

Appeal Decision

Site visit made on 20 November 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20.12.2023

Appeal Ref: APP/P5870/D/23/3327376

43 South Drive, Cheam, Sutton SM2 7PH

- 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 C Chung against the decision of the Council of the London Borough of Sutton.
 - The application, Ref. DM2023/00204, dated 23 May 2023 was refused by notice dated 9 February 2023.
 - The development proposed is the erection of a detached single storey building at the rear to provide ancillary Granny Annex accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached single storey building at the rear to provide ancillary Granny Annex accommodation at 43 South Drive, Cheam, Sutton in accordance with the terms of the application, Ref. DM2023/00204, dated 23 May 2023 and subject to the conditions in the attached Schedule.

Preliminary Matter

2. The appeal application was refused for two reasons, the second of which was an objection to the height of the proposed annex. Following the refusal the appellant has prepared an amended plan, Ref. 01474 PL01A, which shows the height of the proposed building reduced from 4.6 to 4 metres. I consider it appropriate to accept this amendment in my determination of the appeal.

Main Issues

3. The main issues are (i) whether the appeal proposal is an appropriate form of development having regard to Policies 7, 9 and 28 of the Sutton Local Plan 2018 ('the Local Plan'), and (ii) whether the height of the building would be subordinate to the host dwelling and thereby in keeping with the character and scale of development of the surrounding area.

Reasons

4. On the first issue, Local Plan Policy 7 relates to housing density in Sutton. Having carefully considered its wording, I do not consider it to be applicable to a proposed ancillary Granny Annex in a rear garden that can only be accessed by a pedestrian-width access at the side of the host dwelling and across the rear lawn of the property. Policy 9 concerns housing sizes and standards and again is not relevant to the appeal application. Policy 28 concerns Character and Design
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and is relevant, but is addressed in the second refusal reason and therefore the second main issue in paragraph 3 above. I shall therefore deal with the two issues together.

5. Notwithstanding my view that Local Policies 7 and 9 are not applicable to an ancillary building to be used as a Granny Annex, I acknowledge that in this case the floor area and the facilities to be provided comprise a potential for separate residential use independent of No. 43 South Drive as the host dwelling.
6. However, this is substantially countered by the fact that the site is surrounded by rear gardens in multiple ownerships with no obvious scope for a vehicular access. Furthermore, there is well-established Case Law that the provision of the facilities needed for day to day living, in particular catering facilities separate from the host dwelling, does not preclude an outbuilding being permitted and used as a Granny Annex. One such legal precedent is referred to in the Grounds of Appeal.
7. As regards subordination or subservience, No. 43 South Drive is a large two storey detached house with a long garden. The height of the proposed Granny Annex has been reduced to 4m and it has an appropriately utilitarian and simple design. Access to the building would be by a single entrance to the living room in the form of French Windows opening onto the lawn and in full view of the main dwelling.
8. When seen in its context I consider that the building would be perceived as a subordinate building clearly related to the host dwelling. Any visual impact would be further lessened by the mature trees and vegetation on three sides. I also note that there are no objections from any of the eight neighbours contacted in the public consultation on the application.
9. Having considered many appeals for outbuildings to dwellings in the London Boroughs, I am well aware that there is the potential for such development to be covertly used for accommodation independent from a host dwelling. The Council is therefore right to be cautious, but in the circumstances of this case I conclude that the building would be appropriate for the site and would not harm the character and appearance of the area.
10. Accordingly, there would be no conflict with Local Plan Policies 7, 9 & 28 or with Government policy in the National Planning Policy Framework 2023. I shall therefore allow the appeal subject to conditions. In coming to this conclusion I have also had regard to other similar developments permitted by the Council, as referenced in the Grounds of Appeal. In addition, online National Planning Policy Guidance says that conditions can make development proposals acceptable that without them may well be unacceptable.
11. I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved drawing is needed for the avoidance of doubt and is in the interests of proper planning. Nearby trees will be safeguarded by a condition requiring the building to be constructed in accordance with the Arboricultural Method Statement. Finally, two conditions will ensure that the Granny Annex is not used for accommodation unrelated to the use and occupation of the host dwelling.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
- 2) The development hereby permitted shall be carried out in accordance with the approved Composite Drawing No. 01474 PL01A;
- 3) The development hereby permitted shall be carried out in accordance with the approved BS5837 tree protection strategy and plan included in the Arboricultural Method Statement dated 30 March 2023 prepared by Connick Tree Consultants;
- 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 43 South Drive, Cheam, Sutton SM2 7PH;
- 5) The annex hereby permitted shall not at any time have (i) a separate postal address; (ii) separate meters from the main dwellinghouse for the provision of services; (iii) a separate and registered Land Registry title; (iv) a separate Council Tax account; (iv) a separate access from the public realm independent of the main dwellinghouse.