
Appeal Decision

Site visit made on 18 January 2024

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14TH May 2024

Appeal Ref: APP/A3655/D/23/3333170

51 Waldens Park Road, Horsell, Woking, Surrey GU21 4RW

- 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 & Mrs Shankla against the decision of Woking Borough Council.
 - The application Ref PLAN/2023/0492, dated 31 May 2023, was refused by notice dated 25 September 2023.
 - The development proposed is the erection of a 1.5 storey annexe outbuilding to the rear of No.51 Waldens Park Road and associated sunken terrace and fencing.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 7 February 2024.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a 1.5 storey annexe outbuilding to the rear of No.51 Waldens Park Road and associated sunken terrace and fencing, at 51 Waldens Park Road, Horsell, Woking, Surrey GU21 4RW, in accordance with the terms of the application, Ref PLAN/2023/0492, dated 31 May 2023, subject to the conditions contained in the schedule of conditions set out below.

Application for Costs

2. An application for costs was made by Mr & Mrs Shankla against Woking Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. I have taken the description of development from the appeal form and decision notice, which is more succinct than that in the application form. The appellants have indicated that they have no objection to the use of this revised description and have used it in their appeal form. I have therefore used this amended description as the basis for my decision.

Main Issue

4. The main issues are:-
 - whether the proposal would result in the unacceptable creation of a new dwelling; and

- whether the proposed development would preserve or enhance the character or appearance of the Horsell Conservation Area.

Reasons

Whether a new dwelling created

5. The application form submitted in relation to this application stated that the proposal was for a granny annexe. The Council amended this to an annexe outbuilding, as set out above. It is quite clear from all the documentation related to this application that the proposal is for an annexe, intended to be used as ancillary to the primary residential use of 51 Waldens Park Road.
6. The Council's first reason for refusal alleges that the proposed annexe would be capable of independent occupation and would be capable of having all the facilities required for day-to-day independent occupation. This is despite the fact that the submitted plans do not show a kitchen. However, this is an argument that could be used in relation to any proposed outbuilding or extension of a large enough size to be used as an independent dwelling, regardless of what the proposal is actually for. The application quite clearly proposes an annexe, not an independent dwelling.
7. Permission was granted to application PLAN/2021/0408 in July 2021, for "*the erection of 1.5 storey garage outbuilding for ancillary use in rear garden and associated formation of vehicular access to Bury Lane*". This was permitted subject to conditions that included No 03, which stated that "*the garage and art studio hereby permitted shall only be used for purposes ancillary to the residential use of the dwelling currently known as 51 Waldens Park Road and shall not be used as an independent residential or commercial unit.*"
8. This permission is still extant, contains no pre-commencement conditions, and could be built out and completed. This would result in an ancillary building of the same size as that now proposed being built in the same position, the same distance from the main dwelling. Once constructed, it could then be used as an annexe, ancillary to the main house, without a further permission being required, albeit without the external alterations sought as part of the current application.
9. As the appellants note in their grounds of appeal, the permitted garage and art studio is both described and conditioned to be "*ancillary*", rather than the more restrictive "*incidental to the enjoyment of the dwellinghouse as such*", used in Class E of the General Permitted Development Order. As a result, there would be nothing to prevent the appellants from building the garage and art studio, and then using the completed ancillary building as an annexe. This could include the installation and use of a kitchen, as long as the building continued to be used in a manner ancillary to that of the main house.
10. I consider the existence of permission PLAN/2021/0408 to be a fallback position that is highly likely to be implemented if this appeal were to be dismissed, as it could, if constructed in the manner I have set out above, achieve essentially the same development as the existing appeal proposal. I therefore attach great weight to this previous permission as a fallback position.
11. No kitchen is shown on the submitted plans for the annexe and, I allowed the appeal, no separate permission would be required to install one, as long as the building remained ancillary to the main house. In their grounds of appeal, the

appellants have stated that they would be prepared to accept a condition preventing the installation of a kitchen in the annexe. This would allay the Council's fears that one could be installed, and ensure that the annexe would remain incapable of being used as an independent dwelling. Such a condition would not be easy to enforce, as it would require a visit into the annexe. However, in my opinion, the level of difficulty involved would not make such a condition unenforceable.

