



Appeal Decision

Site visit made on 13 October 2020

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2020

Appeal Ref: APP/M1710/W/20/3249372

The Oaks, Gravel Lane, Four Marks, Alton GU34 5JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Dr Paul Hughes against the decision of East Hampshire District Council.
 - The application Ref 29311/006, dated 25 October 2019, was refused by notice dated 13 December 2019.
 - The application sought planning permission for single storey extension to form annexe and conservatory to side after demolition of existing conservatory without complying with a condition attached to planning permission Ref F.29311/004/FUL, dated 22 November 2006.
 - The condition in dispute is No 4 which states that: *Occupation of the annex hereby permitted shall be restricted to use as additional accommodation in connection with the existing dwelling at the site from which it shall not be let, sold separately or severed.*
 - The reason given for the condition is: *The site is located in an area where a new dwelling would not normally be permitted.*
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Decision

1. The appeal is allowed and planning permission is granted for single storey extension to form annexe and conservatory to side after demolition of existing conservatory at The Oaks, Gravel Lane, Four Marks, Alton GU34 5JD in accordance with the terms of the application, Ref 29311/006, dated 25 October 2019, without complying with condition No 4 previously imposed on the planning permission, Ref F.29311/004/FUL, dated 22 November 2006, but otherwise subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are whether or not the condition is necessary and reasonable having regard to:
 - the suitability of the location for a new dwelling having regard to local and national policy for the delivery of housing;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposed development on the Solent Special Protection Area.

Reasons

3. The appeal site is occupied by a large, detached house, The Oaks, which has an attached single-storey annexe. The original planning permission was granted in 2006 subject to the annexe not being used as an independent dwelling due to its location outside a settlement boundary. The appellant is seeking to remove the disputed condition in order to allow the annex to be let or rented out. This would create a separate dwelling. The only physical works proposed would be to block an internal connecting door between the annexe and the host property.

Suitable location

4. The appeal site is located to the west of the village of Four Marks and outside a defined settlement boundary. It is therefore in the open countryside for planning purposes.
5. The Council's approach to development in the countryside is set out in Policy CP19 of the East Hampshire District Local Plan: Joint Core Strategy 2014 (JCS). This set out that the outside settlement policy boundaries, it operates a policy of general restraint in order to protect the countryside for its own sake. The only development allowed in the countryside will be that with a genuine and provide need for a countryside location. Policy H14 of the East Hampshire District: Local Plan Second Review 2006 (Local Plan) sets out that outside settlement policy boundaries, residential development will only be permitted where it is essential to house a full-time working in agriculture, forestry or other enterprise who must live on the site.
6. These policies predate the National Planning Policy Framework (the Framework). However, they are broadly consistent with its approach which supports housing in rural areas that reflects local needs or meets the essential needs for a rural worker. However, paragraph 79 of the Framework goes further and sets out that planning decisions should avoid the development of isolated homes in the countryside subject to certain exceptions, of which d) allows for the subdivision of an existing residential dwelling.
7. The removal of the disputed condition would result in the creation of a new dwelling within the countryside. It is not intended that this dwelling would be occupied by agricultural workers or in relation to any other specific countryside activity. It would therefore be inappropriate development in the countryside and conflict with the development plan.
8. The annexe is a self-contained unit with a living area/kitchen, bedroom and bathroom. It has its own front door as well as an internal door linking it to the host property to which it is physically attached. The annexe has access to both the front and rear gardens although no defined separate outdoor space or garden. As the proposal relates to one physical building, I am satisfied that that the proposal would involve the subdivision of an existing residential dwelling. In these circumstances, it would therefore meet the exception set out under paragraph 79 d).
9. The Framework sets out a clear and recent statement of the Government's policy in respect of the acceptability of residential subdivisions in rural locations. As such, it is a material consideration which carries substantial weight in my decision.

10. My findings on the first main issue are that the location would be suitable for a new dwelling having regard to local and national policy for the delivery of housing and that in the particular circumstance of this case, outweighs the conflict with the development plan in respect of the suitability of the location.

