Granny Annexe

Commentary

ADUR & WORTHING PLANNING SERVICES	
PLAN	AWDM/ 0976/14
DATE VALID	14 AUG 2014

We have prepared this short guide to assist LPAs with the assessment of proposed granny annexe applications. Being the retained agents for a number of granny annexe companies provides us with a great deal of expertise in handling such applications. We trust you will find this guide informative and helpful.

0673/GAC

Contents

1.	**Regulatory Background**	**1**
2.	**Sustainable Development**	**2**
	An Economic Role	
	A Social Role	
	An Environmental Role	
3.	**The National Planning Policy Framework (NPPF)**	**4**
	Case Law	
	Appeal precedents	

Appendices

Appeal Precedent	**A**
Appeal Precedent	**B**

PLAINVIEW

1. Regulatory Background

1.1 This application has been submitted as a householder application.

1.2 As the retained agent for a number of companies who provide granny annexes, we have submitted many of these applications and all have been successfully determined as householder applications.

1.3 Paragraph 28 of Circular 04/08 states that *"It should be noted that fee calculations can be affected by whether ... accommodation proposed to be created (through either construction or change of use) will amount to a dwellinghouse."*

1.4 There is no statutory definition of a dwellinghouse but it is well established in case law that the building should have the facilities required for day-to-day private domestic existence **AND** it is also necessary that it should be so used.

1.5 This proposal is **not** for a dwellinghouse, but ancillary accommodation for a family member. Whilst we accept that the proposed accommodation would contain all the facilities required for it to be used as an independent unit, its overall size would be small and the level of facilities it would provide would be basic, which is what would be expected for accommodation that is ancillary to the main dwelling. Furthermore, Circular 11/95 provides a model condition which could be attached to this permission to ensure that the occupation of this unit remains ancillary.

1.6 The provision of granny annexe's is supported by central Government, *Laying the Foundations: A Housing Strategy for England* document, which states;

> *"Planning homes and communities that enable older people to remain economically active, involved with their families, friends and community and able to choose where and how they live not only makes financial sense but also results in a better, more inclusive society."*

2. Sustainable Development

2.1 The National Planning Policy Framework is at the forefront of driving sustainable development in the country, and states that there should be an automatic **presumption in favour of sustainable development**. Paragraph 14 of the Framework sets out the context within which this presumption should be applied.

2.2 The NPPF puts great weight on considering local needs, and approving sustainable proposals without delay. The NPPF defines three dimensions to sustainable development:

- An Economic Role
- A Social Role
- An Environmental Role

2.3 Each dimension to sustainable development will be applied and tested against the proposal.

An Economic Role

2.4 The proposal provides an affordable unit of ancillary accommodation for the applicant's family member. It also ensures the site is being used efficiently and, in its own small way, bolsters the construction industry.

A Social Role

2.5 The Personal Statement submitted sets out the circumstances to justify the need for this annexe.

PLAINVIEW

2.6 The requirement to provide affordable and sustainable accommodation for elderly family members is ever increasing. Age UK published 'Care in Crisis 2014' which sets out the very clear need for flexible accommodation solutions for the elderly:

- The number of people aged 85 and over (the group most likely to need care) has increased by 30 per cent between 2005 and 2014.
- Between 2005/6 and 2010/11 public funding for older people's social care stagnated.
- 21% increase of residents in nursing/residential homes since 2005.
- From 2010/11 to 2013/14 public funding for older people's social care (including transfers from the NHS to councils) decreased by 10 per cent in real terms.
- Councils have cut back on their funding for social care.
- In 2011, it was estimated that 2 million older people had care related needs.

2.7 The provision of a granny annexe within the residential curtilage creates a long term and sustainable solution to the needs of the aging population. The benefits include

- Allows family members to provide the care and support required.
- Reduces the stress and impact on local services, ie nursing homes, home visits from care professionals etc.
- Cost effective and affordable solution to supported living.
- Provides a measure of independence, while still being close to support.

2.8 'Annexes' can additionally provide ancillary living accommodation for younger members of the family, allowing them to save for deposits for their first home, improve living conditions, provide a measure of independence and allow extended families to stay together.

