



Appeal Decision

Site visit made on 3 January 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/M3645/W/23/3329843

The Old Barn, Northdown Road, Woldingham, Surrey CR3 7BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Theo Gerber against the decision of Tandridge District Council.
 - The application Ref TA/2023/371, dated 23 March 2023, was approved on 8 September 2023 and planning permission was granted subject to conditions.
 - The development permitted is changes to existing annex including erection of rear extension for a bathroom and changes to fenestration, erection of detached Summerhouse, installation of new Water Treatment plant.
 - The condition in dispute is No 3 which states that: "The enlarged annexe hereby permitted shall only be occupied for purposes ancillary to the residential use of the dwelling known as 'The Old Barn'."
 - The reason given for the condition is: "To ensure that the accommodation remains at all times incidental to the main use of the property as a single-family dwelling as independent use would result in an unacceptable privacy/amenity conflict with the existing dwelling and the creation of a dwelling out of character and harmful to the layout of the wider area."
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Decision

1. The appeal is allowed and planning permission TA/2023/371 for changes to existing annex including erection of rear extension for a bathroom and changes to fenestration, erection of detached Summerhouse, installation of new Water Treatment plant at The Old Barn, Northdown Road, Woldingham, Surrey CR3 7BD granted on 8 September 2023 by Tandridge District Council is varied by deleting condition No 3.

Preliminary Matters

2. Different spellings of the word 'annex' have been used by the parties in this appeal. For consistency, I have used 'annex' unless quoting directly from another document.
3. Paragraph 56 of the National Planning Policy Framework (the Framework) states planning conditions should only be imposed where they meet six tests, the first of which is that they are necessary.
4. The Framework was updated in December 2023, during the course of this appeal. However, the section on planning conditions has not changed. Therefore, I am satisfied no party would be disadvantaged by not having the opportunity to provide observations on the new Framework.

Background and Main Issue

5. The appeal site comprises a dwelling known as The Old Barn, an annex, and a summerhouse. The annex was formed from the conversion and alteration of a former garage under planning permission reference TA/2020/878. That permission was subject to a condition described by the Council as “generally the same” as the condition that is the subject of this appeal.
6. Planning permission reference TA/2023/371 allows, amongst other things, the erection of a rear extension to the annex to create a bathroom and changes to the annex’s fenestration. The Council is concerned about potential use of the annex as a separate dwelling, which it considers could be harmful to the living conditions of neighbouring occupiers and to the character and appearance of the surrounding area. It has therefore imposed condition No 3 to ensure the annex remains incidental to use of The Old Barn as a single-family dwelling.
7. The appellant wishes condition No 3 to be removed because he believes this needs to happen before he can subsequently apply for planning permission to change the use of the annex to a separate dwelling. He wishes to do this to accommodate his changing family circumstances.
8. The main issue in this appeal is whether the condition is necessary to ensure the annex remains incidental to use of The Old Barn as a single-family dwelling.

Reasons

9. The enlarged layout that was granted permission (reference TA/2023/371) includes space to prepare drinks but does not include a full kitchen. It therefore remains functionally connected to the main house. As such, it does not constitute a separate planning unit. It follows that use of the annex as a separate dwelling would require another planning application, whether or not condition No 3 is attached to the permission. Any such planning application would involve consideration of relevant planning issues and policies, including those relating to effects on the living conditions of neighbouring occupiers and on the character and appearance of the surrounding area.
10. Furthermore, the description of development in the permission that is the subject of this appeal refers to changes to “the existing annex”. Given this description makes specific reference to the nature of the use granted permission, limitation of the use via condition is not necessary.
11. I note that, at the time of application reference TA/2020/878, the annex was proposed to be occupied by elderly relatives of the occupants of The Old Barn. The appellant points out these were circumstances associated with the applicant at the time, rather than with him. Planning permission runs with the land and not with the applicant. Nevertheless, on the evidence before me the annex would not have been capable of occupation as a separate dwelling either before or after enlargement. Therefore, even if there were elderly relatives to be accommodated, this would not render condition No 3 necessary in the permission that is the subject of this appeal.
12. The Council accepts that condition No 3 could be considered “superfluous”. Nevertheless, it argues that the appellant’s intention to seek permission for a separate dwelling, subsequently stated in this appeal, vindicates its decision to impose the condition. This is because the condition “might have created an

obstacle to the sub-division of the site”, leading it to conclude the condition has served a purpose that is entirely necessary in planning terms.

13. The Council appears to be suggesting the disputed condition makes it more difficult for the appellant to submit a planning application to sub-divide the site. This is factually incorrect, as noted above. Even if the appellant had made clear his future intentions for the site at the time of the planning application, the condition would still not satisfy the test of necessity for the reasons given.
14. For the above reasons, I conclude the condition is not necessary to ensure the annex remains incidental to use of The Old Barn as a single-family dwelling.

Other Matters

15. The appeal site is within the Woldingham Conservation Area (CA), which comprises the historic core of Woldingham village and includes those buildings situated closest to the central village green. The Old Barn is one of these buildings. The CA provides a visual and physical connection to the history of the village, which contributes to its significance as a heritage asset. I have found condition No 3 is not necessary to ensure the annex remains incidental to use of The Old Barn as a single-family dwelling house. Its removal would not affect the way in which the annex can be used, so would have a neutral effect on the character and appearance of the host dwelling. As a result, both the character and the appearance of the CA would be preserved. Consequently, there would be no harm to the significance of the CA as a designated heritage asset.
16. The Council states the other conditions attached to planning permission reference TA/2023/371 remain necessary. On the evidence before me, I see no reason to disagree with this conclusion. These conditions are specific to that permission. If there are future planning applications for the site, any planning conditions considered would need to satisfy the statutory tests for their use in relation to those applications.
17. Planning permission does not negate or supersede private legal rights relating to land ownership. Accordingly, issues relating to land ownership have not had any material bearing on my assessment of this appeal.

Conclusion

18. For the above reasons, I conclude the appeal should be allowed and the original permission should be varied by deleting condition No 3.

C Carpenter
INSPECTOR