



Appeal Decision

Site visit made on 18 January 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2022

Appeal Ref: APP/J4525/W/21/3281751

The Annexe, Mill House, The Broadway, Grindon, Sunderland, SR4 8HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Allan Batty against the decision of Sunderland City Council.
 - The application Ref 21/01472/VAR, dated 18 June 2021, was refused by notice dated 6 August 2021.
 - The application sought planning permission for the erection of a two bedroom, single storey annexe in the garden of the existing dwelling for the owners use, and the demolition of the existing garage without complying with a condition attached to planning permission Ref 13/01542/FUL and appeal reference APP/J4525/A/13/2208754, dated 25 February 2014.
 - The condition in dispute is No 3 which states that:
The development hereby permitted shall be used insofar as it forms an annexe/extension to the dwellinghouse and shall at no time be occupied as a separate or self-contained dwelling unit, in order to achieve a satisfactory form of development and to comply with Policy B2 of the City of Sunderland Unitary Development Plan (1998).
 - The reason given for the condition is:
In order to properly safeguard living conditions.
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Decision

1. The appeal is allowed and the planning permission is granted for demolition of existing garage and erection of single storey two bedroom annexe at The Annexe, Mill House, The Broadway, Sunderland, SR4 8HD granted on 6 September 2013 by Sunderland City Council and as varied on 25 February 2014, without complying with condition No. 3 attached to planning permission Ref 13/01542/FUL and appeal reference APP/J4525/A/13/2208754, dated 25 February 2014.

Preliminary Matters

2. In the banner heading above, I have taken as the date of the planning permission granted under Ref 13/01542/FUL the date¹ upon which the appeal² was allowed.
3. Since the previous application and subsequent appeal were considered, the Council adopted the 'Core Strategy and Development Plan 2015 – 2033' (the CS) in January 2020, whilst the Government published a revised National Planning Policy Framework (the Framework) in July 2021. Although the

¹ 25 February 2014

² APP/J4525/A/13/2208754

relevant development plan policy has changed since, I have been supplied with a copy of both Unitary Development Plan policy B2 and CS policy BH1. I am satisfied that in their approach to design quality and living conditions of existing and future occupiers of land and buildings, they are broadly consistent with each other, and with the Framework.

4. The views of both main parties have been sought in relation to the provisions under which the appeal was made. I have taken the responses into consideration and have determined the appeal accordingly.

Background and Main Issue

5. Planning permission for the building now known as The Annexe, described in the original planning application as an annexe in the garden of the existing dwelling for the owners use, originally included a condition requiring it to not be occupied as a separate or self-contained dwelling when it was granted by the Council in September 2013³. The subsequent appeal² referred to above was considered by the Inspector at that time on the basis that it sought the removal of that condition. The Inspector considered that the main issues to be considered in that appeal were matters of living conditions and highway safety as the main issues.
6. The appeal was allowed⁴, albeit with the disputed condition varied rather than being removed. The Inspector concluded that the [now disputed] condition was necessary and reasonable and that its removal would have resulted in an unacceptable impact on the living conditions of existing and future occupiers of Mill House and The Annexe. The original planning permission was thus varied by substituting the original condition No. 3 with the version set out in the banner heading above. It is this condition which is now the disputed condition and which the appellant seeks the removal of.
7. The appellant seeks to formalise occupation patterns at The Annexe and Mill House to allow the continuation of the former to be occupied independently of the latter. Whilst it is stated that it is the appellant's intention to continue residing at The Annexe, the proposal seeks to allow family members currently resident at Mill House the future flexibility to be able to move home and to sever, in planning terms, the tie imposed by the disputed condition in linking occupation of the two houses.
8. Taking these matters into account, the main issue in this instance is whether or not the condition is reasonable or necessary in the interests of safeguarding the living conditions of the existing and future occupiers of Mill House and The Annexe, with particular regard to privacy.

Reasons

9. Mill House and The Annexe together occupy a sloping corner plot at the junction of Chester Road and Grindon Court. Each are served by a separate vehicular access, with a timber fence running between the two buildings to separate the car parking and outdoor areas associated with each building. Both properties have outdoor amenity spaces of varying size, aspect, surfacing, landscaping and character and usage that wrap around all four sides of each.

³ Permission approved 6 September 2013.

⁴ Dated 25 February 2014

10. The Annexe benefits from an open and elevated south facing aspect across an area of open space within Grindon Court. Although there are no windows on the north facing elevation of The Annexe which faces directly towards Mill House, there are windows on the south facing elevation of the latter which face directly towards the former. The windows on The Annexe's west facing elevation current serve a bedroom and a living room.
11. Mill House has an elevated position above The Annexe which affords it a degree of prominence and outlook across the areas around that building. However, the relationship between the respective habitable room windows of the two buildings is such that any intervisibility between them would be at an oblique angle. The combination of this oblique angle and the difference in ground floor levels between the two is also such that the degree to which intervisibility exists and penetrates into the rooms served by those windows is limited.
12. Moreover, because the windows in question are positioned on public faces of the two buildings, their proposed occupation independently of each other would retain acceptable levels of privacy between them. This would be consistent with their position within a suburban residential setting and not inconsistent with the aims of CS policy BH1 in this respect.
13. The space around both buildings is not particularly extensive. It is, however, relatively private in relation to the public realm of Grindon Court and the busy Chester Road. Whilst the latter is a significant influence on the space around Mill House in particular, there are various different 'spaces' within the garden that provide a range of outdoor living environments, and which are not all dominated by Chester Road.
14. Similarly, the spaces around The Annexe provide a mix of outdoor environments for the occupiers of that property. The space to the front, fronting Grindon Court, is that most directly overlooked from Mill House, but it serves principally as an area for the parking and turning of vehicles. Any intervisibility here would be little different to that experienced elsewhere within Grindon Court and what is, essentially, a typical suburban residential setting. In contrast, the patio to the south of The Annexe benefits from a pleasant south-facing aspect across the open green space within Grindon Court and is relatively secluded from those properties around it.
15. At the time of the previous appeal The Annexe was still under construction. That was some time ago now and the residential gardens around both buildings have established themselves over time to the extent that they demonstrate a range of usable, partly secluded and pleasantly open and sunny outdoor amenity areas suitable for use in a variety of circumstances. Moreover, the area to the front of The Annexe, accessed from Grindon Court, is no longer shared. Each property has separate access to its own car parking space (or spaces) with a boundary fence separating the two and which also provides additional ground level screening between the two.
16. Whilst I accept that, fundamentally, the position of the two buildings relative to each other has not changed in the period since the previous application and appeal, it is clear from the available evidence that the layout and use of the spaces has. I have not been referred to any quantitative standards for outdoor amenity space, whilst that which I saw during my visit to the site was adequately usable and provided a variety of settings for the use of occupiers of both buildings.

17. CS policy BH1 seeks to achieve high quality design. To this end, it states amongst other things, that development should retain acceptable levels of privacy and ensure a good standard of amenity for all existing and future occupiers of land and buildings. In respect of retaining acceptable levels of privacy CS policy BH1 does not differ in its aims to those of Unitary Development Plan policy B2, against which the previous application and appeal were considered.
18. For the reasons I have set out, I am satisfied that the removal of the disputed condition would not prejudice the living conditions of occupiers, whether existing or in the future, of either Mill House or The Annexe. In this respect, I conclude that the disputed condition is no longer necessary and its removal would not result in conflict with CS policy BH1.

Conclusion

19. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should succeed and planning permission be varied in the manner set out in the formal decision.

G Robbie

INSPECTOR