An Environmental Role

2.9 The proposal will be sited within an existing residential curtilage. The structure is largely pre-fabricated which minimises waste and any negative impact during construction/installation. The annexe also contains eco-friendly elements which allow it to assimilate within the garden and residential setting.

2.10 The structure is a timber framed insulated building using FSC [Forestry Stewardship Council] or PEFC [Programme for the Enforcement of Forest Certification] timbers; [timber sourced from certified sustainable forests. Walls are insulated with 100mm Celotex or similar Polyurethane foam insulation, while roof and floors are insulated using a loose quilt Rockwool [or similar] insulation 200mm in depth.

2.11 All frames are pre manufactured off site; a typical structure will be erected and completed on site in a 6 week time frame thus minimising the normally associated general noise and other disturbances on site.

3. The National Planning Policy Framework (NPPF)

"Planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole."

3.1 In this case, the benefits of the scheme are that it:

- Provides for the needs of an elderly relative (Paragraphs 50 & 159);
- Improves living space (Paragraph 57);
- Provides and efficiently utilises a safe, secure and enjoyable garden (Paragraph 53); and

- Improving the living conditions of applicant (Paragraph 9).

3.2 Section 7 of the NPPF encourages the design of new development to be of a high standard and contribute to sustainability. The use of natural environmentally friendly materials with the annexe heeds this advice. The contemporary design of the annexe represents the highest standard of garden architecture and should be commended.

3.3 The annexe is compliant with the principles and guidance contained with the NPPF.

4. Material Considerations

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

4.2 There is a strong personal need for the annexe which is highlighted in the supporting documents. Lord Scarman in Westminster City Council v Great Portland Estates plc [1985] JPL108; AC661 commented that:

> *"Personal circumstances of the occupier [and] personal hardship...are not to be ignored in the administration of planning control. It would be inhuman pedantry to exclude from the control of our environment the human factor"*

4.3 This is discussed further in the Encyclopedia of Planning Law and Practice, Volume 2, Part 2B - Statutes: Town and Country Planning Act 1990, Part III - Control Over Development:

4.4 Personal circumstances or "the human factor", are always present in the background to the consideration of the character of land use, but may sometimes

be given direct effect in development control as an exceptional or special circumstance (Great Portland Estates plc v Westminster City Council [1985] A.C. 661.)

4.5 The provision of granny annexes is supported by central Government in the report 'Laying the Foundations: A Housing Strategy for England (2013)'. It states:

> *"Planning homes and communities that enable older people to remain economically active, involved with their families, friends and community and able to choose where and how they live not only makes financial sense but also results in a better, more inclusive society."*

4.6 With both an ageing population and young people finding it difficult to get on the housing ladder, the government is removing barriers to extended families that live together.

4.7 This is evident with the recent reduction to council tax for granny annexes and the exemption of CIL charges.

4.8 The Planning Inspectorate regularly acknowledge that granny annexes are ancillary accommodation, and this is reinforced by established case law. Some key examples where this principle has been established are set out below.

Case Law

- In the case of Uttlesford District Council v Secretary of State for the Environment & White [1992J], the relevant Local Planning Authority served an enforcement notice against an alleged creation of a living unit within a Worcestershire garden building. The structure was a log cabin that had formerly been a games room and store. It had since been divided into four rooms comprising a lounge with a kitchen area at one end and a bedroom, storeroom and bathroom at the other end.

- The Inspector for this case acknowledged that it contained all the facilities for day-to-day domestic existence and was capable of being used as a separate dwelling house. However, the Inspector also stated that this did not mean that it had been so used; Factors of significance were the lack of separate utility metres, postal address and telephone line. He also mentioned the lack of any separate curtilage or access arrangements. In this case the Inspector concluded that the cabin was still used in connection with the house and there had been no material change in the character of the use.

Appeal precedents

4.9 Whilst we appreciate applications should be judged on their individual merits, the following appeals were undertaken by Plainview Planning on behalf of granny annex companies. All were allowed.

