-day living, it does not necessarily become a separate planning unit from the main dwelling. Instead, it is a matter of fact and degree.
13. In this case, the proposed annex would be sited in the far corner of No 78's plot, so a significant distance from Olyffe Avenue with no frontage to it. Although the door and windows to the living/dining/kitchen area of the proposed annex would be a reasonable distance from No 78, it is nonetheless orientated such that it would directly face onto the rear elevation and toward the garden of its host. The annex would not have separate parking, vehicular or pedestrian access. The route to the annex would be through the existing side gates, and whilst the first short section to the side is fenced off, it would continue across the open garden of No 78.
14. The 'L' shaped arrangement means it would wrap round part of the existing outbuilding, which has a window which would overlook the proposed bedroom window on the north elevation of the annex, albeit at an obtuse angle. I also understand that the annex would not have separate refuse arrangements, or separate utilities, such as power and water, and the proposed plan shows no physical division of the garden. As a result, I am satisfied that the annex would maintain a close relationship with the host dwelling. It would be integral to the existing residential use, providing additional accommodation for the occupants of No 78.
15. Finally, the information submitted with the planning application is clear that planning permission is sought for a 'granny annex' and it would only be used by family members of the appellant. This would allow for the care for elderly relatives occupying the annex to be provided by the main household, but with some degree of independence. There is no proposal for a separate dwellinghouse before me. If the annex was not used as proposed, or if there were a material change of use in the future, then a separate grant of planning permission would be required. Furthermore, I note that the appellant has indicated a willingness to accept a condition to restrict occupancy of the annex.
16. I conclude on the second main issue that the proposal would not result in a material change of use because a separate dwellinghouse would not be created, and there would therefore be no resulting effect on the site and surrounding area. Consequently, the proposal would accord with LP Policy DP11 in so far as it seeks to protect the character of an area.

Other Considerations

17. The appellant states that an outbuilding comparable to the appeal proposal before me, if not larger, would benefit from permitted development rights afforded by

Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Whilst there is a real prospect of such an outbuilding being constructed should this appeal fail, no details of a scheme are before me. Without such information, a detailed comparison between the fallback scheme and the appeal scheme cannot be made. I am also mindful that it is the Council's view that an outbuilding of the size currently proposed would not be considered incidental to the enjoyment of the dwellinghouse. It is reasonable to assume the same view would be taken in respect of an outbuilding of a comparable, or larger size. Consequently, I afford the appellant's fallback position little weight in the determination of the appeal.

18. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. Protected characteristics include a person's disability or age, and I understand that the annex would provide accommodation for the appellant's elderly relatives, who require constant care. I have very little further information before me, or any evidence that the existing dwelling could not be adequately adapted to meet their needs. I have given these personal circumstances very careful consideration, but I do not find that they outweigh the harm to character and appearance that I have identified above. Therefore, it is necessary and proportionate to dismiss the appeal in the public interest.
19. Finally, I have taken account of the concerns raised by neighbours, including in relation to living conditions, protected species, noise during construction, surface water drainage and trees. However, based on the evidence before me, none of these matters would be grounds to dismiss the appeal. They would not alter my conclusions on the main issues in any event.

Conclusion

20. I have concluded that the proposed annex would not create a separate dwellinghouse. Nevertheless, it would cause significant harm to the character and appearance of the host dwelling and surrounding area.
21. Therefore, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Gravett

INSPECTOR