



Appeal Decision

Site visit made on 3 September 2019

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/Z3825/D/19/3233021

Gardeners Cottage, Hammerpond Road, Horsham RH13 6PJ

- 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 P Schlotter against the decision of Horsham District Council.
 - The application Ref DC/19/0041, dated 7 January 2019, was refused by notice dated 31 May 2019.
 - The development proposed is demolition of detached garage and erection of detached annexe.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on: (i) the character and appearance of the host property and the area; and (ii) whether the annexe would be ancillary or incidental to the main dwelling or a separate independent dwelling unit.

Reasons

Character and appearance

3. The appeal site forms part of the garden area at the side of Gardeners Cottage, a two storey detached property set back from the road behind a mature landscaped boundary. A small cluster of residential properties in relatively spacious landscaped plots are located to the rear of the site off a private road. Aside from these residential properties, the appeal site is surrounded by an extensive area of woodland, playing pitches associated with the Horsham Rugby Club and open countryside, which gives the area an open, rural and verdant character and appearance.
4. The proposal would involve the demolition of an existing detached garage and the construction of a detached annexe with dormer extensions and rooflights on the front and rear elevations to provide living accommodation in the roof space. The proposed annexe would be set back from the main dwelling and separated by a high walled garden, driveway and vehicular access to be shared with the main dwellinghouse. The external finish would be predominantly brick and timber cladding with a half hipped pitched tiled roof.

5. It is clear from the evidence provided and from my observations during my site visit that, given the screening provided by the mature landscaping around the site and topography of the site and immediate surroundings, the proposed building would not be highly visible in the wider landscape. In this respect, I consider the proposal, would have a neutral impact on the High Weald Area of Outstanding Natural Beauty within which it is located.
6. Nonetheless, on a more local level, the scale and form of the proposed building would not amount to a subservient form of development in this location. Although the proposed annexe, set back, would not appear overlarge, relative to the overall plot size, the proposed building would be considerably more prominent than the existing garage. The proposed annexe, by virtue of its greater height, scale and visual bulk would result in an increase in the built form on the site and would compromise the sense of openness in the area.
7. These shortcomings would be exacerbated by the proposal's position, which would be visible from a number of public vantage points along Hammerpond Road. Whilst I recognise that the boundary trees and vegetation provide some visual containment, the degree of visibility will vary according to the seasons. I therefore consider that the proposal, by virtue of its scale, siting and design, would fail to achieve an appropriate degree of subordination to the host property and would harm the verdant and open nature of the site which contributes to the character and appearance of the area.
8. I have considered the appellants statement that the proposed building has been carefully considered and redesigned following the previously submitted scheme¹ in response to the Council's pre-application advice² in order to minimise any impacts on the host property and the area. Whilst the proposed amendments to the design, use of materials and the retention and enhancement of the landscaping around the site, would assist in integrating the proposal with the host property and the area, these aspects do not overcome the adverse effects outlined above. As such, I consider that the development would adversely harm rather than positively contribute to the open, rural and verdant character and appearance of the area.
9. Consequently, I conclude that the proposed development would have a harmful effect on the character and appearance of the host property and the area. The proposal would therefore be contrary to Policies 28, 32 and 33 of the Horsham District Planning Framework (excluding South Downs National Park) 2015 (HDPF). These policies seek, amongst other things, to ensure developments conserve and enhance the natural environment, complement the locally distinctive character and to integrate and relate sympathetically with their surroundings.

Ancillary or incidental to the main dwelling or a separate independent dwelling unit

10. The appeal site is located in the countryside outside of the defined built-up areas which are the focus for development as indicated in Policies 2, 3 and 4 of the HDPF.
11. Policy 28 of the HDPF, supports ancillary accommodation outside of the defined built-up areas, where the development can be accommodated appropriately within the curtilage of the existing dwelling; it is demonstrated that the need

¹ DC/17/2809

² PE/18/116

- for the additional space cannot be met from an existing dwelling or buildings suitable for conversion on the site; and where the size of the proposal would have regard to the existing dwelling and should be grouped with the house.
12. It is a matter of fact and degree as to whether or not the development would be occupied as an annexe or an independent separate dwelling. In assessing this, it is necessary to consider whether the building could function as an annexe. The appellants have outlined that the need for the additional space cannot be met within the existing dwelling or through buildings suitable for conversion on the site. The development involves the construction of a detached annexe to provide living accommodation with lounge, guest bedroom, office, kitchenette, boot room, shower and a WC. Although the annexe is not physically attached to the side of the main dwelling, the proposed building would be sited set back in a relatively large garden plot and within the curtilage of the main dwellinghouse. The occupants of the annexe would share the same vehicular site access and use of the existing garden.
 13. However, access to the annexe would be provided via separate doorways into the garden and vehicular access via an entrance to the front of the property. These allows access to the annexe without any need to pass through the main dwelling. The submitted drawings show the building would have all of the accommodation available for independent occupation separate from the main dwelling. It is also detached and sited away from the main building, which together could further facilitate occupation independent of the main dwelling.
 14. I have noted the appellants arguments regarding the conversion of the existing garage under permitted development. However, the layout of the annexe does not portray what would be expected to be an ancillary or incidental addition to the main dwelling. Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) allows buildings that are required for purposes incidental to the enjoyment of the dwellinghouse. Whilst these incidental purposes are capable of including a wide range of uses, the Courts have held that they do not include primary residential accommodation such as a kitchen or bedroom.
 15. Therefore, taken together the evidence suggests very strongly that, as a matter of fact and degree, what is proposed, on the balance of probabilities, would be able to function as a separate independent dwelling unit. Given the reasonable likelihood that the building could be occupied as a separate independent dwelling unit, I do not consider that a planning condition requiring ancillary occupation of the annexe to address the unacceptable impacts of the development would be effective and enforceable in this case. Policy 26 of the HDPF permits only certain categories of development, including those with an essential need in agriculture or forestry and other uses which need to be located in the countryside. The appeal scheme, as proposed, does not fall within any of the categories of development resulting in a conflict with Policies 2, 3, 4 and 26 of the HDPF.
 16. However, even if my conclusion on this point is disputed, as a result of other material considerations, Policy 28 of the HDPF sets out further qualifications. In this case, I am not satisfied that the appeal scheme can be appropriately assimilated within the curtilage of the existing dwelling within this rural location without harming its character. Consequently, I conclude that the proposal would conflict with Policy 28 of the HDPF.

Other Matters

17. I have considered the appellants comments regarding the family's personal circumstances and the benefits to the family arising from the proposed additional accommodation. However, the courts have generally taken the view that planning is concerned with land use in the public interest. Although personal circumstances can sometimes justify a personal or temporary permission, that would not be appropriate here where a permanent structure is intended and as such are matters to which I can attach only limited weight in making this decision.
18. I have noted the other developments drawn to my attention by the appellants. However, the proposed annexes and ancillary accommodation permitted elsewhere within the Countryside by the Council are of a different scale and form and have different locational characteristics to the appeal scheme. The proposed ancillary accommodation in Blackpool has different development characteristics and was allowed on appeal in a different policy context. On the basis of the limited evidence provided I am not convinced that the circumstances are compellingly similar to the appeal proposal. As a consequence, whilst I have taken these other examples into account, they do not materially alter my conclusions on the appeal proposal.
19. I have considered the various benefits put forward by the appellants that the proposal would bring, including providing additional accommodation for their family close by to offer support and assistance and a new building of an improved quality in terms of space and energy efficiency. While I have given them some weight, these modest benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

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

David Troy

INSPECTOR