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## Appeal Decision

Site visit made on 11 October 2016

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 10 November 2016**

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**Appeal Ref: APP/J2373/D/16/3156984**  
**338 Midgeland Road, Blackpool, FY4 5HZ**

- 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 & Mrs Wells against the decision of Blackpool Borough Council.
  - The application Ref 16/0251, dated 22 April 2016, was refused by notice dated 24 June 2016.
  - The development proposed is the erection of single storey detached building, with formation of decking areas, for use as ancillary accommodation (granny annex) to existing private dwelling house following demolition of existing detached store and workshop.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of single storey detached building, with formation of decking areas, for use as ancillary accommodation (granny annex) to existing private dwelling house following demolition of existing detached store and workshop at 338 Midgeland Road, Blackpool, FY4 5HZ in accordance with the terms of the application, Ref 16/0251, dated 22 April 2016, and the plans submitted with it, 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: 1105 PL WEL Rev A.1; 1105 PL WEL Rev A.2; 1105 PL WEL Rev A.4; 1105 PL WEL Rev A.5; Site Location Plan.
  - 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 dwelling.
  - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as No 338 Midgeland Road.

### Procedural Matter

2. The description of development given above is the one provided in the Council's decision notice and the appellant's appeal form. The description given in the application form has not been used as it states that the proposal is a re-submission of a previously approved scheme. However, the proposal is
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not formally a re-submission, and differs from the previously approved scheme in a number of respects.

### **Main Issues**

3. The main issues are:
  - (a) Whether the development would comprise a new self-contained dwelling in the countryside contrary to both local and national policy, and;
  - (b) The effect of the development on the living conditions of both future occupiers of the proposed accommodation and occupiers of No 338 Midgeland Road with regard to overlooking and a loss of privacy.

### **Reasons**

#### *New dwelling in the countryside*

4. The proposed building would be located to the rear of No 338 Midgeland Road, on land that is partly occupied by an existing garden store. It would be a relatively large structure that would contain two bedrooms and a generous living area. The Council's Officer Report states that due to the size and layout of the building, it could be converted to a self-contained unit with very few alterations.
5. The application is clear that it proposes a residential annexe and it was submitted to the Council as a householder development. The Council validated the application on this basis. The Council expresses concerns that the increased lounge area would provide greater opportunity for provision of further independent facilities, such as a kitchen, and that it would be out of scale with the existing dwelling. However, the scale would not be significantly different from a previously approved scheme for an annexe in the same location. That scheme, which was approved in April 2016, had the same facilities as the current appeal proposal and would also have been capable of being converted to a self-contained unit with few alterations, albeit the lounge area was smaller than that proposed here.
6. Furthermore, the proposed building would be located at the back of the plot and some distance from the road. Whilst it would have a separate pedestrian access it would not have a dedicated vehicular access. In addition, the proposed building has a relationship to the rear garden of No 338 that would not lend itself to separate occupation. For these reasons, I do not regard the appeal building as being tantamount to a new dwelling.
7. The Council has brought 5 recent appeal decisions to my attention in the Marton Moss Area. However, each of these relates to proposals for new dwellings and so they are of limited relevance to the current appeal proposal.
8. I conclude that the development would not comprise a new self-contained dwelling in the countryside. It would therefore not be contrary to Policy CS26 of the Blackpool Local Plan Part 1: Core Strategy (2016), Policy NE2 of the Blackpool Local Plan 2001-2016 (2006), and paragraph 55 of the National Planning Policy Framework (NPPF).

9. In coming to that view, I have considered the judgments referred to by the parties<sup>1</sup>. In this regard I note that in the *Uttlesford* case, deciding whether additional accommodation would be a separate planning unit, even where that accommodation included facilities for independent day-to-day living, was found to be a matter of fact and degree. The *Eagles* case, referred to by the Council, similarly confirms that it is a matter of judgement to assess whether a proposal has the distinctive character of a dwelling house, which in that particular case included the scale, extent of provided facilities, the layout, and the functional relationship with the original house. In any case, I must determine this case on its planning merits and as applied for, namely a residential annexe.

#### *Living conditions*

10. There would be no fence or other barrier between the proposed building and the existing dwelling at No 338. This would allow for uninterrupted views from the proposed building across the rear garden area and rear habitable room windows of No 338. Similarly, there would be uninterrupted views from the rear garden of No 338 across the frontage and habitable room windows of the proposed building.
11. However, this mutual overlooking would occur between the existing dwelling and an ancillary residential annexe. In this situation, no unacceptable loss of privacy would arise.
12. I conclude that the development would not unacceptably harm the living conditions of both future occupiers and occupiers of No 338 Midgeland Road with regard to overlooking and a loss of privacy. It would therefore be in accordance with Policy CS26 of the Blackpool Local Plan Part 1: Core Strategy (2016) and Policy NE2 of the Blackpool Local Plan 2001-2016 (2006).

#### **Conditions**

13. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary for clarity and to ensure a satisfactory development. I have also imposed a condition that requires samples of all external facing materials to match the existing dwelling. This condition is necessary to protect the character and appearance of the area. Finally, I have imposed a condition requiring that the annexe is only to be occupied for purposes ancillary to the residential use of No 338. This is necessary to ensure that the accommodation is not used as a separate unit of accommodation in the interests of residential amenity and to safeguard the character of the area.

#### **Conclusion**

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

*Thomas Hatfield*

INSPECTOR

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<sup>1</sup> Mr & Mrs J. Eagles v Minister for the Environment Sustainability and Housing, Welsh Assembly Government, Torfaen County Borough Council [2009] EWHC 1028 (Admin), and, Uttlesford DC v Secretary of State for the Environment and White [1992] J.P.L. 171