



Appeal Decision

Site visit made on 6 December 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/M1710/W/22/3292927

Sarum, 57 Ackender Road, Alton GU34 1JT

- 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 Mr & Mrs Moss against the decision of East Hampshire District Council.
 - The application Ref 29046/003, dated 11 June 2021, was refused by notice dated 13 January 2022.
 - The application sought planning permission for conversion of detached garage to self-contained dwelling (as amended by plans received on 3 December 2009) without complying with a condition attached to planning permission Ref 29046/001, dated 21 December 2009.
 - The condition in dispute is No 3 which states that: "The accommodation hereby permitted shall be restricted to use as ancillary accommodation to the existing dwelling at the site from which it shall not be let, sold separately or severed thereafter."
 - The reason given for the condition is: "The site is in an area where a new dwelling would not normally be permitted except the demonstrable needs of the case."
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of detached garage to self-contained dwelling (as amended by plans received on 3 December 2009) at Sarum, 57 Ackender Road, Alton GU34 1JT in accordance with the application Ref 29046/003 dated 11 June 2021, without compliance with condition No 3 previously imposed on planning permission Ref 29046/001, dated 21 December 2009 and subject to the conditions contained within the Schedule attached.

Background and Main Issues

2. The condition in dispute ensures that the self-contained dwelling shall remain as ancillary accommodation to Sarum, 57 Ackender Road. The appellant wishes to remove the condition so that the self-contained dwelling could be severed from No 57 and used as an independent dwelling.
3. The main issues, therefore, are whether the condition is reasonable and necessary (i) to protect the character and appearance of the area and the living conditions of the future occupiers of the proposal, with respect to private amenity space, and (ii) in the interests of highway safety, with specific regard to parking provision for the existing occupiers of No 57 and the future occupiers of the proposal.

Reasons

Character and Appearance and living conditions of future occupiers

4. The appeal site consists of a former detached garage associated with No 57. It is within the settlement limits of Alton and is situated within a built-up, residential area. The former garage has been converted under the original application¹, and had been occupied by a relative of the appellant. The converted garage is served by a separate vehicular and pedestrian access. There is a small enclosed paved area to the rear of the building, which is enclosed with a brick wall and mature vegetation along the boundary with 63 Ackender Road. Refuse storage is also to the rear of the building. There is a single parking space to the front, along with a small strip of garden, with a low picket fence and some sparse vegetation separating this front area from No 57.
5. Whilst two storey, semi-detached and detached dwellings are the predominate housing types, there are other bungalows situated along Ackender Road. There is also some variation in plot size, building materials and housing styles. The proposal would be a small one-bedroom dwelling, with an open plan living, dining and kitchen at ground floor, and one bedroom and bathroom at first floor. Due to the size of the proposal, it would not be a family sized dwelling, which would require a larger amount of private amenity space. Whilst it would be a small dwelling, with only a small paved area of amenity space to the rear and a small strip of garden to the front, they would be in proportion with each other. Due to the existing variation in the area, the resultant plot size would not be out of character. The private amenity space would also be adequate to provide the future residents with adequate living conditions.
6. Consequently, the condition is not necessary to protect the character and appearance of the area or the living conditions of the future residents of the proposal, with respect to the private amenity space. The proposal would be in accordance with Policy CP29 of the East Hampshire District Local Plan Joint Core Strategy (JCS) (adopted May 2014) and Policy DE2 of the Alton Neighbourhood Plan. In combination, these policies seek to ensure that the layout and design of development contributes to the character, local distinctiveness and sense of place, and is appropriate and sympathetic to its setting in terms of its scale, massing and density. It would also be in accordance with the principles within Chapter 12 of the National Planning Policy Framework (2021) in regard to achieving well-designed places.
7. The Council refers to Policy HE2 of the East Hampshire District Local Plan (Second Review) (adopted March 2006) in the delegated report but not in the reason for refusal. This relates to alterations and extensions to buildings. There would be no external alterations or extensions to the building as part of the appeal proposal. Therefore, this policy is not applicable.

Parking

8. The proposal would provide 1 parking space to the front of the dwelling. On my site visit, I noted that this single parking space is already marked out and separated from No 57 by the low fence and vegetation. This is in accordance with the approved plans under the original permission². Furthermore, there would be space to the front of No 57 to park up to 3 vehicles.

¹ Ref 29046/001

² Drawing No 320/05 'A', dated September 2009 of application Ref 29046/001

9. Consequently, I am satisfied that sufficient parking would be available to serve the existing occupiers of No 57 and the future occupiers of the proposal. The disputed condition is not necessary in the interests of highway safety, with specific regard to parking provision. The proposal would accord with Policy TR5 of the Alton Neighbourhood Plan, which requires new residential development within Alton to provide an adequate level of off-street parking for residents.

Other Matters

10. I note the appellant argues that the disputed condition fails the 6 tests set out in the Planning Practice Guidance (PPG), on the basis that the condition removed the right for the original proposal to be used as a single dwelling house, which was substantially different from that set out in the description of the original proposal. However, given my findings above, I do not need to consider this matter any further.
11. The Council refers to their 'Residential Extensions and Householder Development' Supplementary Planning Document (SPD) in the delegated report, but not in the reason for refusal. The Council have not directed me towards any part of the SPD that the proposal would conflict with. The Council have also provided me with a copy of the Alton Town Design Statement, but they have not directed me towards any relevant guidance within the Design Statement. Consequently, I find no conflict with neither the SPD nor the Design Statement.

Conditions

12. The PPG makes it 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. Section 73 allows the decision maker to attach new conditions, to not attach conditions that were previously imposed or to attach modified versions of them.
13. I have repeated the non-disputed conditions from the original permission that appear still to be relevant. I have also considered the further condition suggested by the Council regarding securing further details of vehicular parking, cycle parking and refuse storage, in the interests of highway safety. However, as already alluded to, vehicular parking and refuse storage has already been shown on the originally approved plans and is already in situ. Whilst cycle parking hasn't been specifically shown, there is sufficient space both to the front of the dwelling or to the rear, where a cycle could be securely stored without harming highway safety. Therefore, it would not be reasonable or necessary to attach a condition on this matter.

Conclusion

14. For the reasons given above, I conclude that the disputed condition is not reasonable or necessary. I shall therefore allow the appeal and grant a new planning permission without the disputed condition.

Laura Cuthbert

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not 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:
 - design and access statement
 - location plan 1:1250
 - site plan 1:500
 - 09/3082 - site survey
 - 320/05A - proposed floor plans, elevations, roof plan and site plan
 - 320/01 - existing elevations, floor plan and site plan
 - 320/11 - street scene elevation
- 3) Notwithstanding any indication of materials that may have been given in the application or in the absence of such information, no development shall start on site until samples / details including manufacturers details of all the materials to be used for external facing and roofing have been submitted to and approved in writing by the local planning authority. The development works shall be carried out in accordance with the approved details.
- 4) The parking spaces shown on the approved plans shall only be used for parking purposes and not for the storage of boats, caravans, and trailers.
- 5) Notwithstanding any indication shown on the approved plans, the first floor windows in the rear elevation of the development hereby permitted shall at all times be glazed with obscure glass.