



Appeal Decision

Site visit made on 10 January 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2024

Appeal Ref: APP/K2230/W/23/3319422

83a Chalk Road, Gravesend, Kent DA12 4UT

- 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 Miss Sheila Sekasi against the decision of Gravesend Borough Council.
 - The application Ref 20221190, dated 6 November 2022, was refused by notice dated 6 January 2023.
 - The development proposed is the erection of an annexe for use in connection with the main dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an annexe for use in connection with the main dwelling at 83a Chalk Road, Gravesend, Kent DA12 4UT in accordance with the terms of the application, Ref 20221190, dated 6 November 2022, subject to the conditions in the schedule below.

Main Issues

2. The main issues are a) whether or not the proposed annexe would be ancillary to the main dwelling or a separate independent dwelling unit; and b) the effect of the proposed development on the living conditions of future occupants, with particular regard to outlook.

Reasons

Whether Ancillary to the Main Dwelling or Separate Independent Dwelling Unit

3. The appeal site comprises a detached two storey dwelling and its curtilage. The property has a long rear garden, at the end of which is a garage. The garage is accessed via a narrow, unmade access road along the side of the appeal property. This access road also serves the rear gardens/garages of other houses in Chalk Road and Havisham Road. There are two gates at either end of the garden to No.83a which provide egress out onto the access road.
4. The proposed annexe would be positioned towards the end of the rear garden, next to the garage, which is said to be currently used as a home gym. The Council argues that as this proposed building is physically detached from the host dwelling and because the scheme would allow for self-contained living, it could be used as an entirely separate self-contained residential unit.
5. However, the description of development applied for is an annexe and the householder application form was submitted. Both these have been accepted by the Council and the proposal advertised on this basis. As such, the scheme

before me is not for a separate dwelling and it is important that I consider the application as proposed.

6. Whilst the proposed building would provide facilities that might allow for independent day-to-day living, that does not necessarily mean the accommodation would be occupied independently or become a separate planning unit from the main dwelling. As a matter of fact and degree, the accommodation would plainly be capable of being occupied as an annexe, taking into account the following: the intended occupier would be a close family member who is likely to share various living activities with the family in the main dwelling; the whole site of 83a Chalk Road would remain a single unit; the garden area is capable of being shared; and the floor space of the annexe would be far smaller than the floor space of the main dwelling.
7. Indeed, on this final point, the size of the unit and that it fails to meet the Nationally Described Space Standards were of concern to the Council. However, in my opinion, this is something of a proxy indicator that the building is perhaps more suited and thus more likely to be used as an annexe rather than being occupied as a separate, independent dwelling.
8. Although the proposal would not be attached to the host property, all of the foregoing matters point to the ancillary nature of the annexe, and for these reasons, I do not regard the appeal building as being tantamount to a new dwelling. As such, based on the evidence before me, the use of the site, in its entirety, would remain for single-family occupation and one planning unit.
9. In terms of the building itself being used as an annexe the Council has not raised any concerns as regard to such matters as design/appearance, effect on neighbours or on occupants of the host dwelling. Based on the evidence before me and my own observations on site I have no reason to disagree.
10. The Council suggests that a planning condition to restrict the use and occupancy of the building would be difficult to monitor or enforce. However, if the structure is not built as proposed, or there is a material change or intensification in the use of the building it is likely to be readily apparent and is thus capable of being enforced against. Furthermore, any future use as a wholly independent residence would require planning permission and the building would be at risk of enforcement action if permission is not granted.
11. On this first main issue I conclude that the proposed development would not constitute a separate dwelling but would be an annexe to the main dwelling. Policy CS02 of the Gravesham Local Plan Core Strategy 2014 (LPCS) is cited by the Council in its decision. However, this seems to be a strategic policy aimed at the general distribution of developments in the borough. It therefore has limited relevance to my findings regarding this annexe and allowing this appeal would not undermine the objectives of this policy.
12. The Council also refer to Paragraphs 149 and 150 of the National Planning Policy Framework 2021 in their reason for refusal (now Paragraphs 154 and 155 in the December 2023 Framework). As these paragraphs relate to development in the Green Belt and there is no indication that the site is located within the Green Belt, they are of no relevance to this appeal or my decision.

Living Conditions in the Proposed Development

13. The proposed annexe would be accessed via glazed, patio style doors that lead into an open plan lounge with small kitchen. A separate bedroom and en-suite shower room would be accessed from this space. Both would be served by windows, the one in the en-suite being at high-level. As annexe accommodation the proposed rooms would be adequately sized for their stated function, and they would receive reasonable levels of natural light and ventilation.
14. The lounge doors and bedroom window would face towards the boundary fence with No. 83 Chalk Road. I acknowledge that the outlook would be somewhat constrained and were this to be a separate, independent dwelling this would be a matter of some concern. However, as the accommodation would be occupied in connection with the main dwelling, the need for a more open or wider outlook is less pressing. Therefore, given the nature of the proposed accommodation, I find that the outlook would not be such a significant adverse factor on the living conditions of future occupiers as to warrant the appeal being dismissed.
15. As the scheme would be an annexe, it is not necessary for it to comply with the floorspace and storage standards for a one-person dwelling set out in national guidance or local policy.
16. Therefore, I conclude on this issue that the proposal would accord with Policy CS19 of the LPCS which seeks, amongst other things, to ensure living conditions of residents are safeguarded. Similarly, I do not find conflict with the objectives of Section 12 of the Framework.

Other Matters

17. The building would be visible from the access road and from neighbouring properties. However, it would be 2.7m high and have a flat roof. As such it would not be unduly prominent. I also noted from my site visit that many neighbouring properties had one or more outbuilding and that they comprised a variety of different sizes and appearances. As such, the proposed building would not be incongruous with its surroundings.
18. Interested parties have raised concerns regarding the potential disturbance during the construction of the building. However, the building is modest in size and its construction is likely to be undertaken over a relatively short period of time. As such, any impacts would be temporary. It would be a project for the appellants to manage having regard to any noise or nuisance powers the Council may have under other legislation.
19. The proposal is not a major development and so is not subject to mandatory sustainable urban drainage requirements. However, matters of drainage would be addressed through the building control process and it is not the role of the planning system to duplicate their requirements.
20. Each appeal proposal is considered on its own merits and based on the evidence available in each case. Accordingly, it does not automatically follow that the same circumstances would apply to other sites and other proposals in the vicinity.

Conditions

21. The Council has provided a list of suggested conditions in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance.
22. In addition to the standard time limit condition, it is necessary to specify the approved plans as this provides certainty. A condition to ensure finished materials match those specified in the application form is also required in the interests of the character and appearance of the area.
23. A condition limiting the permission to ancillary accommodation is reasonable and necessary to define the permission and to prevent the use of the building as a separate dwelling. Such a condition would avoid the necessity of further conditions controlling gates and fences etc. A condition seeking the reversion of the building to becoming incidental to the main house would not be reasonable.
24. A condition preventing additional openings other than those shown on the approved drawings from being inserted is also necessary in order to protect the living conditions of neighbours. There is no necessity for a landscaping scheme for a building within an established rear garden.

Conclusion

25. For the above reasons, having considered the development plan as a whole, and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions in the schedule below.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Block Plan; and Proposed Elevations and Floor Plan (Drawing Number PL-01C).
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as described on the application form.
- 4) The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 83a Chalk Road, Gravesend, Kent DA12 4UT and shall not be put to use as an independent dwelling at any time.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no doors, windows or openings other than those expressly authorised by this permission shall be inserted or formed on the building hereby permitted.

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