



# Appeal Decision

Site Visit made on 31 March 2021

**by JP Sargent BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 April 2021**

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**Appeal Ref: APP/L3245/W/20/3262685**

**Trefarclawdd Lodge, Coed-y-go, Oswestry, Shropshire SY10 9AT**

- 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 Andy Middleton against the decision of Shropshire Council.
  - The application Ref 19/03607/FUL, dated 12 August 2019, was refused by notice dated 17 August 2020.
  - The development proposed is the replacement of an existing double garage with first floor storage with a new family annexe on the same footprint.
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## Decision

1. The appeal is allowed and planning permission is granted for the replacement of an existing double garage with first floor storage with a new family annexe on the same footprint at Trefarclawdd Lodge, Coed-y-go, Oswestry, Shropshire SY10 9AT in accordance with the terms of the application, Ref 19/03607/FUL, dated 13 August 2019, subject to the following condition:
  - 1) The development hereby permitted shall only be used for purposes ancillary to the enjoyment of the existing residential dwelling, known as Trefarclawdd Lodge. The annexe hereby approved shall not at any time be allowed to be occupied as an independent separate unit of residential accommodation.

## Preliminary Matters

2. When I visited, the development appeared to have been completed and was occupied. As such, I have treated this as an application under section 73A of the Town and Country Planning Act 1990 (as amended). Although I have considered the scheme in accordance with the submitted plans, I am aware of no material differences between what they show and what I saw on site.
3. An application for costs was made by Mr Middleton against Shropshire Council, and that is the subject of a separate decision.

## Main Issue

4. The main issue in this case is whether the scheme constitutes an ancillary annexe or whether it is tantamount to an independent dwelling that visually competes with Trefarclawdd Lodge.

## Reasons

5. This site lies in an isolated rural setting. The detached building (the outbuilding) subject of this appeal comprises 2 bedrooms and a bathroom on the first floor, whilst on the ground floor there is a lounge, a toilet and an entrance hall containing laundry facilities.

6. The outbuilding is just to the side of Trefarclawdd Lodge (the main house), and is one of the ancillary buildings that can be expected around a dwelling of that size. Moreover, the residents of the outbuilding and the Lodge share the access curtilage and parking. While it is detached, I see no reason why, to be an annexe, the accommodation needs to be physically joined to the main house.
7. The outbuilding's layout and facilities allow its occupiers to live with a degree of independence, but that is common with annexe accommodation and does not necessarily undermine its ancillary role. However, despite this, it does not have its own water and electricity supply but shares such utilities with the main house, while they also both use the same septic tank. At the time of my visit although there were laundry facilities in the outbuilding no cooking facilities were visible, as I was told that the residents ate in Trefarclawdd Lodge. I was also informed that the occupiers of the outbuilding, who are members of the appellant's family, currently have no formal tenancy agreement or similar.
8. The Council appeared to consider the scheme would be acceptable if the outbuilding was adapted to incorporate a single garage at ground floor with an additional single garage in a small extension. It said this would allow for the provision of 2 garage spaces, along with some retained annexe accommodation within what would essentially be an ancillary building to the main house. Mindful that the suggested internal garage could be used by those in the outbuilding, such a modification would have had no effect on the functional links with the main house that I have referred to above. Rather it would have affected only the amount of floor space available that could be used as living accommodation and also the outbuilding's appearance. It is therefore reasonable to assume the functional links described would be suitable for an annexe if the size and appearance were deemed satisfactory.
9. Annexes are often smaller than what is before me and indeed the scheme has a greater floorspace than some independent dwellings, but those points, of themselves, do not mean this development is too large to be defined as accommodation of that type. To my mind the building's size is not sufficient to mean its on-going use as an annexe would be unreasonable.
10. I appreciate that some of the above arrangements could be changed without the need for planning permission, but that is often so with accommodation of this nature. In any event, the appellant has only applied to use the building as an annexe, and so, if the appeal was allowed, he would need planning permission for a material change of use to an independent dwelling. This could be confirmed by a condition, which, given the outbuilding's floor space and its relationship to the main house, would not be unreasonable. There is no particular need for the occupants to be dependent relatives requiring care, but such a condition would nonetheless restrict its use to that of ancillary accommodation linked to Trefarclawdd Lodge. The Council's suggested condition prevented the building being sold or let separately, but those aspects do not, to my mind, affect the planning issue of whether or not it remains as ancillary accommodation to the main house.
11. Turning to the alleged visual competition, the outbuilding and the main house are both finished in similar materials of render with timber gables and brick quoins, and so they sit together comfortably. However, the Lodge is a large dwelling that dominates its sizeable curtilage, while the outbuilding appears as a subservient element, as it is appreciably smaller with no designated garden

around. Furthermore, while the main house is 2 full storeys in height, the subservience of the outbuilding is emphasised by its eaves being roughly level with the midpoint of the first-floor windows. While it might have a 'domestic feel', I see no reason why that is unacceptable given it is to form ancillary annexe accommodation. Moreover, the landform and surrounding planting mean the outbuilding nestles acceptably in the landscape.

12. Overall, I therefore consider the scale, design and siting of the development are not inappropriate for an outbuilding within the grounds of the main house. As such, it does not unacceptably compete with Trefarclawdd Lodge visually or challenge its primacy unduly, either as a result of its appearance or by apparently being an independent dwelling in its own right.
13. In the light of the above factors, I therefore find the development can be reasonably considered as an annexe rather than an independent dwelling. Moreover, mindful that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition, the submitted Unilateral Undertaking that seeks to restrict occupancy has not constituted a reason for granting planning permission.
14. I have taken into account the submissions about the demolition of the previous garage but consider they do not lead me to different findings.
15. Accordingly, I conclude the development constitutes an ancillary annexe and does not visually compete unduly with the main house. As such, it does not comprise a new dwelling in the countryside and so is not in conflict with Policies CS1, CS4, CS5, CS6 or CS17 of the *Shropshire Local Development Framework Adopted Core Strategy* or Policies MD2, MD3, MD7a or MD12 of the *Shropshire Council Site Allocations and Management of Development Plan* which collectively broadly seek to control housing in the countryside and promote residential development of a high quality design in a sustainable location that respects its context. The scheme also does not conflict with the *National Planning Policy Framework*.

### **Other matters**

16. Concern was expressed about the effect on Great Crested Newts in a nearby pond, but on the evidence before me I am not in a position to resist the scheme on that basis.

### **Conditions**

17. As the development is apparently finished there is no need for conditions relating to its commencement or its completion in accordance with the submitted drawings. The Council has also suggested a condition removing 'permitted development rights' under Class E of Part 1 of Schedule 2 of *The Town and Country Planning (General Permitted Development)(England) Order 2015*. However, although the annexe is larger than allowed under those rights, it is not of an excessive size either in its own right, in relation to the curtilage, or in relation to what could be built under this Class. I assume that these Class E rights exist at present, and so, before this scheme was built, some large buildings could have been constructed in the grounds as 'permitted development'. Given this, no clear justification to restrict these rights arises from this grant of permission. Such a condition is therefore unjustified. For the reasons given above though an occupancy condition is appropriate.

**Conclusion**

18. Accordingly, I conclude the appeal should be allowed.

*JP Sargent*

INSPECTOR