



Appeal Decision

Site visit made on 26 February 2025

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2025

Appeal Ref: APP/Y1110/W/24/3355233

170 Pennsylvania Road, Exeter EX4 6DX

- 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 Tim Davies of Compass Property Development against the decision of Exeter City Council.
 - The application Ref is 24/0359/FUL.
 - The development proposed is the use of an outbuilding as an annex for an existing small HMO (Use Class C4).
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Decision

1. The appeal is allowed and planning permission is granted for the use of an outbuilding as an annex for an existing small HMO at 170 Pennsylvania Road, Exeter EX4 6DX in accordance with the terms of the application, Ref 24/0359/FUL, and the plans submitted with it, 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 drawing nos: 2324.030.DAVIES.01SV and 2324.030.DAVIES.01SK.B
 - 3) Prior to the occupation of the annex, secure covered cycle parking facilities for residents will have been provided in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the said cycle parking facilities shall be retained for that purpose at all times.

Applications for costs

2. An application for costs was made by Mr Tim Davies of Compass Property Development against Exeter City Council. This is the subject of a separate decision.

Preliminary Matters

3. The description of development was changed from the application form which originally read as 'Use of outbuilding as accommodation for existing small HMO (Use Class C4)'. The appellant used the wording in the banner heading above on the appeal form although they ticked the box to say that the wording had not changed. The description used on the decision notice and appeal form accurately describe the development and the appellant has not objected to this wording so I have proceeded on this basis.

Background and Main Issues

4. The main house on the appeal site is an existing House in Multiple Occupation (HMO) falling under Use Class C4 as it is used by between 3 and 6 occupants. The outbuilding to which the appeal relates is used by the current occupants of the house.
5. The main issues are:
 - Whether the proposed use would be ancillary to the use of the house which is an HMO
 - The effect of the development on the character and appearance of the area
 - The effect of the development on the living conditions of neighbouring properties with particular regard to noise and disturbance.

Reasons

Ancillary to the main dwelling or a separate planning unit

6. The application sought permission for the use of the building as an annex to the existing HMO not for a separate dwelling, and I have considered the appeal on this basis. Planning permission would be required to change the use of the building to a separate dwelling.
7. The building is within the rear garden and would share the access to the property, being either accessed through the main house or via a side access. There are around 17 metres between the building and the house with no significant boundary treatments separating the two. Due to the large windows and doors on each building there is intervisibility between them. Given the arrangement I do not find that the outbuilding is separate from the main dwelling and they are currently being used in conjunction with one another.
8. The proposed change of use would provide the future occupier with a bedroom, kitchen and bathroom. Whilst it is accepted that this would be similar in size to a one-bedroom flat this does not in itself mean that it would be a separate dwelling. The occupier of the building would share facilities with the main house, including use of the communal spaces, the access and the garden.
9. The appellant has confirmed that the whole property would be let out as a single tenancy which would include the annex. The future occupiers could use the outbuilding as they wished and it would not be a separate tenancy. This gives further weight to the connection between the two buildings. Whilst a future occupier may choose not to regularly use the main house this would not result in the building operating as a separate dwelling.
10. I am satisfied that the building could be used as an annex and that there would be functional links with the main house. It can therefore be accepted as ancillary to the HMO.

Living Conditions

11. The existing dwelling is a reasonable size with a spacious garden. There is a patio and lawn in between the house and outbuilding. The garden is already in use by the occupants of the main house.

12. There are existing facilities in the outbuilding including a washing machine. At the time of the site visit the building was in use for utility purposes and storage along with exercise equipment and desks available to use. With the current arrangement the occupants of the house are using both the outbuilding and the garden and there would be noise associated with their activities.
13. The proposal would result in an individual having a bedroom in the outbuilding. There would likely be some increased movement between the main house and the annex as well as the occupant accessing and egressing the annex and the site as they go about their day. However, the noise and disturbance generated by the movement of a single individual in the context of the existing use and activity levels would not result in significant harm over and above the existing situation.
14. The annex maybe closer to other dwellings than the main house, however, this does not alter the effects in terms of the existing noise and disturbance situation or if the proposed use is carried out.
15. Furthermore, given that an additional individual could reside in the main house without the need for further permission as part of the existing HMO the level of noise and activity could increase to some extent in any regard.
16. I do not find that the occupation of the building in the garden as an annex would affect the neighbouring occupiers in such a way that they would not feel at ease within their homes and gardens and as such the proposals complies with Policies DG4 and H5 which seek amongst other things to protect the living conditions of neighbouring occupiers.