- Appeal ref. APP/F1610/A/09/2101500 (Appendix A) was decided against Cotswold District Council. The ancillary self-contained accommodation proposed had been considered by the council to constitute a separate unit of accommodation. However, the inspector found this to be incorrect and saw no reason why ancillary accommodation in an outbuilding should be treated as an independent dwelling.
- The Inspector suggested that a condition can be attached to the planning permission to prevent such a use. He acknowledges that the grant of planning permission could result in pressure for the building to be used as a separate dwelling at some point in the future. However he goes on the state that such a use is unlikely given the siting of the unit within a gated residential curtliage. Please see section 8 for the proposed condition.
- Appeal ref: APP/B3438/A/12/2188171 (Appendix B) was decided against Staffordshire Moorlands District Council, the Inspector states:

"Whilst I accept that the proposed accommodation would contain all the facilities required for it to be used as an independent unit, its overall size would be small and the level of facilities it would provide would be basic, which is what would be expected for accommodation that is ancillary to the main dwelling. I recognise that the grant of planning permission could result in pressure for the building to be used as a separate dwelling at the some point in the future. For the reasons set out above I consider that it is very unlikely to be occupied independently of the main dwelling. Moreover Circular 11/95 provides a model condition which could be attached to this permission to ensure that the occupation of this unit remains ancillary. The fact that such a condition is included in national guidance is an indication that it is capable of being enforced and I see no reason why the Council should not be able to investigate and take any action on any breach of the condition."

4.10 In addition to the two appeals above, other granny annexe appeals by Plainview Planning Ltd include:

- APP/A5270/A/13/2198350 - 78 Birkbeck Avenue, Greenford, Middlesex, UB6 8LX **(Appeal Allowed)**
- APP/E5330/D/13/2204163 - 107 Mayday Gardens, London, SE3 8NP **(Appeal Allowed and Costs Allowed)**
- APP/B1930/A/10/2124995 - 474 Hatfield Road, St Albans, Hertfordshire, AL4 0XS **(Appeal Allowed)**
- APP/M5450/D/14/2211819 – 147 Courtenay Avenue, Harrow, London, HA3 6LJ **(Appeal Allowed)**
- APP/C3105/D/12/2178893 - 14 The Crescent, Twyford, Banbury, Oxfordshire , OX17 3HZ **(Appeal Allowed)**

4.11 We respectfully ask that planning permission be granted for the proposed annexe.

PLAINVIEW

Appeal Precedent

APP/F1610/A/09/2101500

APPENDIX A

Appeal Decision

Hearing held on 25 August 2009
Site visit made on 25 August 2009

by David Leeming

an Inspector appointed by the Secretary of State for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
3 September 2009

Appeal Ref: APP/F1610/A/09/2101500
Waterton House, Ampney Crucis, Cirencester GL7 5RR

- 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 V Asprou against the decision of Cotswold District Council.
- The application Ref 08/00965/FUL, dated 31 March 2008, was refused by notice dated 8 October 2008.
- The development proposed is described in the application as: Proposed resiting of Stable Service Complex.

Procedural Matter

1. I suggested at the Hearing that the development for which planning permission was sought would be more appropriately described as: The erection of a new outbuilding for garaging, stabling, storage, office use and ancillary self-contained accommodation. This was agreed by the parties and I have therefore used this description in my grant of planning permission.

Decision

2. I allow the appeal, and grant planning permission for the erection of a new outbuilding for garaging, stabling, storage, office use and ancillary self-contained accommodation at Waterton House, Ampney Crucis, Cirencester GL7 5RR in accordance with the terms of the application, Ref 08/00965/FUL, dated 31 March 2008, and plans 4/6/2007-4B, 4/6/2007-5C and 4/6/2007-7, subject to the conditions set out in the attached schedule.

Main issues

3. The main issues in this appeal are:

   - Whether the proposed flat within the development would constitute a separate unit of residential accommodation, rather than an ancillary use and, if the former, whether such development is sustainable.

   - Whether, by reason of its size, scale, design and location, the proposed building would be in keeping with the main dwelling house.