Character and appearance

11. The Oaks forms part of a short linear row of housing development on Gravel Lane, characterised by detached houses, of differing designs and styles, set within large gardens. The annexe is a single-storey extension to The Oaks which is a substantial detached house set behind an extensive front garden and driveway. It is in a slightly elevated position in relation to the road from which it is visible behind a line of hedging and through the entrance gates.
12. The formation of a pair of semi-detached properties within a single plot would be unlike surrounding development. However, both the existing door to the annexe and the main door to the property are visible from the lane. Given this and that no physical changes are proposed, the separation of these properties into two separate dwellings would not be apparent from public viewpoints. Furthermore, given the limited amount of development along Gravel Lane and the variation that exists between properties, the formation of two separate dwellings would not be harmful to local character.
13. The appellant has not proposed any external alterations and the Council has raised a concern that the formation of separate parking and amenity areas would further harm the character of the area by reducing the size of the plot for each dwelling. Whilst the existing plot is large with an extensive driveway, the formation of a separate garden area or subdivision of the front garden could harm the character and appearance of both the host property and surrounding area. The appellant has however indicated that he would be willing to accept a condition preventing the formation of a separate garden area at the front of the property. The imposition of such a condition would provide the mechanism to ensure that any such development works would be subject to agreement by the Council.
14. I conclude that the proposed development would not harm the character and appearance of the area. It would therefore accord with Policy CP29 of the JCS and Policy 12 of the Ropley Neighbourhood Plan 2019 which together require new development to respect the character of the area, provides visual interest and ensure that its layout and design contributes to local distinctiveness. It would also comply with the design objectives of the Framework which seeks well-designed places that are sympathetic to local character.

Solent Special Protection Area

15. The appeal site is situated within an area which deposits nitrates into the Test and Itchen Rivers. Nitrate deposits into these rivers link to nitrogen deposition into the Solent Special Protection Area, Solent Special Area of Conservation and Ramsar sites along the coast. I shall collectively refer to these areas as 'the habitats sites'.
16. These habitats sites are protected as European Sites of Nature Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely

affect the integrity of the European site. I am the competent authority for the purposes of this appeal.

17. Natural England in its Advice on achieving nutrient neutrality for new development in the Solent region dated June 2019, sets out that all types of development that would result in a net increase in population served by a wastewater system, including new homes, will have inevitable wastewater implications.
18. The Council considers that the development would result in a net increase in population because the annexe would no longer be used in connection with the main dwelling by an elderly relative. Based on its analysis that the proposal would provide independent accommodation for up to two persons, it therefore considers that in combination the proposal would have such an effect and therefore concludes that an Appropriate Assessment is necessary.
19. However, the annexe can be occupied residentially albeit in connection with the existing house. For the purposes of the consideration of the effects on habitats site there are currently two residential units on the site, the main property and the annexe. The disputed condition does not restrict the number of occupants of the annexe. With the removal of this condition, there would be no alteration or increase in size of the property that would enable any change in occupancy rates from that which already exists.
20. I therefore conclude that there would be no net increase in either the number of residential units on site or population. Consequently, I can exclude the possibility that the proposal would be likely to have a significant effect on the habitats sites, either on its own or in combination with other plans or projects. It follows that I therefore find no conflict with Policies CP21 and CP22 of the JCS which together require new development to protect habitats sites.

Conditions

21. The Planning Practice Guidance (PPG)¹ is clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have considered both the conditions attached to the original planning permission and other conditions suggested by the Council in light of paragraph 55 of the Framework.
22. Since the development has already been carried out, it is not necessary to attach the original condition 1, which sets a time limit for commencement of the development nor condition 2 requiring the materials to match the existing building.
23. As I have no information before me about the status of conditions 3, 5, 6 and 7 imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

24. For the reasons set out above, I conclude the appeal should be allowed and condition 4 should be removed.

¹ Paragraph: 040 Reference ID: 21a-040-20190723

Rachael Pipkin

INSPECTOR

Schedule of conditions

- 1) Notwithstanding the provision of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no further windows or other openings shall at any time be inserted in the roof slope of the annexe hereby permitted without prior written consent of the planning authority.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.
- 3) Adequate space shall be provided within the site for the loading, unloading and parking of vehicles to the satisfaction of the planning authority.
- 4) Adequate provision shall be made within the site to enable vehicles using the site to enter and leave in forward gear.
- 5) The access shall be splayed back at an angle of 45 degrees.

End of schedule of conditions