The Planning Inspectorate

# Appeal Decision

Site visit made on 10 January 2022 by B Phillips BSc MSc MRTPI

**Decision by L McKay MA MRTPI**

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

**Decision date: 22 February 2022**

**Appeal Ref: APP/W0340/D/21/3287821**
**Nuttage House, Road Known as Pease Hill, Bucklebury, Reading RG7 6RP**

- 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 Hindle against the decision of West Berkshire District Council.
- The application Ref 21/00731/HOUSE, dated 15 March 2021, was refused by notice dated 9 September 2021.
- The development proposed is alteration & extension works to the annexe building at Nuttage House.

## Decision

1. The appeal is allowed and planning permission is granted for alteration & extension works to the annexe building at Nuttage House at Nuttage House, Reading, RG7 6RP in accordance with the terms of the application, Ref 21/00731/HOUSE, dated 15 March 2021, and the plans submitted with it, subject to the following conditions:

    1) The development hereby permitted shall begin no 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: Site Location Plan, 493.101A, 493.102A, 493.103A, 493.104A, 493.105A.

    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 building.

    4) The development hereby permitted shall be carried out in accordance with the submitted scheme for the protection of trees and hedgerow as detailed within "Tree Survey BS5837: 2012, Arboricultural Method Statement and Tree Protection Plan" by Nurture Green Ref. NGTSAMS13221 dated 26th February 2021.

    5) The development hereby permitted shall be carried out in accordance with the submitted scheme for ecological mitigation and enhancements as detailed within paragraphs 5.3 and 5.4 of the Ecological Assessment by South West Ecology (SWE Ref: SWE 275), dated 22nd January 2021. The enhancement measures shall be implemented within 12 months of the commencement of the approved development and thereafter be maintained in accordance with the approved scheme.

## Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

## Procedural Matter

3. The Council's decision notice makes reference to Policies CS6 and ADPP6 of the West Berkshire Core Strategy 2006 – 2026 (CS). The Council has confirmed that this is a typographical error and should refer to Policy C6 of the Housing Site Allocations Development Plan Document 2006-2026 (DPD) and CS Policy ADPP5 respectively, as is set out in the Officer Report. The appellants have considered the correct policies in their appeal submissions.

## Main Issues

4. The main issues are whether the site is a suitable location for the proposed development with particular regard to whether it would amount to the creation of a separate independent dwelling; and the effect of the proposal on the character and appearance of the outbuilding, host dwelling and surrounding area.

## Reasons for the Recommendation

*Location*

5. Nuttage House is located within the open countryside and the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The substantial property has a large curtilage, including various outbuildings and formal landscaping set over stepped levels.

6. An existing single storey outbuilding, located to the north of the main house, provides 2-bedroom annex accommodation, having originally been built as a garden pavilion. The existing annex and a garage are separated from the driveway at the front of the dwelling and from the main house itself by a topiary hedge. However, the annex sits within the large garden, on higher ground above the formal garden and parterre.

7. The Council has objected to the appeal scheme because of concerns about the creation of a separate dwelling in a remote location within the open countryside contrary to national and local planning policies on the location of housing. If a new independent dwelling was created then the appeal scheme would conflict with the restrictions on new homes outside settlements and in the countryside of the AONB included in CS Policies CS14, CS19, ADPP1 and ADPP5 and DPD Policy C1.

8. The proposal would increase the amount of accommodation in the annex, with the additional floorspace including a new utility room, additional bathroom and larger bedrooms. It would therefore have all of the facilities for independent living. However, the courts have held that even if accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling, and that this would be a matter of fact and degree.

9. While the Council suggests the scale of the extensions is at the heart of the proposal, the use of the building is also a factor in consideration of whether a

building is capable of being occupied as an annex. Its relationship to the main dwelling is also a relevant factor. In this case, the existing annex already has all the facilities for independent living, but the appellants' evidence is that it is not occupied as a separate dwelling. The Council has not put forward a case as part of this appeal that the existing occupation of the annex by family members is unlawful or that it is used other than as ancillary accommodation to the main dwelling.

