



Appeal Decision

Site visit made on 29 May 2025

by **Eleni Marshall BSc (hons) MSc FRICS FAAV MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 June 2025

Appeal Ref: APP/D0121/D/25/3363435

8 Court Lane, Clevedon, North Somerset, BS21 6TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Russell and Bobbie Smith against the decision of North Somerset Council.
- The application reference is 24/P/2355/FUH.
- The development proposed is double garage extension/conversion to form habitable annexe.

Decision

1. The appeal is allowed, and planning permission is granted for double garage extension/conversion to form habitable annexe at 8 Court Lane, Clevedon, North Somerset, BS21 6TE in accordance with application ref: 24/P/2355/FUH and the plans submitted with it subject to the following conditions:
 - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: JLS-2 (Rev B) Proposed Block and Location Plan, JLS-6 (Rev B) Proposed Elevations, JLS-7 (Rev C) Proposed Floor Plan, JLS-8 (Rev B) Proposed Cross Section A-A and JLS-9 Existing and Proposed Surface Areas;
 - 3) The external materials used within the development hereby permitted shall match those of the existing building or be as stated within the submitted application forms and approved plans. The materials will be maintained for the lifetime of the development and any changes shall be submitted to, and approved in writing by, the Local Planning Authority;
 - 4) The annexe hereby permitted shall not be used as a separate dwelling and shall be used solely by the occupants of the existing dwelling in connection with their enjoyment of that residence;
 - 5) The development hereby permitted shall only be carried out in accordance with the approved Surface Water Drainage Strategy detailed within the Flood Risk Assessment dated 30/10/2024.

Procedural Matters

2. Whilst the list of plans/documents provided does not list the Flood Risk Assessment (FRA) which was submitted as part of the application process I find that it is evident that this document was in fact taken into account as part of the determination of the proposal. The Council's delegated report makes specific reference to a provided

FRA and the document is also stated as the basis for a condition recommended by the Internal Drainage Board as a consultee during the consultation process. I have, therefore, had regard for this document as appropriate.

Main Issues

3. The main issues are the impact of the proposal upon i) flood risk, ii) whether the proposal would demonstrate an ancillary use to the host dwelling (locational strategy), iii) protected species and iv) trees.

Reasons

4. The appeal site is a residential dwelling which stands outside of a settlement boundary with the proposal before me seeking planning permission for the creation of annexe accommodation as a result of conversion and extension of an existing garage building within the appeal site.

Flood risk

5. The appeal site is noted to stand within Flood Zone 3. The National Planning Policy Framework 2024 (the Framework) notes such uses as more vulnerable in terms of flood risk vulnerability classification. The Council highlights the Environment Agency consultee response on the basis that the proposal does not comply with the requirements for site-specific Flood Risk Assessments as set out in paragraphs 20 and 21 of the Flood Risk and Coastal Change Planning Practice Guidance (PPG) and its site-specific Flood Risk Assessment Checklist.
6. The PPG sets out that minor development, in relation to flood risk means householder development; for example, outbuildings within the curtilage of the existing dwelling, in addition to physical extensions to the existing dwelling itself. It is noted that the definition excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling or any other development with a purpose not incidental to the enjoyment of the dwelling. The proposal that is before me is for the creation of annexe accommodation and is not, therefore, the creation of a separate dwelling within the curtilage of the existing dwelling. I find, therefore, that the proposal stands within the definition of minor development with regard to flood risk as set out within the PPG.
7. The PPG goes on to outline that minor developments are unlikely to raise significant flood risk issues and whilst applications for minor development, including extensions or additions, should still meet the requirements to provide a site-specific Flood Risk Assessment a pragmatic approach should be taken to the scope and level of detail of the assessment. The PPG confirms that, as a minimum, the assessment needs to show that the development will be safe for its users for the intended lifetime of the development without increasing flood risk elsewhere and be sufficiently flood resistant and resilient to the nature of the flood risk.
8. The proposal has been designed to incorporate a flood refuge area within the roof space with a fixed staircase leading to it. Whilst I acknowledge the Environment Agency's lack of support for bedrooms at ground floor level in areas of flood risk the application is supported by a FRA that concludes that the ground floor of the proposal would experience a 0.94 metre flood depth in the 1 in 200-year undefended scenario. The flood depth assessment showed, in a defended event, with allowance for climate change, that the entire site would be above the projected