Reasons

The proposed residential accommodation

4. The site is within part of the extensive gated grounds of Waterton House. It lies within a rural location, outside development boundaries. The house is not

listed and there are no special designations relating to its location. The proposed outbuilding would replace a number of existing outbuildings and structures, including a workshop, stable block and a glasshouse.

5. The Council's concern on the first issue is over the proposed residential accommodation. In the Council's view, because of the physical separation of the building from the main dwelling and the level of accommodation proposed, it could be used independently. The Council's position is that the proposal as described is not a domestic outbuilding with ancillary use but a new build house. The Council therefore consider the proposal fails to comply, in particular, with saved Policy 19 (Development Outside Development Boundaries) of the Cotswold District Local Plan 2001-2011 (Adopted April 2009).

6. However, as a matter of fact, the proposal before me is not for a separate self-contained residential unit within a separate planning unit. The proposed building is an outbuilding within the curtilage of Waterton House. The guidance notes accompanying Policy 19 make clear that domestic outbuildings within the curtilages of existing dwellings are acceptable in principle. I see nothing in the Policy to suggest that where ancillary accommodation is in an outbuilding it will be treated as an independent dwelling. A condition can be attached to the planning permission to prevent such use.

7. I acknowledge the possibility that a grant of planning permission could result in pressure for the building to be used as a separate dwelling at some point in the future. However, it seems to me that, set within the gated grounds of Waterton House, this is unlikely. In any event, this could be resisted having regard to local and national planning policies relating to development in the countryside.

8. I therefore conclude that the proposed development is not contrary to Local Plan Policy 19. As an ancillary use the proposal represents a sustainable form of development and is also not contrary to saved Policy 38 (Accessibility to and within New Development). Since the development is not for a separate dwelling, policies S3, S5, H4 and T1 of the Gloucestershire Structure Plan Second Review are not applicable.

The relationship with the main dwelling

9. On the second issue, although the building would have a substantial footprint, it would clearly be subservient in size and scale to Waterton House. Whilst not located close to the house, it would occupy a similar area within the extensive curtilage to the existing outbuildings to be replaced.

10. It would pick up on the current arched undercroft that is a focal feature of the existing stable block. Unlike the existing outbuildings, it would provide a single, composite outbuilding in good quality materials that would incorporate design features reflecting the local vernacular, as does the former stable complex once belonging to the property. The latter, when formerly within the curtilage, was not in close proximity to the house and neither are the existing stables and other outbuildings.

11. The Council consider that Waterton House is not a high status property with a formal setting where a building, in the grander scale of the coach house style

proposed, would be expected. However, the house is a large and significant Arts and Craft style building. Its local importance is such as to be included in the publication *The Country Houses of Gloucestershire* (Volume 3 1830-2000 by Nicholas Kingsley and Michael Hill) . Its design, whilst different, has informed that of the proposed outbuilding. Similarities include stepped up gables, hipped roof elements, stone lintels and cast iron rainwater goods.

12. The outbuilding would be positioned so that its clock tower and arched undercroft would be seen in association with the colonnade within the formal garden between the house and the outbuilding. This colonnade would provide a visual link between the two buildings.

13. Taking the above matters together, I consider that the proposed outbuilding would relate acceptably to Waterton House. In my view it would not, by reason of its size, scale and design, appear too grand or otherwise be incongruous in relation to the house. Neither would it be inappropriately located in relation to it. Rather, the replacement of the existing somewhat visually unattractive outbuildings with a single well-designed and high quality building would compliment and enhance the setting of the house.

14. The development would therefore be appropriate to its rural location and relate well to existing development. It would thus comply with saved Local Plan Policy 19. It would respect the character, appearance and local distinctiveness of Cotswold District with regard, among other things, to style, setting and harmony. It would thus comply also with saved Local Plan Policy 42 (Cotswold District Design Code).

Conditions

15. The Council put forward a number of conditions for consideration in the event of the appeal being allowed. These were discussed at the Hearing, but it was agreed that alternatively worded conditions, as set out in the attached schedule, were necessary and relevant to the development. The Council's questionnaire confirms that no protected species are likely to be affected by the proposals. This is borne out by the findings of the 'Bat and Bird Assessment' report commissioned by the appellant. The parties therefore agreed with me at the Hearing that it was not necessary to impose the Council's suggested condition relating to protection of such wildlife.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed.