10. While larger, the proposal would not substantially alter the function or nature of the existing 2-bedroom accommodation. It would be in the same location reasonably close to Nuttage House, with the same access. Although still detached from the main house, it would be set within its large garden with no physical separation between it and the formal gardens just below it on the slope. The proposed terrace would provide an area of outdoor space specifically for the annex, but this would be little different to the existing decking which provides an area to sit out. No separate parking area and no subdivision is proposed.

11. Furthermore, the proposal would still be for a single storey building on lower ground, very considerably smaller than the large main dwelling. Consequently, it would remain subservient to Nuttage House in terms of scale and floorspace.

12. I acknowledge that the Supplementary Planning Guidance (SPG), House Extensions (2004) states *'A large granny annex capable of being made into a separate dwelling will not normally be acceptable'* and includes other provisions regarding physical separation. However, the SPG relates to annexes as extensions to existing buildings and therefore is not directly relevant to this situation where there is already a detached annex. While the Council suggests that the existing building could be returned to a garden or outbuilding use when no longer needed, there is no substantive evidence before me that the annex as enlarged could not be used in the same way.

13. Therefore, the proposal, whilst resulting in increased floorspace, would not conclusively be more independent than the existing accommodation. Furthermore, no change is proposed in terms of who would live in the annex as extended, or how they would live there. Consequently, it has not been demonstrated that the proposal would result in the larger building being occupied as a separate dwelling, or creation of a separate household. Nor has it been demonstrated that this scheme, although larger than a previously refused proposal dismissed at appeal[1], would result in permanent independent occupation and creation of a separate planning unit.

14. I recognise however that although not the appellants' intention, it would nevertheless be possible for the annex to be occupied independently from Nuttage House. The Inspector who determined the previous appeal commented on this issue that '*the use of a Planning Obligation has the potential to address the Council's concerns about the creation of 2 independent dwellings'* (paragraph 12). They did not have to reach a firm conclusion on this matter due to an issue with land ownership and dismissed the appeal on other grounds; nonetheless, it is possible for such an obligation to limit the use of a building in the way indicated.

[1] Appeal reference APP/W0340/D/17/3186220

15. A completed unilateral undertaking (UU) has been submitted which would limit occupation of the annex to be ancillary to Nuttage House and both to be retained in one ownership and one overall occupation. Based on the Title information provided, the UU includes all persons with an interest in the land. While the Council suggests a monitoring fee should be payable, it has not provided a policy or other justification for this, therefore I do not consider it necessary to make the development acceptable in planning terms. The UU would take effect on the granting of permission at appeal and would be necessary to ensure that the enlarged annex is occupied as intended. It is related to the development and fairly and reasonably related in scale and kind to it, so meets the requirements of paragraph 57 of the National Planning Policy Framework (Framework).

16. The Council expresses concern regarding the difficulty of monitoring and enforcing the use, however this is no different to the existing situation. No compelling reason is given why the use and occupation at any time could not be ascertained, or why any material change of use of the building could not be enforced against. Any future application for formal separation would be considered on its own merits.

17. Consequently, although it would be self-contained, given the scale and physical relationship of the proposed annex to the main dwelling, there is no compelling evidence before me that allowing this appeal and extending the annex would create a new planning unit, or that the annex would be tantamount to a separate dwelling. I am therefore satisfied that in this case the proposed enlarged building would be capable of being occupied as an annex, and that the UU would secure it as such.

18. If permission were granted and the development was not then built or used as proposed, or if there were a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required. The building would be at risk of enforcement action if such permission is not granted.

19. For the reasons outlined above I conclude that the development would not amount to the creation of a separate independent dwelling and that the site is a suitable location for the proposed development. There is therefore no conflict with the requirements of CS Policies ADPP1, ADPP5, CS14 and CS19 and DPD Policy C1 or the Framework in respect of the location of development, or with the aims of the SPG.