flood level. The FRA has, therefore, considered both defended and undefended scenarios for the proposal. The appellant has also submitted a copy of appeal decision¹ with the Inspector, within that appeal, finding that it would be reasonable to take the defended scenario as the design event for the purposes of the FRA as a result of there being no prospect of the existing defences being removed. Whilst each case should be considered on its own merits, I have no reason to deviate from this approach, in terms of consistency, which was taken within a recent decision (March 2025) following a public enquiry, for a development significantly larger than this proposal.

9. This, combined with the fact that the site would be at negligible risk from a tidal flood event, and taking into account the time it would likely take the flood water to reach the appeal site in such an event, and with warning systems available, would mean that there would be sufficient time for occupants of the proposal, and the host dwelling, to seek refuge or evacuate the site to an area unaffected by flooding. Overall, I am satisfied that appropriate mitigations would be implemented as a result of the proposal and that the proposal can be demonstrated to be safe for its users for the intended lifetime of the development. There is no evidence, subject to condition re: surface water, that the proposal would increase flood risk elsewhere as minor development and I find that the proposal would be sufficiently flood resistant and resilient as are the objectives set out and confirmed within the PPG.
10. The proposal would be consistent with North Somerset Core Strategy 2017 (CS) Policy CS3 which permits development where the potential adverse effects would be mitigated to an acceptable level and Development Management Policies Sites and Policies Plan Part 1 2016 (PP1) Policy DM1 which requires all development to consider its vulnerability to flooding taking into account all sources of flood risk.
11. The proposal would also be consistent with the objectives of paragraph 170 of the Framework which seeks to avoid inappropriate development in areas at risk of flooding as well as paragraph 181 which requires that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site specific FRA and that development should only be allowed in areas at risk of flooding where it can be demonstrated that the development is appropriately flood resistant and resilient, any residual risk can be safely managed and safe access and escape routes are included.

Locational Strategy

12. PP1 Policy DM34 (Residential Annexes) confirms that outside settlement boundaries annexes will only be permitted where they are clearly a physical extension to the main dwelling, do not exceed 50% of the floor area of the existing dwelling and can be incorporated into the main dwelling once there is no longer a need for the annexe. Proposals which are not designed as an integral part of the house will not be permitted. The justification for this policy confirms that the objective is to prevent pressure in the future to permit the annexe to be sold or let as an independent unit and, for this reason, there is a requirement with the Local Plan for annexes in countryside areas to be in the form of physical extensions to the main building. The Council's second refusal reason is therefore based upon the fact there would be no physical connection between the proposed annexe and the host dwelling.

¹ APP/D0121/W/24/3343144 (Yatton, North Somerset)