David Leeming

INSPECTOR

PLAINVIEW

Appeal Precedent

APP/B3438/A/12/2188171

APPENDIX B

The Planning Inspectorate

Appeal Decision

Site visit made on 30 April 2013

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 June 2013

Appeal Ref: APP/B3438/A/12/2188171
Far End Cottage, Quarry Road, Hollington, Stoke-on-Trent ST10 4HP

- 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 Kevin Corkery against the decision of Staffordshire Moorlands District Council.
- The application Ref 12/00578/FUL, dated 13 July 2012, was refused by notice dated 9 November 2012.
- The development proposed is the replacement of existing garage to provide living accommodation for dependent relative.

Decision

1. The appeal is allowed and planning permission is granted for the replacement of existing garage to provide living accommodation for dependent relative at Far End Cottage, Quarry Road, Hollington, Stoke-on-Trent ST10 4HP in accordance with the terms of the application, Ref 12/00578/FUL, dated 13 July 2012, subject to the conditions set out in Annex A:

Main Issues

2. The main issues of the appeal are:

   - Whether the proposed development would constitute a separate unit of residential accommodation rather than an ancillary use.

   - The effect of the proposed development on the character and appearance of the area.

Reasons

Whether an ancillary use

3. The appeal site is a detached house with a variety of outbuildings situated in a rural location on the edge of the village of Hollington, and in a Special Landscape Area (SLA). The proposed accommodation for the dependent relative would be built on the site of the existing double garage. It would therefore be separate from the main dwelling but would be directly facing and in close proximity to it.

4. The accommodation would comprise a bedroom, bathroom and living room that would include a small kitchen area. In the Council's view therefore because the accommodation is physically separate from the main dwelling and due to the range of facilities proposed within the unit, it could be used as an independent residential unit.

5. However, the appellant has stated that the accommodation is not to be used in this way but to provide accommodation for a dependent relative for whom they have to provide care. I have only been provided with limited evidence regarding the level of care needed by the relative, but the need to provide care for them has been corroborated by the local councillor. Furthermore given the nature of the illnesses suffered by the relative I consider that the need to provide care will increase with time.

6. Whilst I accept that the proposed accommodation would contain all the facilities required for it to be used as an independent unit, its overall size would be small and the level of facilities it would provide would be basic, which is what would be expected for accommodation that is ancillary to the main dwelling.

7. Furthermore the accommodation would be provided with no separate outdoor space of its own and would share the same access as the main dwelling. Given its proposed location adjacent to the boundary of the site and in close proximity to the main dwelling I cannot envisage any way that it would be possible to provide separate outdoor space for the property or a separate access either now or in the future. Consequently any occupiers of the accommodation would have to utilise the outdoor space and access associated with the main dwelling.

8. In addition it has been stated that the accommodation would not have a separate address nor would it have separate utility provision. These factors again indicate that it would be ancillary to the main dwelling.

9. I recognise that the grant of planning permission could result in pressure for the building to be used as a separate dwelling at the some point in the future. For the reasons set out above I consider that it is very unlikely to be occupied independently of the main dwelling. Moreover Circular 11/95 provides a model condition which could be attached to this permission to ensure that the occupation of this unit remains ancillary. The fact that such a condition is included in national guidance is an indication that it is capable of being enforced and I see no reason why the Council should not be able to investigate and take any action on any breach of the condition.

10. I note the concerns of the Council regarding whether adequate consideration has been given to either providing the required accommodation within the existing house or by extending the existing dwelling. However given the constraints of the site it is not clear to me that the extension of the house would be feasible. Furthermore, given the relative limited size of the current dwelling and the lack of any bathroom facilities on the ground floor I consider that it would not be possible to provide the required accommodation in the existing dwelling without extending it.

