



Appeal Decision

Site visit made on 14 April 2025

by A Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th May 2025

Appeal Ref: APP/D2510/W/25/3359163

73 Tetney Lane, Holton le Clay, Grimsby, North East Lincolnshire DN36 5AU

- 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 and Mrs S Woods against East Lindsey District Council.
 - The application Ref is N/085/01066/24.
 - The development proposed is to erect detached building to be used as a 'granny' annexe for ancillary use to the main dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached granny annexe to be used as ancillary accommodation to the existing dwelling at 73 Tetney Lane, Holton le Clay, Grimsby, North East Lincolnshire DN36 5AU in accordance with the terms of the application Ref N/085/01066/24 and subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of the development in the banner heading is taken from the application form. However, the Council changed the description for the purposes of notification to "erection of a detached granny annexe to be used as ancillary accommodation to the existing dwelling". From the information before me, the appellant had no objection to this change, and I have therefore used it in my formal decision.
3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused planning permission. I have had regard to this information in framing the main issue.

Main Issue

4. The main issue is whether the proposed development would constitute a separate dwelling and, if so, whether the site is a suitable location with regard to local development plan policies.

Reasons

Separate dwelling

5. The appeal site is the garden of a detached single storey dwelling that sits within a row of predominantly two storey dwellings in a residential area on the edge of Holton le Clay. The garden is accessed either through the dwelling or through a covered gap between the dwelling and garage and it is bound by timber fencing and hedgerow. Gardens of neighbouring residential properties border each side boundary, and open countryside lies to the rear.
6. The proposed building would have all the facilities to operate as a separate dwelling, including a porch, open plan kitchen/living area, bathroom and two bedrooms. From the plans and my own observations, it would also be a similar height and footprint to the main dwelling. However, its stated use is for purposes ancillary to that of the main dwelling for use by elderly family members and, despite its size, it does not necessarily follow that it would not or could not be occupied for purposes ancillary to the host property. The Council considered the proposal on the basis of a householder application. In the absence of any reason to believe that the intended use is not genuine, the application should be considered on its face.
7. In the court judgement of *Uttlesford District Council v Secretary of State for the Environment and White* [1992] it was found that, even if accommodation provides facilities for independent day-to-day living, it will not necessarily become a separate planning unit from the main dwelling, or an independent dwelling and that would be a matter for the decision maker to decide on a factual basis.
8. The proposed building would be within the same curtilage as the main dwelling. The existing garden is relatively long, and the proposed building would be located in the central part of the garden, leaving a separate garden area between the building and the rear boundary. Nevertheless, it would be within the clearly vegetated and fenced garden boundary that is intimately associated with the host dwelling. Furthermore, windows within the main dwelling and the proposed building would directly face each other with no intervening boundary. A garden path would connect the two buildings.
9. Given the rear garden is bound by fencing and can only be accessed through the existing house or narrow gap between it and the garage, occupants of the ancillary building would share the same access and parking area at the front of the main dwelling. The Council agree that appropriate independent servicing of a separate dwelling could not be achieved without the demolition of existing garage.
10. While the garage could be demolished in future to allow for an access to the proposed building, it would mean there would be a vehicular access directly adjacent to the main entrance to the existing dwelling, which is on the side elevation of the property. The evidence indicates this option would not be pursued by the appellants. Therefore, it is neither a feasible nor a realistic prospect for the curtilage to be subdivided into separate plots.
11. I note the scale of the building, in particular that there would be two bedrooms. However, the appellants claim the proposed building would be occupied by two elderly family residents who are in increasing need of care which occupants of the main dwelling intend to provide. It is unclear from the information before me

whether occupants of the proposal would share the same utilities and services as the occupants of the main dwelling. Nevertheless, regardless of the occupants, I find there are a number of factors demonstrating the building would be functionally linked to the main dwelling.

