



Appeal Decision

Site visit made on 28 April 2025

by **S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2025

Appeal Ref: APP/Y9507/D/24/3355799

Millbrook, Horn Lane, Woodmancote, Henfield BN5 9SA

- 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 P McNie against the decision of South Downs National Park Authority.
 - The application Ref is SDNP/24/00366/HOUS.
 - The development proposed is erection of ancillary annexe for purposes incidental to the use and enjoyment of an existing dwelling (Retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The annexe is already in place and occupied. I have determined the appeal having regard to the submitted plans and what I saw on site.
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I am satisfied that none of the changes was material to the assessment of the proposal and have determined the appeal accordingly.

Main Issue

4. The main issue is whether the building provides accommodation that could effectively operate as a separate, self-contained and independent dwelling.

Reasons

5. Millbrook is a chalet bungalow set in a generously proportioned plot. It is in the countryside, outside any defined settlement. The dwelling shares an access with the adjacent small industrial units to the west of its domestic boundaries. Immediately to the south-west of the bungalow there is an existing single-storey ancillary building. To the north-east is another ancillary building sited along the site's eastern boundary in front of which is an area of hardstanding. There was no information about its use. The appeal relates to a third ancillary building which has been erected to the south of the second one. It is sited close to the eastern boundary but has been separated from the remainder of the site through the erection of fences. The building, which has its own name plate 'The Studio', is approached along a narrow footway between fences which are approximately 1.8m high. A separate garden has been established which includes a strip of planting, a patio with space for a table and chairs and an area with some children's play equipment. This space is completely enclosed and is divorced from the lawn to the rear of the main dwelling by a substantial close-boarded fence. There is therefore no inter-visibility between the garden areas.

6. The main dwelling and two of the ancillary buildings are currently occupied by members of the same family. The annexe to the south-west of the main dwelling is occupied by the appellant's mother. The appellant states that his stepdaughter resides in the annexe with her children. This arrangement permits the various generations of the family to have privacy, offering support and care when it is needed, whilst also enabling them to live independently to a considerable degree. The appeal building includes a kitchen/dining/living room, a bathroom and two other rooms. Given the appellant's statement it is reasonable to assume that the room marked on the submitted plans as a study is being used as his stepdaughter's bedroom. The bedroom looking out onto the garden contains two beds and therefore appears to be used by two children.
7. I am mindful that the judge in the *Uttlesford DC v SSE & White [1992]* case considered that even if accommodation provided facilities for independent day to day living, it would not necessarily become a separate planning unit. That would be a matter of fact and degree.
8. In this case the access and driveway would be shared, but the access and part of the area in the front of Millbrook and its ancillary buildings is already shared with users and occupiers of the industrial estate to the west. The postcode is not only shared between the buildings on this site but also other properties elsewhere on Horn Lane. Consequently, neither of these matters demonstrates any form of functional dependency between the occupants of the appeal and host buildings.
9. The plot has been divided up into three distinct areas with fences providing clear demarcations between the areas used by those occupying the main dwelling and those used by members of the family in the two ancillary buildings. There are gates leading between these various areas allowing the family to move between them. However, it seemed to me that whilst there might be occasional shared use of the individual small gardens, the layout gives an overriding impression that there are three units of accommodation which are separately occupied. The fence separating the host property from the existing annexe occupied by the appellant's mother is open and low. However, the fence between the host property and the appeal building is much taller and has a solid appearance. The gates and connections between these areas could easily be removed reinforcing the sense of separation between them. I am told that the utilities, water, electricity, the septic tank and the refuse and recycling bins are shared. However, whilst this may be so in respect of refuse and recycling services, there was no evidence to confirm that all other costs are solely borne by the host property.
10. The principle functional connection between the buildings therefore relates to the need for the appellant's mother to receive support and care from the appellant's stepdaughter. However, there was no substantive evidence to indicate the level of care that she requires, or why that justified the erection of a building which contains all the facilities necessary to enable it to be independently occupied. I appreciate the appellant's desire to remain on the site in a multi-generational arrangement with his mother, stepdaughter and grandchildren. However, these personal circumstances of the family are likely to be short term compared with the permanent provision of an annexe which is large enough to function as an independent home for a small family, and which could remain on site in perpetuity. A change in the family's relationships and domestic arrangements could therefore result in the building being occupied by others on an entirely independent basis.

11. Given this probability, a condition limiting occupation to members of the family would not be enforceable. The appellant states that the annexe cannot and will not be sold separately and suggests that this could be controlled by a standard planning condition. However, such a condition would not meet the tests set out in paragraph 57 of the National Planning Policy Framework; restrictions of this kind would require a planning obligation.
12. It is put to me that the new annexe replaced a previous building on the site. However, other than the footprint shown on the location and block plans, no substantive evidence of this structure or how it was used was presented with the appeal. Its previous existence is therefore not a justification for finding the current scheme acceptable.
13. I have been referred to the case of Mudhall Cottage in West Berkshire where an Inspector allowed the conversion of a garage to an annexe. In doing so, he took various site-specific factors into consideration in reaching his decision. Whilst that proposal shares some characteristics with this appeal there are others that appear significantly different. Whilst he was satisfied that the proposal before him would be functionally linked and incidental to the main dwelling, that was not the case here. That proposal is, therefore, not directly comparable with this scheme which I have determined on its individual merits.
14. Taking all the above matters of fact and degree into consideration, I find that the appeal building cannot legitimately be considered as an annexe. Consequently, I conclude that the building effectively provides accommodation that can operate as a separate, self-contained and independent dwelling. It is therefore in conflict with Policy SD31 of the South Downs Local Plan 2019 (Local Plan) which only permits annexes that can demonstrate functional and physical dependency on the host dwelling. It is also contrary to Policy SD25 of the Local Plan which only permits development outside settlement boundaries where there is an essential need for a countryside location. No exceptional circumstances have been provided to justify a residential development on this site.

Other Matter

15. The Council raised significant concerns about the use of the building as a 2-bedroom dwelling in relation to water neutrality. Increased occupancy and water consumption could adversely affect the integrity of Habitats Sites, contrary to the obligations set out in the Conservation of Habitats and Species Regulations. However, it has not been necessary for me to address this matter as I am dismissing the appeal for other reasons.

Conclusion

16. The scheme conflicts with the development plan and there are no other considerations, including the personal circumstances of the appellant's family, which indicate that a decision should be taken other than in accordance with the development plan. For this reason I conclude that the appeal should be dismissed.

S M Holden

INSPECTOR