



Appeal Decision

by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 21/10/2024

Appeal reference: CAS-03641-K0R6R7

Site address: 31 Penrhyn Drive, Gwersyllt, Wrexham, LL11 4LY

- 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 Mrs Stacey Griffiths against the decision of Wrexham County Borough Council.
 - The application Ref GWE P/2024/0233, dated 21 March 2024, was refused by notice dated 22 May 2024.
 - The development is the removal of a previous building (garage) and to build annex in its place.
 - A site visit was made on 17 September 2024.
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Decision

1. The appeal is allowed, and planning permission is granted for the removal of a previous building (garage) and to build annex in its place at 31 Penrhyn Drive, Gwersyllt, Wrexham, LL11 4LY, in accordance with the terms of the application, Ref GWE P/2024/0233, dated 21 March 2024, subject to the conditions set out in the schedule to this decision letter.

Procedural Matters

2. The name of the applicant included on the Council's decision notice is not the same as that on the planning application form. The name on the application form and appeal form are however consistent, as given in the banner heading above, and I am satisfied that the appeal is properly made.
3. The appellant contends that the description of the development used by the Council should have referred to the 'use of existing home office as ancillary accommodation'. However, and whilst I have had regard to relevant caselaw set out in Uttlesford District Council vs Secretary of State for the Environment & White 1992, and that the Council issued a certificate under reference P/2020/0894 confirming the lawfulness of the 'demolition of garage and erection of a home studio (proposed use)', I have seen no cogent evidence that the appeal building was first erected on the site and used as a home studio before then being used as an annexe. I have therefore used the description of development as given on the application form as indicating the nature of the development for which planning consent is sought.

4. As the development is in place, I have determined the appeal on the basis that retrospective planning permission is sought.

Application for costs

5. An application for costs has been made by Mrs Stacey Griffiths against Wrexham County Borough Council. This application is the subject of a separate Decision.

Main Issue

6. The main issue is the effect of the development on the living conditions of neighbouring occupiers.

Reasons

7. The appeal property occupies a corner plot on the junction of Penrhyn Drive with Meadway Close. The appeal building is located on the rear boundary of the property's rear garden area and occupies approximately half its width, with the other half being comprised of the property's two parallel parking spaces accessed off Meadway Close.
8. The Council raises no objection to the building's design or its effects on the character and appearance of the area. From my own observations, the building is set back from the road and given its location, scale and form, is not an incongruously obtrusive or prominent feature in the street.
9. The appellant confirms that the function of the building is to provide living quarters for a family member. The building provides only a small amount of living space, with a small kitchen facility and washing facilities. The appellant confirms it will continue to be used as a home office for the family and that its occupier would use living and dining facilities in the dwelling, resulting in the occupier of the annexe having a high dependency on the main house. In terms of its physical relationship with the dwelling, the annexe is located close to its rear elevation, within its rear garden area. It is not physically divided from that dwelling by any boundary features and its occupier would share its garden and parking spaces. These features point towards the annexe having a substantial degree of interdependence and shared functionality with the host dwelling, indicating it as being a form of development that is ancillary to the use of the existing dwelling, the overall site and the planning unit.
10. Bearing the above in mind, the proposed annexe would be used part and parcel with the main house and would not lead to the creation of a separate dwelling. The Council has raised no specific concerns, and I have no reason to form a different view, that the building's use would be likely to generate unacceptable activity, noise or disturbance within the building or the appeal property's garden over and above the general use and activity associated with any normal dwellinghouse use. I am satisfied that a suitable condition could ensure that the annexe would be used for purposes ancillary to the main dwelling.
11. Nevertheless, the Council asserts that the building is not suitable for use as additional living accommodation by reason of its relationship with adjoining dwellings and the restricted site curtilage. It has drawn my attention to its adopted Supplementary Planning Guidance Note No.20 'House Extensions' (LPGN 20) and Supplementary Planning Guidance Note No.21 'Space Around Dwellings' (LPGN 21) which, whilst they do not explicitly deal with annexe accommodation, nevertheless provide useful guidance in relation to maintaining appropriate living standards through, amongst other things, seeking to maintain appropriate garden spaces and separation distances where development occurs in and around dwellings.

