



Appeal Decision

Site visit made on 6 February 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2024

Appeal Ref: APP/Y3615/D/23/3328516

Queensleigh, Salmons Road, Effingham, Surrey KT24 5QJ

- 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 Ian Watts of Space M Studio Limited against the decision of Guildford Borough Council.
 - The application Ref 23/P/00991, dated 8 June 2023, was refused by notice dated 16 August 2023.
 - The development proposed is Replacement of existing outbuilding with new granny annex/outbuilding.
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Decision

1. The appeal is allowed, and planning permission is granted for Replacement of existing outbuilding with new granny annex/outbuilding at Queensleigh, Salmons Road, Effingham, Surrey KT24 5QJ in accordance with the terms of application Ref: 23/P/00991, dated 8 June 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with approved plan Refs: Location Plan, 1772-200 and 1772-201.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those set out on plan Ref 1772-201.
 - 4) The building hereby permitted shall not be used for any uses other than those ancillary to the enjoyment of the dwellinghouse known as Queensleigh, Salmons Road.

Procedural Matters

2. The application form states it was amended to reflect the submission of the appeal, so the form before me has a date of 28 August 2023. The appeal form and Council's decision notice confirms it was originally dated 8 June 2023, reflecting the ownership declaration on the application form. I have used this as the date in the banner heading and decision paragraph above.
3. The appellant submitted late evidence on 29 November 2023 comprising correspondence with the Council relating to the status of the existing use of the building. Having regard to the Procedural Guide: Planning Appeals – England

(2024)¹ as the evidence relates to a change in circumstances of relevance to the appeal scheme, I have accepted it as late evidence. I have given the Council and Appellant the opportunity to comment upon the evidence and taken this into consideration in the determination of this appeal.

4. Since the appeal was lodged, the revised National Planning Policy Framework (2023) (the Framework) was published on 19 December 2023. I have given the Council and Appellant the opportunity to comment upon this and taken any comments into account in determining this appeal. The references and paragraph numbering below reflect the revised Framework.

Application for costs

5. An application for costs was made by Mr Ian Watts of Space M Studio Limited against Guildford Borough Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:
 - whether or not the proposed development would be inappropriate development in the Green Belt;
 - whether or not the proposed development would be compliant with policies for the provision of annex accommodation; and,
 - the effect of the proposed development upon the character of the area.

Reasons

Inappropriate development

7. The appeal site is within the Green Belt within which paragraph 142 of the Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. The Framework identifies the construction of new buildings should be regarded as inappropriate development, subject to certain exceptions in paragraphs 154 and 155. Policy P2 of the Guildford borough Local Plan: strategy and sites (2019) (the LPSS) states the Green Belt will be protected against inappropriate development in accordance with the Framework. It states the construction of new buildings in the Green Belt will constitute inappropriate development, unless they fall within the exceptions in the Framework. Policy ENP-G1 of the Effington Neighbourhood Plan (2018) (the ENP) expects proposals to demonstrate they are not inappropriate development. Overall, the policies of the development plan are consistent with the aims of the Framework.
9. One exception listed in paragraph 154d) of the Framework is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing building was constructed as a stable building. However, from the appellant's response to a Planning Contravention Notice (PCN), a Council officer concluded its conversion to annex

¹ Section 9.4.8 of the Procedural Guide: Planning Appeals – England (2024).

accommodation took place over 10 years ago, it is immune from enforcement action, and no breach of planning control has taken place².

10. The appellant is understood to have had a previous application for a certificate of lawfulness refused due to insufficient evidence³. However, that decision pre-dates the Council's view of upon the PCN evidence and the appellant was invited to re-apply. From viewing its interior, it appears the conversion took place several years ago. Though the letter does not have same status as a certificate of lawfulness, there is no other substantive evidence that would lead me to disagree with the expressed views of the Council's officer and the appellant, that the use would be lawful. This attracts significant weight. On this basis, the proposed building would be in the same use as the existing.
11. The Council's delegated assessment states the size of the new building is acceptable in relation to paragraph 154d). It suggests an approximate increase from 40 sqm to 53 sqm footprint but that this is only one factor in the assessment. The existing building has a projecting frontward roof form which means that in practice the area covered by the building is markedly greater. The new building would be of a similar length and a small amount higher. The internal floorspace and the area of the building including the frameless glass balustrade would be a very small proportional increase. Taking into consideration its overall size, scale and form, the proposed new building would not be materially larger than the one it replaces, would be for the same use, so would meet the exception at Framework paragraph 154d).
12. For the reasons set out above, the proposed development would not be inappropriate development in the Green Belt. It would not conflict with Policy P2 of the LPSS, Policy ENP-G1 of the ENP or the aims of paragraphs 142, 152 and 154 of the Framework, the relevant provisions of which are set out above. As I have found it is not inappropriate development, there is no need to specifically assess any effects upon openness, or, whether there are other considerations that amount to very special circumstances.