Character and appearance

17. The proposal relates to an existing building and there are no external physical alterations proposed. Any noticeable changes to the appearance of the building or the wider area would be minimal. In its reasoning the Council has cited alterations to the property, loss of green space, increased parking, bins and noise. As the building is already in place there would be no loss of green space. An additional occupant could give rise to the need for additional bin space or increased parking demand. However, given that the house could be occupied by the same number of people without further permission I do not find that there would be harm to the character of the area in this regard.
18. Given the arrangement of the outbuilding and the house, the outbuilding would not be viewed as a separate dwelling and would not appear as backland development.
19. Matters of noise and disturbance have been discussed above. As I do not find that there would be any adverse effect in this regard, it would not result in a harmful impact on the area's character.
20. The site has been identified as being close to a conservation area (CA). As it is outside of a CA, I have no statutory duty to consider whether its character or appearance would be affected. However, I find the proposals have an acceptable effect on character and appearance in any case, and it follows that the impact on the CA is therefore neutral.
21. Overall, in terms of character and appearance the changes would be minimal. I therefore find no conflict with Policies DG1, DG4 and H5 of the Exeter Local Plan First Review in so far as they relate to scale, layout and design. The proposals

would also comply with Policy CP17 of the Exeter Development Framework Core Strategy which requires, amongst other things, development to enhance character and local identity.

Other Matters

22. The property is an existing HMO and therefore any issues in respect of noise and disturbance (notwithstanding the comments above) or antisocial behaviour, if it exists, would not be altered by this proposal. Whilst there may be other HMOs in the area the property is already in use as an HMO so the proposed change of use does not increase the intensity of this type of use.
23. In respect of parking, the proposal would increase the number of occupants by one person. This could also be achieved if the house changed from a 5-person to a 6-person HMO which would not require any additional permission. There are four parking spaces on site and the appellant states there are two residents permits available. Cycle parking is also proposed and as a result I do not find the proposal would cause any additional parking pressures leading to any highway safety concerns. Even if one of the parking spaces is taken up by bins this does not result in a significant shortfall.
24. Refuse and recycling is already stored at the front of the property in large bins. The addition of one person would not change this arrangement and even if it did an additional person could occupy the dwelling without the need for further permission.
25. The Council has not raised any concerns with regards to the living space available for the occupiers of the HMO and I have no reason to consider that it is unsuitable.
26. The proposals do not involve any additional windows to the building or alter the use of the garden, save for a potential additional occupant. There is an existing side access which can be used by the existing occupants and may be used by the occupier of the annex. As a result, I do not find that the change of use of the garden building to an annex would result in any loss of privacy for neighbouring occupiers.
27. This appeal has been assessed on the facts particular to this case and would not set a precedent for any future development.
28. In terms of any changes in respect of the Article 4 in the area I have not been provided with any details of these changes. The Council has not objected to the scheme on this basis and I find no reason to reach a different conclusion.
29. The granting of other permissions to the same appellant does not have a bearing on this case as it needs to be considered in its own right in response to the relevant local plan policies.
30. I have not been provided with any details of need for the additional accommodation and I appreciate that affordable housing may be needed in the area. However, there is no policy requirement to demonstrate need in this case or for the provision of affordable housing.

Conditions

31. The Council has provided a list of suggested conditions that it considers would be appropriate. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance and have amended the wording of some without

altering their fundamental aims and added some where relevant. I sought the views of the parties on the conditions.

32. Whilst they have not been suggested by the Council I have included the standard time limit as condition 1 and the approved plans as condition 2 in the interests of certainty.
33. The Council has suggested conditions restricting the use and in terms of the tenancy agreement. I do not find either of these to be necessary as the appeal is allowed on the basis that the building operates as an annex. Use as a separate dwelling would require further permission so these conditions are not required.
34. A condition to secure the cycle parking is proposed before the annex is occupied and this is reasonable to ensure that sustainable transport options are available.

Conclusion

35. For the reasons given above the appeal should be allowed.

H Faulkner

INSPECTOR