



Appeal Decision

Site visit made on 8 August 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2023

Appeal Ref: APP/Z3635/D/23/3324703

24 Jordans Close, Stanwell, Surrey, TW19 7PU

- 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 Ed Guevarra against the decision of Spelthorne Borough Council.
 - The application Ref. 22/01264/HOU, dated 9 September 2022, was refused by notice dated 14 April 2023.
 - The development proposed is erection of single storey outbuilding for use as annexe.
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Decision

1. The appeal is allowed and planning permission is granted for erection of single storey outbuilding for use as annex at 24 Jordans Close, Stanwell, Surrey, TW9 7PU in accordance with the terms of the application, Ref. 22/01264/HOU, dated 9 September 2022, and subject to the conditions listed below.
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the outbuilding hereby permitted shall match those on the existing host building or otherwise be in accordance with those shown on the approved plans.
 - 3) The outbuilding hereby permitted shall be carried out in accordance with the following approved plans: 00-01AD (received on 18.02.2023); 00-02 (received on 09.11.2022); 00-03 Rev.A (received on 09.11.2022); 00-04 (received on 09.11.2022).
 - 4) The outbuilding hereby permitted shall not be used or occupied at any time other than for purposes ancillary to the residential use of the dwelling (maisonette) known as 24 Jordans Close, Stanwell.
 - 5) No development shall take place until:-
 - (i) A comprehensive desk-top study, to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site, has been submitted to and approved in writing by the Local Planning Authority.
 - (ii) Where any such potential sources and impacts have been identified, a site investigation shall be carried out to fully characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until the

extent and methodology of the site investigation has been agreed in writing with the Local Planning Authority.

(iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

The site shall be remediated in accordance with the approved method statement, with no deviation from the statement without the express written agreement of the Local Planning Authority.

- 6) Prior to the first use or occupation of the development hereby permitted, and on completion of the agreed contamination works, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to an agreed in writing by the Local Planning Authority.

Preliminary Matters

2. I have adopted the description of development as it appears on the decision notice as the Appellant's Grounds of Appeal (GOA) confirm that this is the description that was formally agreed with the Council.

Main Issue

3. The main issue is whether the proposed development would be suitably located and appropriate having regard to its siting, scale and use, and would provide an acceptable standard of living accommodation for future occupants and existing occupiers.

Reasons

4. The appeal site is located on Jordans Close and comprises a two storey semi-detached property that is divided into maisonettes. The host property is the unit on the first floor, with its main entrance on the southern side (elevation). The main entrance to the ground floor maisonette, 23 Jordans Close (No.23), is also on this southern elevation. To the west of these entrances is a gate that leads to a garden for the occupiers of No.23; and to the south is a further gate that leads to the garden for the occupiers of the host property. To the south of the host's garden is a courtyard of single storey flat roofed garages.
5. The other half of the semi to the host is also divided into maisonettes, 21 and 22 Jordans Close, with a similar garden arrangement and courtyard of garages (to the north). Both pairs of semis are located at the end of a cul-de-sac. To the rear (west) is a grassed embankment that rises high above the properties to a large reservoir. The surrounding area comprises similar semi-detached properties divided into maisonettes. Most of these properties, including the appeal site, have open frontages that are either laid to lawn/landscaping or are used for off-street parking.
6. As the garden to the host is enclosed by timber fencing and set back from the end of the cul-de-sac, it is not visually prominent within the streetscene. The garden is largely laid to lawn, but includes a pond feature, various sitting out

areas and a small outbuilding. Within this context, the appeal proposal involves replacing the existing outbuilding with a new single storey flat roofed building that would be used as an annex, and would include a new off street parking space. The proposed layout shows a combined living room kitchen, a shower room, toilet and a bedroom.