12. In addition to its rear garden, I saw that the appeal property has only a small front garden and a narrow side garden area which could not comfortably accommodate the scale of the development. The largely lawned rear garden area closest to the house contained washing lines, storage facilities and garden furniture at the time of my site visit. Given the constraints on the appeal dwelling's available garden space, I concur with the appellant's view that the siting of the annexe close to the rear of the dwelling would impinge significantly on the dwelling's available rear garden space which I observed is a functional and useful space for its occupiers and which LPGN 20 and LPGN 21 seek to preserve. The building's location near the rear boundary occupies the position of a former domestic garage which served the appellant's dwelling. Accordingly, whilst the appeal building provides additional living space, its siting within this area of the garden has not resulted in any perceptible diminution of the appeal dwelling's existing usable garden space or the availability of parking.
13. However, in its position, the appeal building is set close to the rear garden boundary of No 33 Penrhyn Drive (No 33) and close to the side elevation of the neighbouring dwelling at No 1 Meadway Close (No 1) separated only by that property's narrow drive. LPGN 20 recognises, amongst other things, that an extension built close to the boundary with a neighbouring property may reduce daylight and sunlight to the windows of that house, together with the outlook from these rooms. Extensions should not, therefore, be so large as to create a claustrophobic effect or cause a significant amount of visual intrusion and loss of light to neighbouring properties.
14. Owing to its scale and location at the furthest end of the garden away from the dwelling, I do not consider the development has any unacceptable effects on the living conditions of occupiers of No 33. I saw that No 1 has a first-floor window in its side elevation facing the appeal property. However, the appeal building's height is lower than this window's sill level and the building's footprint does not project further forward than the front elevation of No 1. Given the appeal building's relative scale and position, it does not unacceptably affect the outlook from No 1's side or front-facing habitable room windows or cause unacceptable loss of light or have excessively visually intrusive or overbearing effects. Moreover, the Council acknowledges that there is no unacceptable overlooking or loss of privacy to neighbouring occupiers due to the placement of openings facing into the appeal site and onto its parking space.
15. I recognise the appellant's fallback position and that she confirms that the appeal building would remain in situ as a home office under the benefit of permitted development rights which were confirmed by the Council in the issuing of a certificate of lawfulness (LDC). Whilst I do not consider the spatial effects of the development on the living conditions of neighbouring occupiers to be any more harmful than would occur in the event of the fallback position, it is not necessary to place reliance on the fallback in this case as I have found the development acceptable in its own right.
16. I have taken into account the appeal decisions which have been brought to my attention by the appellant. However, I do not have the full and precise details of the individual sites to enable a direct comparison with the appeal site and development. I have therefore assessed the appeal on its individual merits and based on the circumstances of the appeal site and the evidence before me.
17. I conclude that the development does not harm the living conditions of neighbouring occupiers. It therefore complies with Wrexham Local Development Plan (LDP) Policy DM1 which states amongst other things that development proposals, where relevant, must not have an unacceptable effect on the amenity of the occupiers of nearby properties/land; and provide a satisfactory standard of amenity for the occupiers/users of

the development itself. The development also complies with the tenor of LPGN 20 and LPGN 21 advice.

Other Matters

18. Neighbouring occupiers, local members and the community council have raised concerns regarding the construction materials and fire safety, and drainage effects, however these are matters dealt with by other legislation. Neighbouring occupiers also express uncertainty that the biodiversity enhancement measures would be successful within the appeal site's context. However, whilst due to the scale of the appeal building, the bird boxes could not be attached at the height suggested in the appellant's Green Infrastructure Statement, they were in place at the time of my site visit and the Council has raised no concerns regarding the principle of the details provided which would be necessary to deliver net benefit to biodiversity in accordance with Planning Policy Wales (Edition 12) (PPW).

Conditions

19. I have considered the Council's suggested conditions in the light of advice contained within Circular 016/2014 'The Use of Planning Conditions for Development Management' (the Circular). A condition to limit occupation of the annexe is necessary to define the scope of the permission and to safeguard neighbours' living conditions. Bat boxes were in place at the time of my site visit, but I consider a condition requiring their retention is necessary to secure ongoing biodiversity benefits.

Conclusion

20. For the reasons given above and having taken all matters into account, I allow the appeal.
21. In reaching my decision, I have taken account of the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives as required by section 8 of the WBFG Act.

N Jones

INSPECTOR

SCHEDULE OF CONDITIONS

1. The building shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 31 Penrhyn Drive, Gwersyllt, LL11 4LY.
Reason: To define the scope of the permission in the interests of the living conditions of neighbouring occupiers (LDP Policy DM1)
2. The two bird boxes attached to the building, and any necessary replacement which shall be of similar design and function, shall be maintained for the lifetime of the development.
Reason: To ensure the development delivers net benefit to biodiversity in accordance with the requirements of Planning Policy Wales.