



Appeal Decision

Site visit made on 15 June 2022

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/B9506/D/22/3292183

Thorney Down Farm, Black Lane, Thorney Hill, Bransgrove, BH23 8EA.

- 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 and Mrs Neil and Julia Kitchen against the decision of the New Forest National Park Authority.
 - The application Ref 21/00802, dated 10 August 2021, was refused by notice dated 21 December 2021.
 - The development proposed is the extension of garage/annexe and use as self-contained annexe (retrospective)
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Application for costs

1. An application for costs was made by Mr and Mrs Neil and Julia Kitchen against the New Forest National Park Authority. This application will be the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for the extension of garage/annexe and use as self-contained annexe (retrospective) at Thorney Down Farm, Black Lane, Thorney Hill, Bransgrove, BH23 8EA in accordance with the terms of the application, Ref 21/00802, dated 10 August 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans, drawings: JK-TDF-Block, w01-C, w04-C rev A, w05-C, w08-C, w09C Rev A, w10-C, w11-C Rev A, w12-C rev A and Location Plan scale 1:2500.
 - 2) The building hereby approved shall only be used for purposes ancillary to the main dwelling house and shall not be used, when no longer required by the appellants parent, be occupied as an independent unit of accommodation or for holiday lets.
 - 3) 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 extension (or alterations) otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.

Main Issue

3. I consider the main issue to be whether the proposed annexe would constitute a separate or ancillary residential dwelling.

Reasons

4. The appeal site, Thorney Down Farm, comprises a main dwelling house with a private garden, a number of detached agricultural outbuildings, along with a stables and a former garage. The farm is surrounded by agricultural land, within the ownership of the appellants and used for grazing.
5. The garage, granted permission as part of that for the current dwelling, was extended in 2012. This is the subject of a separate planning application, yet to be determined.
6. The former garage, as enlarged in 2012, located adjacent to the host property, was converted to ancillary accommodation prior to the current owners purchasing the property. It was then subsequently extended by the appellants. The now completed two-bedroom property, ranging over two floors, currently provides residential accommodation for Mrs Kitchen's mother and facilitates her day-to-day care by Mr and Mrs Kitchen.
7. The appeal property is in a countryside location within the New Forest National Park (NP) where one of the main statutory purposes is to conserve and enhance its natural beauty.
8. Policy DP37 of the adopted New Forest National Park Local Plan 2016-2036 (August 2019) (LP) states that, along with other things, domestic outbuildings will be permitted where they: a) are proportionate and clearly subservient to the dwelling they are to serve in terms of their design, scale, size, height and massing; b) are located within the residential curtilage of an existing dwelling; c) are required for purposes incidental to the use of the main dwelling; d) are not providing habitable accommodation; and e) will not reduce private amenity space—including parking provision—around the dwelling to an unacceptable level.
9. The Council has found that the outbuilding is located within the residential curtilage and does not result in a significant reduction in private amenity space or parking provision. From what I have seen and read I would agree with its finding on these matters.
10. However, the converted outbuilding comprises at ground floor level a large master suite (bedroom, bathroom and dressing room), open plan kitchen/dinner, living room and cloak room with a second bedroom suite (bedroom, dressing room and shower room) at first floor level. Accordingly, I consider the outbuilding not only provides habitable accommodation but it could be occupied as a self-contained residential annexe.
11. Further, the Council calculate the total floor area to be some 123 square metres. However, the appellants state that the floor area is only some 104 square metres. Whichever is correct the annexe would, in general terms, still be larger than the floorspace limitation for a new dwelling in the NP, which is set at just 100 square metres.

12. Despite its floor area and matching eaves height to the host dwelling I nevertheless consider that due to its three-dimensional form and choice of materials and detailing that the outbuilding as extended is proportionate to and visually subservient to the main dwelling.
13. Nevertheless, due to the converted outbuilding providing habitable accommodation, the proposal would not accord with LP Policy DP37. This policy does not allow for any exceptional circumstances under which habitable accommodation can be permitted within outbuildings. However, Section 38(6) of the Act says that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
14. The two-bedroom annexe would clearly be suitable to provide self-contained accommodation for independent living. It would thereby result in an increase in activity in the countryside. However, the annexe has a close physical relationship to the main dwelling and enjoys a shared vehicular access and residential curtilage and thereby would be difficult to split away from the main dwelling. Further, I understand from the evidence that Mrs Kitchen's mother is dependant on the appellants for her care, meals, washing etc. Accordingly, the proposed use of the converted outbuilding is for purposes incidental to the use of the main dwelling.
15. In addition, if I were minded to allow the appeal I could condition the ancillary use of the annex to the main dwelling and remove permitted development rights so that outbuildings, that might otherwise be permitted, cannot be erected without express planning permission.
16. I appreciate that Authority's concerns in respect of the possible creation of a self-contained unit of accommodation. However, even though the annexe would provide facilities for independent day-to-day living I consider on balance, given the very specific circumstances in this case, that it would not become a separate planning unit due to the level of dependency and proximity to the main dwelling. In addition, I believe that any increased activity would, in this instance not be harmful to the aims of the Authority to safeguard the countryside.
17. In the light of the above, I have decided that there are material considerations which, on balance, indicate that a decision contrary to the development plan is acceptable in this case. I therefore conclude in respect of the main issue that the proposed annexe would not constitute a separate or ancillary residential dwelling and accordingly, I find no conflict with LP Policies DP37 and SP19.

Conditions

18. The conditions follow from those suggested by the Council. To ensure the dwelling remains of a size which is appropriate to its location within the countryside I shall remove permitted development rights in respect of garages or other outbuildings
19. To protect the character and appearance of the countryside I shall restrict, by condition, the use of the annexe to purposes ancillary to the main dwelling house as well as its use as an independent unit of accommodation or as a holiday let.
20. In the interests of certainty, I shall also impose a condition requiring the development to be undertaken in accordance with the approved plans.

Conclusions

21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Philip Willmer

INSPECTOR