11. Overall therefore I conclude that the proposed development would be ancillary to the main dwelling rather than an independent residential unit. As an ancillary use the proposal represents a sustainable form of development and therefore accords with Policies D1 of the *Staffordshire and Stoke on Trent Structure Plan (as amended) (adopted May 2001)* (SSSP) and SS1 of the *Staffordshire Moorlands Local Development Framework Core Strategy Development Plan Document (Revised Submission Document December 2011)* (SMCS). Since I have concluded that the proposed development is not a separate dwelling Policies H11 of the SSSP, H7 of the *Staffordshire Moorlands*

Local Plan (adopted September 1998) (SMLP) and R2 of the SMCS are not applicable.

Character and Appearance

12. The existing garage is a concrete structure that is in a poor state of repair and is not in keeping with the stone buildings that are the predominant building type in the area. The proposed building which would be constructed with stone walls and a slate roof would therefore reflect the surrounding buildings and be more in keeping with the area.

13. Whilst I accept that the proposed building would have a greater height than the existing garage, as a single storey building I consider it would still appear subordinate to the main dwelling which is 2 storeys. Further, in terms of its visual impact on the wider area, when approached from Quarry Road the proposed building would be partially screened from view by the wall and vegetation that forms the boundary treatment at this point. In addition, given the local topography and the close proximity of the proposed accommodation to the existing house I am satisfied that the proposed building would not have an adverse impact on any views from the nearby public footpath.

14. The Council have argued that the demolition of the existing garage could result in additional outbuildings being constructed for the same purpose which could have an adverse impact on the countryside. In the short term the evidence before me indicates that it is unlikely that appellants would want to do this. Furthermore given a suitable condition can be used to ensure that this cannot be done under permitted development rights, the acceptability of any future outbuilding could be considered by the Council. Consequently I consider that this does not constitute a reason for refusing this current application.

15. As a result I consider that the development would respect the character and appearance of the area and it would not materially detract from the high quality of the SLA. As such it would accord with Polices D2, D4, NC1 and NC2 of the SSSP, Policies N8, N9 and B13 of the SMLP and Policies SS6c, SO8, SO9, DC1 and DC3 of the SMCS which seek to ensure that development respects the character, appearance and local distinctiveness of the area and protects the open countryside for its own sake.

Conclusions and Conditions

16. For the reasons set out above I conclude the appeal should be allowed.

17. In addition to the standard implementation condition, it is necessary for the avoidance of doubt, to define the plans with which the scheme should accord. In the interests of the character and appearance of the area a condition is required to control the external appearance of the building. A condition is also necessary to ensure the proposed building remains ancillary to the main house.

18. I am not persuaded it is necessary to remove all the permitted development rights suggested by the Council. Circular 11/95 *The Use of Conditions in Planning Permissions* indicates that such restrictions should be exceptional. However, in order to protect the character and appearance of the area I have restricted rights relating to the development of outbuildings.

Alison Partington

INSPECTOR

www.plainview.co.uk

contact@plainview.co.uk

- **Horsham:** The Courtyard, 30 Worthing Road, Horsham, RH12 1SL

  T: 01403 330737 / **E:** horsham@plainview.co.uk

- **Cheltenham:** 5 Strand Court, Bath Road, Cheltenham, GL53 7LW

  T: 01242 501003 / **E:** cheltenham@plainview.co.uk

- **London:** 1 Warwick Row, London SW1E 5ER

  T: 0203 3769547 / **E:** london@plainview.co.uk

Feedback

At Plainview Planning we want to help LPA and Inspectorate staff to process our applications and appeals as easily as possible.

In an effort to improve our documentation and processes, we are inviting feedback from all LPA and Inspectorate case officers via a very short online feedback form. All submissions are anonymous.

Go to **www.plainview.co.uk/submissions** to let us know what you think about our applications or appeals.

Thank you.

Copyright

The contents of this document must not be copied or reproduced in whole or in part without the written consent of Plainview Planning Ltd.

Copyright © 2013 Plainview Planning Ltd. All Rights Reserved
Registered Office: 5 Strand Court, Bath Road, Cheltenham, GL53 7LW. Registered in England and Wales No. 06563374