12. I have taken into account the Council's concerns regarding the separation distance between the main dwelling and the proposed building. I observed at my site visit that there would be good, level access between the existing dwelling and the building. Whilst the separation distance is relatively lengthy, there is no objective evidence demonstrating that it would be an inappropriate distance preventing an occupant from engaging with the main dwelling. Neither do I consider that it is any impediment to the building being used as ancillary accommodation or that this distance would be tantamount to it being used as a separate dwelling.
13. Overall, notwithstanding the facilities for independent day to day living, there are a number of factors, in particular access, that confirm to me, when all of the matters of fact and degree are considered, that the proposal should legitimately be considered an annexe.
14. The planning application was submitted on the basis of it being an ancillary addition to the main dwelling. Even if the development could be used as a separate dwelling, there is no separate dwelling before me. In any case, if the proposed building is not built or used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required.
15. Taking the above factors into account, I conclude that the proposed ancillary annex building would not constitute a separate dwelling. Consequently, it is not necessary to consider whether the appeal site represents a suitable location for a new dwelling. Indeed, as set out above, any proposal for a change of use to enable the annexe to be used as an independent dwelling would require separate approval. To provide additional certainty, a condition could be imposed to ensure that the proposed building would be solely used for purposes ancillary to 73 Tetney Lane.
16. For the above reasons the development would not conflict with Policies SP1, SP2 or SP10 of the East Lindsey Local Plan Core Strategy, July 2018 (CS) which, together, amongst other things guide the sustainable distribution, scale, design and nature of development in the district. As Policy SP3 of the CS relates to new housing, it is not relevant to the development before me for an ancillary annexe.

Other Matters

17. The Council claim they are not able to demonstrate a 5-year supply of deliverable sites. However, as I am allowing the appeal, any further consideration of this issue is unnecessary.
18. I am advised that the proposed annex would be used for elderly family members who would share the protected characteristic of age for the purposes of the Public Sector Equality Duty under s149 of the Equality Act 2010. Since I have decided to allow the appeal and grant full planning permission for the proposed development, there will be no interference with this duty.

Conditions

19. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 56 of the National Planning Policy Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Planning Practice Guidance (PPG). As a result, I have made some amendments to the wording for clarity and removed one for the reason set out below.
20. A condition is necessary, in the interests of clarity and enforceability, setting out the approved plans. To protect the character and appearance of the area, a condition specifying details of external materials is necessary.
21. To ensure adequate surface water drainage at the site and prevent flood risk to land or property nearby, the Council's suggested condition detailing soakaway requirements is reasonable and necessary; and in the event that this means of disposal would not be appropriate, a means of securing an alternative surface water drainage scheme is necessary. However, a condition limiting future occupant's water consumption is not necessary as the building would not be a separate new dwelling.
22. As the planning system exists in the interests of land use and the PPG states that it is rarely appropriate to use conditions to limit the benefit of planning permission to a particular person, I have imposed the Council's suggested condition to ensure that the use of the annexe remains ancillary to the main dwelling. Notwithstanding the fact that the sub-division of the planning unit and use of the annexe as a separate dwelling would constitute a material change of use requiring planning permission, I consider the condition to be reasonable and necessary to provide clarity about the development applied for and to ensure compliance with Policy SP10 of the CS concerning highway matters.

Conclusion

23. For the reasons given above and having had regard to all other matters raised, the appeal is allowed and the planning permission sought is granted, subject to the conditions in the attached schedule.

A Veevers

INSPECTOR

Schedule of Planning 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 the following approved plans, and any plans approved subsequently in writing by the local planning authority pursuant to any conditions in this decision:
Drawing No: 3807.02 (site location plan)
Drawing No: 3807.03A (existing and proposed block plan)
Drawing No: 3807.04 (proposed plans and elevations)
Drawing No: 3807.05 (proposed section)
- 3) The external materials to be used in the construction of the building and hard surfaces shall be as specified in the application form.
- 4) Notwithstanding the details shown on the approved plans, all surface water run-off from the development hereby permitted shall be collected and discharged through a soakaway scheme, the design of which shall be based on the procedures described in Part H of the Building Regulations (relating to soakaway design for soakaways serving under 25 square metres) and BRE Digest 365 or Bs EN 752-4 relating to soakaway design. If it is found that the use of a soakaway is not suitable in this location, details of the alternative proposed scheme for discharge of surface water shall be submitted to and approved in writing by the local planning authority prior to any development taking place. The agreed scheme shall be implemented prior to occupation of the development hereby permitted and maintained as such thereafter.
- 5) The building hereby permitted shall not be occupied independently, sold or let separately, and shall be occupied only by members of the family of the occupier of the host dwelling at 73 Tetney Lane.

END