7. The Council contend that the proposal would be tantamount to a new dwelling and would not genuinely be ancillary. Its Delegated Report (CDR) states that the basis for this is the fact that the new building would be sited in the north western corner, partitioned off from the host property by a tall boundary fence and would have its own bedroom, WC, kitchen, lounge, amenity space and parking. However, the new building would replace the existing outbuilding in the host's garden, it would be located away from the common boundary with the garden to No.23 and would be sited to allow the new annex to benefit from the retained garden areas. The tall boundary fence already exists and thus the relationship between the garden and the host property would not change. I do acknowledge that the proposed annex would contain the facilities required for a separate dwelling, but they are also the type of facilities you would expect to see in an annex. There is also nothing to indicate on plan that the retained garden areas would not be available to both the occupiers of the host property and the new annex or that this arrangement would in any way be harmful to the living conditions of the occupiers of the host given that the intended use of the new outbuilding would be as an annex to the host property.
8. The Council have referred to policy EN1 of the Spelthorne Core Strategy & Policies DPD (February 2009) (SCS). This policy deals with the design of new development in terms of, for example, seeking a high standard of design and ensuring that proposals have regard to local character through their scale, height, proportions, building lines and materials. This is expanded further in the Design of Residential Extensions & New Residential Development Supplementary Planning Document (April 2011) (SPD). Even so, the proposal before me is for a new annex and not a new dwelling. Moreover, whilst the SPD deals with domestic extensions, it does not include any advice on annexes or outbuildings, and my attention has not been drawn to any such similar policies within the SCS.
9. Based on the evidence before me I am satisfied that the new outbuilding would constitute and function as an annex in that: it would replace an existing outbuilding; it is shown to be within the same ownership as the host property; it would be sited within part of the garden to the host and would potentially share the services and utilities of the host; it is shown to share the retained garden areas with the host; it would be reasonably well related to the host property, with a good visual link to it; and the new outbuilding would be small-scale and subservient to the host property. The proposal is not shown as being physically separate from the existing residential use of the appeal site or separate from the ownership of the host property. Whilst no evidence has been provided of a functional link, in terms of existing and future occupiers, in my judgement, the proposal would function as an annex.
10. For all the above reasons, I am satisfied that, as a matter of fact and degree, the proposed annex would be located within the curtilage of the host property and would thus be acceptable in principle. Moreover, any planning permission that is issued would run with the land irrespective of the circumstances of the intended occupier(s). If the new building is not built or used as proposed or if

there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission is not granted or was not sought.

11. Turning to its design, the new building would be small scale with a modest footprint and would include a flat roof that assists in reducing its scale. It would be proportional and subservient to the host property and constructed from a similar pallet of materials. It would be located in the north western corner away from the road and partly screened by existing fencing and landscaping. As such, views of the new outbuilding from public vantage points would be limited. Those views that are available would be of an outbuilding that you would commonly expect to see within a rear garden. Indeed, a similar outbuilding has been approved and constructed within the rear garden to 22 Jordans Close, which integrates well with the character and appearance of the area. In relation to the retained garden areas, there is no evidence before me to suggest that this arrangement would in any way be substandard or would not be sufficient to meet existing and future occupiers needs
12. Interested parties have raised concerns in relation to a covenant/lease and use of the host property as an Airbnb. However, the proposal before me only seeks planning permission for a new annex and these matters are not therefore relevant to the acceptability or otherwise of the development. I also note that the CDR concluded that these were either matters on which the application could not be refused or were separate to planning legislation.
13. Accordingly, I find that the proposed annex would not be out of character or harmful to the appearance of the area or harmful to existing and future living conditions, and would thus comply with policy EN1 of the SCS and the SPD.

Conditions

14. I have considered the Council's suggested conditions against the advice in the National Planning Policy Framework (July 2021) and the Planning Practice Guidance chapter on the use of planning conditions. Conditions which refer to the approved plans and for materials to match existing, are necessary and reasonable to secure a high quality development and to reflect the details included in the application. I have, however, added a list of plans for clarity. Conditions addressing any potential contamination also appear reasonable to protect the amenities of future occupiers, based on the advice of the Environmental Health Officer in relation to the former use of the land. I have also attached a condition to restrict the use of the outbuilding to a residential annex, albeit the wording is different to that put forward by the Appellant. This is necessary and would be enforceable so as to prevent the outbuilding being used or occupied as a separate and independent residential dwelling.

Conclusions

15. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR