



Appeal Decision

Site visit made on 26 February 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/R1845/W/24/3350251

Elm Bank Farm, Heightington Road, High Oak, Heightington, Worcestershire, DY12 2YP

- 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 M Purnell against the decision of Wyre Forest District Council.
 - The application Ref is 24/0312/FUL.
 - The development proposed is for the change of use of land to domestic garden and retention of annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The change of use of the land to domestic garden and the siting of the annexe has already occurred. The annexe is occupied and in use. I note that the Council dealt with the application on this basis and as such I have determined the appeal accordingly.
3. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development requires planning permission as raised by the appellant with regards to the change of use of the land. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 192 of the Act.
4. There have been changes to the National Planning Policy Framework (the Framework) since the determination of the planning application. Having reviewed them, I am satisfied that as far as their substance relates to the main issues in the appeal, further consultation with the main parties would not be necessary since they have not materially affected or prejudiced the cases of the parties. I have proceeded on this basis, with reference to the 2024 version of the Framework.

Main Issues

5. The main issues are:
 - Whether the annexe can be regarded as ancillary to the main dwelling; and
 - The effect of the proposed development on the character and appearance of the countryside.

Reasons

Whether the annexe can be regarded as ancillary to the main dwelling

6. The detached residential annexe comprises of a lounge/tea making area, two bedrooms and an ensuite in one of the bedrooms. The annexe is a small single storey building and is constructed out of three shipping containers which have been covered with wooden cladding. It is clearly sub-ordinate to the host dwelling. The annexe is located in relatively close proximity to the host dwelling and access to both the annexe and the main dwelling is via a driveway off Heightington Road.
7. Although the main house and annexe are separated by a small area of planting and some trees, I saw no physical or other evidence suggesting that Elm Bank Farm's curtilage had been formally fragmented or divided. It is not unusual for large gardens to be sub-divided into different areas and this area of planting does not segregate the annexe from the wider garden area. The garden is clearly available for joint use and enjoyment of the occupants of both structures and there is unrestricted access between them.
8. Policy SP.13 of the Wyre Forest District Local Plan 2016-2036 (LP) (2022) states that annexe accommodation should be provided by way of an extension which is physically linked to the existing dwelling, and that the dwelling and annexe should share the same vehicular and pedestrian access, and the extension should incorporate a maximum of two bedrooms.
9. The reasoned justification clarifies that this aspect of the policy is directed to a range of potential users including the '*..elderly, sick or disabled relatives or children returning to the parental home.*' Both the appellant and the Council note that the annexe is used by the appellant's son to live and work. The appellant explains that this is due to the lack of affordable properties for first-time buyers in the local area and the fact that the son often works with American companies and can therefore work unsociable hours which are impractical if undertaken in the main dwelling.
10. The Council argue that the accommodation fails to meet the two governing criteria set out in this policy. The first criterion provides that annex accommodation '*should*' be provided by way of an extension which is physically linked to the main dwelling. I highlight the word '*should*' since it suggests to me that the decision-maker is permitted a degree of flexibility in the application of the policy in comparison with the compulsion evident had the word '*must*' been used instead.
11. The first policy criterion is justified '*..to ensure that annexes do not become physically separate dwellings where new dwellings would not normally be permitted.*' The Council explain in their report that the proposed level of accommodation and the ability to separate the vehicular access and parking would result in the building easily being able to function as a new independent dwelling.
12. However, it was evident on my site visit and as indicated on submitted plans, that the annexe only has two bedrooms, as allowed by Policy SP.13. The only bathroom is also an ensuite in one of the bedrooms. The lounge/tea making area has basic facilities and the appellant has advised in their statement of case that the son who resides in the annexe is reliant on the main property for meals, clothes and washing etc. They have also advised that the annexe is reliant on the main dwelling for utility services.
13. On my site visit it was also clear that the main dwelling and the annexe shared a vehicular/pedestrian access off Heightington Road. I saw no evidence that the annex has become a separate planning unit divorced from the host property. I do

note that on my site visit there were a number of cars parked in front of the annexe. However, there were also cars parked in a number of locations to the front of the main dwelling. Given the large size of the site, and the ability to park in a number of locations to the front of the main dwelling, I do not consider this to be a defining factor in this decision.

14. Although the Council argue that the appellant has not provide any justification as to why an extension at the property has not been explored, I would be prepared to apply the first criterion of LP Policy SP.13 with some flexibility. I also note that the appellant has directed me to two examples of annexes approved by the Council, which are not physically linked to the existing dwelling. For the reasons outlined above, I am therefore satisfied that the scheme meets the first criterion of Policy SP.13 of the LP. I am also satisfied that it meets criterion 2 as it is evident that the dwelling and annex share a vehicular and pedestrian access, and the annexe only has two bedrooms in line with policy requirements.
15. Consequently, the development is in accordance with Policy SP.13 of the LP which, amongst other matters, seeks to ensure that annexes do not result in the creation of a separate planning unit.
16. I note that in the Council's report they explain that as the scheme does not represent ancillary accommodation it would be tantamount to a new dwelling in the countryside and therefore contrary to Policies SP.2 and SP.11. Both these policies are referenced in the first refusal reason. However, as outlined above I do not consider the annexe to be a separate planning unit. As such, there is no conflict with Policies SP.2 and SP.11 of the LP in this regard.

Character and Appearance

17. As previously noted, the change of use of land to domestic garden has already occurred. The Council argue that insufficient evidence has been provided to show that the land has been used as part of the domestic curtilage for a continuous period of ten years. They go on to state that if the appellant believes this to be the case they should submit certificate of lawfulness application. However, within the context of this appeal it is not within my remit to formally determined whether the proposal requires planning permission. I have therefore assessed this element of the appeal with regards to whether the change of use of land is acceptable.
18. The appellant has explained how the appeal site was previously used as a part of a menage for equestrian purposes. They have included aerial imagery to confirm this, and the Council refer to the land as former agricultural land (before the change of use which did not benefit from planning permission). The Council argue that the change of use results in the domestication in the appearance of the site and negatively impacts the otherwise wider intrinsic rural character and surrounding landscape.
19. On my site visit it was evident that the western side of the appeal site has somewhat assimilated back into the open countryside. Grass has grown and there are some small trees and shrubbery. However, the eastern side of the site, where the annexe is located, has a domesticated and urbanised appearance due to the presence of gravel chippings, a large area of hardstanding on which the annexe sits, and the annexe itself. These features are associated with domesticated land and contrast to the surrounding rural character of agricultural land.

20. The appellant argues that the surrounding landscape consists of built form and is predominately residential in nature. They also argue that the proposal is not highly visible from outside of the site. Whilst I do accept that there are a number of other properties in close proximity to the site and that the site is not readily visible from the highway, this does not justify the further encroachment of residential land into the open countryside. Menages are generally associated with the countryside where horses, and associated structures such as menages and stables, are common and somewhat expected. A menage would have a distinctly different appearance to the hardstanding area and annexe which is currently on site. It is clear that the scheme results in the domestication of what was formerly agricultural land.
21. The appellant argues that the proposed garden area seeks to provide reasonable amenity to future occupiers of the property. However, the reason for a garden of this size to serve the annexe is unclear given the use of the annexe by the appellant's son. It would be reasonable to expect both the occupiers of the existing dwelling and the annexe to share the existing garden space. In any instance, it appeared on my site visit that the main garden was available for use by the occupants of both structures, so it is unclear why additional garden space is necessary.
22. For the reasons given above, I therefore conclude that the proposed development would have an unacceptably harmful impact on the character and appearance of the countryside. It is contrary to Policies SP.20, SP.22 and DM.24 of the LP. Collectively, amongst other matters, these policies seek to ensure that development integrates effectively with its surroundings and protects the unique character of landscapes.

Other Matters

23. The appellant argues that the scheme has no detrimental highway, ecology or drainage implications and that it does not impact neighbouring amenity. They also outline how it does not increase the overall occupancy levels of the dwelling and does not generate any increase in daily vehicle trips. They further state that the property is not listed, located within close proximity to any heritage asset, or located in an AONB or the Green Belt. These are however considered to be neutral factors and do not weigh in favour of nor against the appeal.
24. They further explain that biodiversity enhancements can be secured under the application and the scheme would include the use of a water butt to collect surface water run-off, for reuse in the garden area. However, these benefits do not outweigh the harm that I have found.
25. I acknowledge the appellant's queries over whether the Council have conducted a site visit. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Conclusion

26. Notwithstanding my findings with regard to whether the annexe can be considered ancillary to the main dwelling and compliance with the associated criteria of related policies, the harm that would be caused to the character and appearance of the countryside and the resulting conflict with the development plan is such that the

proposed scheme would not comply with the development plan considered as a whole. Therefore, the appeal should be dismissed.

S Burch

INSPECTOR