13. The proposed annexe would be below 50% of the floor area of the host dwelling (consistent with PP1 Policy DM34) and I note that no concern or objection is raised with regard to the level of accommodation or type of accommodation shown on the proposed floor plan which demonstrate a two-bedroom annexe. I note, from the plans before me and my site visit, that the annexe would be in the region of 14 metres from the host dwelling, but I find that the extension/conversion of an existing outbuilding does present as a logical and appropriate solution for additional accommodation to be utilised by the appellant's family on this site.
14. I acknowledge the Council's concern in respect of the proposal not being fully in compliance with PP1 Policy DM43 but the CS does provide for reuse and adaptation of buildings and in this case the proposed development would be located immediately across a short courtyard from, and would share services, an address, gardens, parking and access with the host dwelling. I found that, as part of my site visit, that the proposal would appear very much as part of the same complex as the host dwelling with its single gated access leading to a central area around which the host dwelling and the annexe would be situated effectively facing each other in close proximity (certainly closer than expected separation had the proposal been for an unconnected new dwelling for example).
15. Whilst I appreciate that the annexe would not be physically attached to the host dwelling, I find that it is, in this case, within close enough proximity to be reasonably considered to be incidental and associated accommodation occupied as part of the planning unit. Any requirement or request in the future to permit the annexe to be sold or let as an independent unit should be considered on its own merits at the point any application of that nature was made. For now, however, the proposal should be considered on the basis upon which it is submitted. I find that a condition on restriction as to occupation of the annexe, ancillary to the host dwelling, would be sufficient to allow the Council to maintain control over the future of the site and be consistent with the established locational strategy for residential development.
16. The proposal would be sufficiently identifiable, and controllable, as an integral part of the host dwelling and overall planning unit even without a physical connection and I am satisfied in this case that the proposal is consistent with the overarching objectives of PP1 Policy DM43 which seeks to support residential annexes where appropriate and that the proposal would be consistent with CS Policies, CS1, CS14 and CS33 respectively, as well as the provisions within the Framework, which combined (and amongst other things) seek to provide for sustainable development addressing climate change and carbon reduction, controlling the distribution of new housing as well as protecting the character of the rural area and preventing unsustainable development.

Protected species

17. The proposal is accompanied by a Preliminary Ecology and Bat Roost Assessment (the ecological survey). The stands within the Consultation Zone C of the North Somerset and Mendip Bats Special Area of Conservation (SAC). The ecological survey sets out that all structures and large trees (where present) were identified and observed in detail for their suitability for a bat roost or bird nesting sites. The building (domestic garage) was observed in detail, internally and externally, and any evidence of bat habitation or presence noted using non-obtrusive measures. Based upon the stated methodology, within the submitted ecological survey, I have no reason to consider that the report does not specifically or explicitly consider the

potential of the garage to support roosting horseshoe bats nor that the trees on site were not taken into account in terms of their potential for roosting bats.

18. Whilst I note the trees are not shown on the habitats map (figure 3.2) and that this would perhaps, have been preferable for the avoidance of doubt, the description of the development site within the report does acknowledge that the site is a domestic garden with occasional trees and shrubs. The plans, for the proposal, were also clearly included within the report as the basis of assessment. The ecological report, within 3.2.2, clearly discusses building suitability and evidence of habitation and concludes that the building has a low risk of suitability for a bat roost and makes clear recommendations as to timings of works to further reduce the risk which, as outlined, was considered to be low suitability for a bat roost.
19. The North Somerset and Mendip Bat SAC Supplementary Planning Document is noted, within Zone C to require survey efforts to depend on whether a commuting structure is present and the suitability of the adjacent habitat to support prey hunted by horseshoe bats. This is a direct contrast to, for example, Zone A and B which are stated, within the SPD, to likely require full-season surveys. Based upon the evidence before me I am satisfied that the ecology survey was sufficiently and appropriately prepared. It concludes that the proposal would have low risk of suitability to be used by protected species as a bat roost. I do not find, therefore, that there is reasonable evidence to base a refusal reason upon the proposal resulting in harm to protected species or their habitats nor require further survey efforts based upon the evidence before me within a Zone C area.
20. The proposal would be consistent with CS Policy CS4 which seeks to maintain and enhance the biodiversity of North Somerset and seeks to ensure that new development is designed to safeguard and enhance natural habitats. The proposal would also be consistent with PP1 Policy DM8 which requires development proposals to take account of their impact on local biodiversity and identify appropriate mitigations to safeguard or enhance attributes of ecological importance. The proposal is also consistent with North Somerset Council Biodiversity Supplementary Planning Document 2024 in terms of its overarching objectives, and I have no evidence that the proposal would contravene any relevant wildlife or habitat regulations as set out within the third refusal reason.

