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## Appeal Decision

Site visit made on 2 April 2019

**by Kenneth Stone BSC Hons DipTP MRTPI**

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

Decision date: 24 April 2019

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**Appeal Ref: APP/V2255/D/19/3223271**

**Ashfield Court Farm, School Lane, Newington ME9 7LB**

- 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 Maureen Green against the decision of Swale Borough Council.
  - The application Ref 18/505431/FULL, dated 16 October 2018, was refused by notice dated 14 December 2018.
  - The development proposed is the conversion and extension of the existing triple garage at Ashfield Farm into an annex for a dependent elderly relative.
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### Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of the existing triple garage at Ashfield Farm into an annex for a dependent elderly relative at Ashfield Court Farm, School Lane, Newington ME9 7LB in accordance with the terms of the application, Ref 18/505431/FULL, dated 16 October 2018, subject to the following 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, 18.33.01; proposed block plan, 18.33.03; Proposed plans and elevations, 18.33.05.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing garage.

### Preliminary matters

2. The Council are concerned that the scale, form and facilities provided in the extended garage building are likely to give rise to the creation of a separate residential dwelling, capable of independent occupation from the main dwelling. The first question I turn to is whether the proposal would constitute a separate dwelling or would it be capable of such.
3. The description of development proposes the conversion and extension of the existing triple garage into an annexe for a dependent elderly relative. The plans indicate that the accommodation to be provided would be two bedrooms, a separate WC, a bathroom with a WC, a living dining area and a separate utility room. No kitchen facilities are shown on the submitted plans. Beyond the building the 'annexe' would not be provided with a separate garden area

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- and would be accessed along the same access lane. There is no subdivision of the plot proposed on the plans and there would be no segregation of the front parking/ hardstanding/ turning area or the rear private garden.
4. Taking these matters together the existing planning unit incorporates the bungalow and adjacent detached garage the front parking/ hardstanding/ turning area and the rear amenity space. The proposals would not result in the subdivision of that planning unit and it is the intention of the applicant that the 'annexe' accommodation to be created would be occupied by an elderly relative who would share living activities with the occupants of the main dwelling. Indeed on the basis of the submitted plans there are no cooking facilities for the new 'annexe' facility. Together with the access, parking and garden area this would to my mind demonstrate a functional relationship between the main house and the 'annexe'.
  5. I accept that the proposed 'annexe' could be altered to introduce cooking facilities, or a small kitchen which may reduce that functional relationship but as was established in *Uttlesford DC v SSE & White [1992]* even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling. The use of the building as ancillary accommodation to the main dwelling would therefore not result in a material change of use.
  6. The case may arise in the future that there were subsequent alterations to the building or plot or occupation such that would mean that development had occurred, and this would then be a matter for the local planning authority dependant on the facts of the case at that time. As the appeal is presented there is sufficient evidence to demonstrate a functional link and a degree of inter dependence on the future occupiers of the development such that it is appropriate to consider the proposal as an annexe.
  7. That being said the question then arises as to whether the occupation should be secured to ensure its future occupation as an annexe by way of a suitably worded condition. The Council considered and set aside such a condition as they considered the functional link could not be adequately secured by the imposition of such a condition. The appellant on the other hand has contended that the lack of kitchen facilities associated with the other functional links clearly establish the functional nature of the relationship of the future occupiers and therefore the condition is unnecessary. Also pointing out that the Council on previous decisions have relied on the functional associations to determine whether a proposal is an annexe or not.
  8. I have concluded that the proposal before me is an annexe and does not result in a material change of use. That being the case and on the basis of the information before me I am satisfied that a condition would not therefore be necessary in this case as the establishment of a separate dwelling would create a new planning unit, result in a material change of use and would therefore require planning permission of its own right, should it occur in the future, and this would give the Council control.
  9. As the proposal would not be an independent unit of accommodation policy ST3 regarding settlement hierarchy and Policy CP2 on transport in the Bearing Fruits 2031 – The Swale Borough Local Plan, adopted July 2017 (LP) are not material, in the manner argued by the Council, to the determination of this appeal.

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### **Main Issue**

10. Having dealt with the issue of the use of the 'annexe' the main issue in this case is then the effect of the proposed development on the character and appearance of the area.

### **Reasons**

11. The proposal would extend and alter an existing triple garage. The garage sits adjacent to the main bungalow and has a hipped and pitched roof. The proposed extension would be to the rear and replace existing floorspace that would be demolished. There would be little alteration to the overall floor space of the extended building however it would have its bulk and mass increased due to the additional roofing. The additional roof would be to the rear of the building, would not result in an increase in the height of the building and would not be readily visible from the closest main highway, School Lane.
12. School Lane is some 60 or so metres to the front of the properties and there are glimpsed views through to the existing bungalow and garage but the rear or side elevations would not be readily visible. The buildings sit close to another agricultural work shop building and together the proposed extension would not significantly add to the scale of built development either the garage building or the buildings immediately surrounding. If glimpsed views of the extension were available these would be seen in the context of the existing garage, bungalow and adjacent building and would not be seen as out of keeping in terms of scale.
13. For the reasons given above I conclude that the proposals would not result in material harm to the character and appearance of the surrounding area. Consequently, it would not conflict with policies CP3 and DM14 of the LP which together seek to delivery good quality development and homes.

### **Overall conclusions and conditions**

14. I am satisfied that the proposal would not result in material harm to the character and appearance of the area and that it would be an annexe for a dependent elderly relative and not the creation of a new dwelling and I have determined the appeal on that basis. The proposal therefore is in accordance with the development plan and there are no material considerations that indicate a decision otherwise would be appropriate.
15. In terms of conditions I have addressed the necessity, or not as the case may be, for a condition restricting occupation to ancillary accommodation, however a condition on the approved plans will ensure the development is implemented as applied for. Otherwise a materials condition is required in the interests of the character and appearance of the development.
16. For the reasons given above I conclude that the appeal should be allowed.

*Kenneth Stone*

INSPECTOR

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