Policies for annex accommodation

13. The justification text to Policy H4 of the Guildford Borough Local Plan Development Management Policies (2023) (the DMP) states that it supports well-designed development to support families and an ageing population provided it has a degree of dependency upon the main dwelling to ensure the retention of a single planning unit. The policy sets out four specific criteria in respect of applications for annex accommodation. I share the Council's assessment that the proposed development would be a) subordinate in scale to the main dwelling; and d) share a vehicular access and garden area.
14. The Council's specific objection is because it would not b) be functionally integrated with the main dwelling and would not c) clearly and unequivocally share either bathroom or kitchen facilities. As it is intended the building would provide the appellant's elderly relative with assisted living accommodation and given it would be approximately 35m from the nearest door of the main dwelling, a bathroom and kitchen area would be important facilities. Even if, accommodation provides facilities for day to day living it would not necessarily become an independent or separate planning unit from the main dwelling.

² Letter dated 29 November 2023 from the Planning Enforcement Officer.

³ Ref. 23/P/01443 refused on 18 October 2023.

- Nevertheless, as the new building would provide a bathroom and kitchen area, it would not meet the requirements of, and therefore conflict with Policy H4.
15. Notwithstanding the conflict with H4, at my visit the existing building was of sound construction, good overall condition, and readily habitable. It includes a bedroom, bathroom and living space. The Council was concerned that an amendment removing the kitchen area could be reinstalled in the future. However, the current living area could accommodate kitchen facilities if desired. This and its use as an annex is a realistic fall-back position that are matters that should attract significant weight in the overall balance.
 16. However, for the reasons set out, the proposed development would not be compliant with policies for the provision of annex accommodation, in conflict with Policy H4 of the DMP, the relevant provisions of which are set out above.

Character

17. The Council does not object to the design of the building, but it's assessment states that given the new building would not be functionally integrated with the main dwelling and could function as a separate dwelling, it would be harmful to the character of the application site, area and street scene. However, little substantive reasoning is provided to explain the alleged harm to character.
18. The appeal proposal would effectively be part of a generously sized dwelling with associated garden and driveway. It is one of a number of residential properties off Salmons Road, within an area that can be characterised as inherently rural, verdant and relatively quiet with limited activities from residential properties, a nearby equine premises and the wider road network. Whether or not it would be used as originally constructed as stabling with associated animal noise and maintenance activities, or, its current use, there would be a limited and relatively low level of activity associated with it.
19. The new development would be of a similar size and of a suitable form, design and appearance, with screening by mature vegetation within and outside the host property. It is not proposed to have a separate garden, driveway, or parking area. This would avoid the appearance and creation of a separate dwelling. By having its own kitchen and bathroom areas, there would be less comings and goings between it and the main dwellinghouse. Overall, considering the characteristics of the proposed use, I see no reason why this annex with the inclusion of a small internal kitchen area and bathroom, would result in an overall greater effect upon the character of the appeal site, host dwelling, street scene or the wider area.
20. Its future habitation as a separate dwellinghouse independent of the host dwelling would be a breach of planning control, which would be within the gift of the Council to enforce under other planning legislation, if it were so minded. Therefore, the appeal scheme could not lawfully create a new dwellinghouse and given its intended purpose I see no reason why this would be the case.
21. Therefore, for the reasons set out above, the proposed development would not result in harm to the character of the area, so would not conflict with Policy D1 of the LPSS, and Policies ENP-G1 and ENP-G2 of the ENP. In combination and amongst other things these require proposals respond to and protect the character of the area. It would also not conflict with paragraph 135c) of the

Framework insofar as this expects developments to be sympathetic to local character including the surrounding built environment and landscape setting.

Conditions

22. Conditions specifying the time limit and plans are necessary in the interests of certainty. A condition to require the materials used are as per the submitted plan is necessary in the interests of the character and appearance of the area. A condition to ensure the new building's use is ancillary to the dwellinghouse is necessary to ensure the Green Belt exception at Framework paragraph 154d), and the aims of Policy H4 of the DMP, are met. I have omitted the reference to a trade or business, as such a use of the premises is not proposed and like many other material changes of use, would require express planning permission, so is not necessary or relevant to the development.

Planning Balance and Conclusion

23. The proposed development would result in a small temporary benefit during construction. There would be benefits to appellant's family by providing an improved and more energy efficient family space, consistent with some of the aims of Policy H4 of the DMP and paragraphs 8, 63, 159b) and 164 of the Framework. These attract moderate weight in favour of the scheme.
24. The absence of a conflict with policies in respect of the character and appearance of the area, nearby trees and the living conditions of neighbouring occupiers are neutral matters. The proposed development would conflict with Policy H4 of the DMP, however, in-light of the existing use, size of the existing building, and the fallback position, the conflict with Policy H4 attracts limited weight against the scheme. Overall, the benefits of the proposed development outweigh the policy conflicts.
25. While the proposed development is compliant with the Framework, it conflicts with the development plan read as a whole. However, there are material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given, the appeal should be allowed.

Dan Szymanski

INSPECTOR