Trees

21. There are trees at the appeal site as shown within the submitted plans as well as seen at the time of my site visit. I note that the Council state that the proposal has been amended, from the previous planning application (24/P/1231/FUH) which was refused, in order to provide more hardstanding which is now stated to fall within the Root Protection Areas (RPA) of trees. The extension to the gravel driveway, towards the Weeping Willow, is stated by the appellant to have been proposed in order to overcome a previous refusal reason in relation to parking provision. A refusal reason relating to trees was not included on the previous refusal (copy provided by the appellant) and no further changes, between the two proposals, are noted by the Council other than the comparatively extended hardstanding.
22. Regardless of whether the trees are considered to be of high amenity value or not based upon the plans before me the proposed parking provision would be outside of the RPA of the Weeping Willow albeit I acknowledge that the gravel would be within the RPA denoted on the proposed plans. I note the consultee comments

questioning whether the RPAs have been correctly plotted, however, in relation to the hardstanding the Town and Country Planning (General Permitted Development)(England) Order 2015 Schedule 2, Part 1, Class F (hard surfaces incidental to the enjoyment of a dwellinghouse) is a material consideration with the ability to lay hardstanding noted within the appellant's statement.

23. Class F permits provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such and whilst I acknowledge that there are conditions to development permitted by Class F the appellant would have a genuine alternative, beyond the scope of the Council, for laying of further hardstanding on site, to which I attribute strong weight. Furthermore, I understand that the trees in question are not protected could in any case be felled without prior notification.
24. I do not, in any way, downplay the importance of trees and the consideration as to impacts upon them within developments, however, pragmatically and based upon a combination of these factors, the characteristics of the site and location of the hardstanding/gravel as outlined I do not find that the fourth refusal reason can be reasonably upheld. I do not find that the proposal is likely to result in the loss of trees within the site to the detriment of the character and biodiversity of the area.
25. The proposal would be consistent with CS Policy CS4 and Policy CS9 which seek to maintain and enhance the biodiversity of North Somerset, encourages retention of trees as well as safeguarding green infrastructure. The proposal would also be consistent with PP1 Policy DM9 which seeks to ensure that the retention, protection and enhancement of tree canopy cover has been considered throughout the design and development process and achieve high quality design by demonstrating long-term retention of appropriate trees is realistic and PP1 Policy DM32 which seeks to ensure high quality design which are sensitive to local character, and the setting and enhance the area taking into consideration the existing context.
26. The proposal would also be consistent with the guidance set out within the Residential Design Guide Supplementary Planning Document 2014 and the Biodiversity Supplementary Planning Document 2024 which both seek to ensure that trees that make a positive contribution to the character of an area are retained and that no significant existing trees be harmed.

Conditions

27. The Council's questionnaire suggests four conditions in the event this appeal is allowed which I have applied as appropriate. A time condition is attached to comply with Section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent, and a materials condition is required to ensure an appropriate finish in accordance with the details submitted and in order to match those used within the existing building or as set out within the application form.
28. A condition is required to control the use of the building to that of an annexe solely in conjunction with the residential use of the host dwelling to prevent the creation of a separate residential dwelling without further, and appropriate, consideration of relevant matters given that the appeal has been assessed, and allowed, on the basis of annex accommodation being ancillary to the occupation of the host dwelling itself.

29. Whilst not included within the Council's questionnaire I note, from the delegated report and consultation responses, that the internal drainage board have suggested a condition to secure details of surface water drainage in order to minimise flooding. Given that the site is, as noted throughout this decision letter, located within a Flood Risk Zone a condition requiring compliance with the approved Surface Water Drainage Strategy detailed within the Flood Risk Assessment is required in the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding.

Conclusion

30. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Marshall

INSPECTOR