*Character and Appearance*

20. The extensive garden of Nuttage House is contained by mature boundaries, landscaping and trees. The annex building is mostly obscured from the road by the boundary landscaping and a garage/storage outbuilding, even when the vegetation was not in leaf.

21. The existing building has an overhanging roof providing a covered verandah around the property. The proposal would extend the building towards the main house. Much of the additional floorspace proposed would be created by infilling under the overhanging roof.

22. The hipped roof form of the extension would match the appearance of building and would be finished in matching materials. The porch to the eastern side

would be limited in scale and comfortably in keeping with the existing building. The extension itself would not be excessive in scale and would not overwhelm the existing building. Moreover, the resultant building, when seen in the context of the much larger two storey main house and the extensive curtilage of the property, would remain subordinate and appropriate in scale.

23. While the design of the enlarged annex would be very different to that of the main house, that is also the case now and it would not necessarily be appropriate to replicate the formality and detailing of the main house on a garden outbuilding. The proposed extension and alterations would remain in keeping with the existing outbuilding. The overhang, glazing and decking to the front would retain its pavilion style appearance. Therefore, its overall character would not alter. The existing relationship with the main house would not significantly change and whilst larger, given its location, design and context, it would not take on the appearance of an independent separate bungalow.

24. The existing hedgerow and trees make a positive contribution to the verdant landscape quality and scenic beauty of the AONB. None are proposed to be removed as part of the development, but the proposal would involve building close to them. Therefore, a condition requiring adherence to the submitted arboricultural recommendations is necessary to ensure that no trees or hedgerows are removed or damaged during construction.

25. The extended outbuilding would sit comfortably within the substantial garden area of Nuttage House, and as the vegetation around the site would remain, the extension would not detract from the verdant scenic beauty of the AONB and the rural character of the locality.

26. Therefore, the proposal would not be harmful to the character and appearance of the existing outbuilding, host dwelling or surrounding area. There would be no conflict with DPD Policies C3 and C6, which, amongst other things, collectively seek to ensure that development is in keeping with the scale and character of the original dwelling and wider setting. These policies are consistent with the Framework's goal of securing high quality design.

**Conditions and Planning Obligation**

27. Various conditions have been suggested by the parties. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG and the tests in Framework paragraph 56, I have amended some of the suggested wording.

28. A condition relating to the start date of development and compliance with the submitted drawings is necessary as this provides certainty. Matching materials are necessary to safeguard the character and appearance of the area.

29. I do not consider that a landscaping condition is necessary, as the existing trees and hedges will be retained and secured through compliance with the submitted Arboricultural Method Statement (AMS). This would be sufficient to retain the existing verdant character of the site. I have altered the wording of the suggested condition relating to compliance with the submitted AMS to remove unnecessary repetition of details already within the AMS.

30. The submitted Ecology report found limited potential habitat for roosting bats, breeding birds, and hedgehogs but includes mitigation measures to prevent harm if any are found during construction. Enhancement measures are also

proposed. A condition requiring compliance with these measures is necessary to minimise impacts on and provide net gains for biodiversity as required by Framework paragraph 174.

31. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The PPG advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity.

32. The appellants suggest that concerns regarding physical severance could potentially be addressed by a condition removing permitted development rights in order to prevent any physical barrier being erected and any other work that could support severance. However, it would not be reasonable to remove such rights across the whole appeal site, and no smaller extent is before me. Therefore, such a condition has not been clearly justified as necessary, nor would it be precise, so I have not imposed it.

33. A condition limiting occupation of the annex to be ancillary to the main house is suggested by various parties however there is a UU before me that would secure this. Ordinarily, planning obligations should only be used where it is not possible to address such matters by condition. However, as drafted, the completed UU would take effect should the appeal be granted, as there is no clause to prevent this. Therefore, in this case a condition would duplicate the effect of the UU so is unnecessary.

**Conclusion and Recommendation**

34. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be allowed with the above conditions.

*B Phillips*

APPEAL PLANNING OFFICER

**Inspector's Decision**

35. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed subject to conditions.

*L McKay*

INSPECTOR