12. Policy DM9 of the Woking Development Management Policies DPD (2016) (the DPD) says that "*freestanding units that can demonstrate they are genuinely ancillary to the occupation of the main house will be considered in light of the character and amenities of the area and may be subject to conditions restricting their occupancy.*" It goes on to say that "*separate freestanding, independent accommodation will be treated in the same way as a proposal for a new dwelling.*"
13. The appeal proposal is for a freestanding annexe, in that it is not attached to the main dwelling. It is not however proposed to be occupied as independent accommodation, but rather as ancillary to the main house, and the appellants are prepared to accept conditions preventing the installation of a kitchen (dealt with above) and preventing any opening being formed in the boundary fence-line along Bury Lane. These conditions would prevent an independent unit being formed in the future. Combined with the existence of the fallback position set out above, I consider that, in this particular case, any remaining conflict with Policy DM9 is not sufficient to warrant dismissing the appeal.
14. I conclude on this issue that the proposal would not result in the unacceptable creation of a new dwelling, and that any conflict with Policy DM9 of the DPD would be outweighed by material considerations in this case.

Conservation Area

15. The appeal site is within the Horsell Conservation Area. The Conservation Area (CA) comprises the historic core of Horsell, the area along both sides of the main road passing through the settlement, and the planned estate on Walden Park Road. This latter section of the CA is characterised by traditional style two storey dwellings set in spacious plots, and its significance stems in large part from this character.
16. In January 2022, an application on the appeal site for "*the erection of a single storey dwelling with accommodation in the roof space and vehicular access from Bury Lane*" (PLAN/2021/1286) was refused by the Council. This proposed a building of the same size and in the same location as the permitted garage and art studio and the current appeal proposal. It was subsequently dismissed at appeal in February 2023 (APP/A3655/W/22/3299385). The Inspector in that case concluded that the plot that would result from the erection of a new dwelling would be "*of uncharacteristically confined dimensions that would fail to reflect those in the vicinity of the CA*".
17. That Inspector also considered the extant permission for the garage and art studio, and accepted that the difference in visual impact between the permitted garage and art studio and the new dwelling before him "*may be limited*". However, he noted that the permitted garage outbuilding would not result in a separate dwelling, whereas the additional harm caused by the dwelling

proposal before him would result from the subdivision of *"the site to form a separate unit of accommodation in a cramped plot"*.

18. The current proposal would be different from that the subject of the 2023 appeal, as it would not result in the sub-division of the plot. It would instead have less impact on the character and appearance of the CA than the permitted garage and art studio. This is because as well as no subdivision of the plot being proposed, no new access would be formed onto Bury Lane.
19. The Council's second reason for refusal is predicated on the proposed development being unacceptable *"by reason of the proposed plot sub-division and the form and scale of the proposed dwelling,"* resulting *"in an incongruous, cramped and contrived form of development with uncharacteristically small plots which fails to respect the prevailing character, pattern and grain of development in the area, to the detriment of the character of the area"*. However, no plot sub-division is in fact proposed and no small plot would be created. The current proposal would involve an outbuilding being constructed in the rear garden of No 51, with no plot division, with no access onto Bury Lane, and would have less impact on the CA than the permitted garage and art studio.
20. I therefore conclude that the proposal preserves the character and appearance of the Horsell Conservation Area, and would cause no harm to the significance of the CA as a designated heritage asset. The proposal would comply with Woking Core Strategy (2012) policies CS20, CS21 and CS24, and policies DM10 and DM20 of the DPD. These policies seek, amongst other things, development that respects and enhances the appearance of the area, and that preserves or enhances the relevant heritage asset.

Other matters

21. The third reason for refusal alleges that the Council is *"unable to determine that the net additional dwelling would not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area."* However, as set out above, no additional dwelling is proposed, so no determination is required in this respect.
22. A number of local residents objected to the proposal at application stage. In addition to the issues I have considered above, these included objections on the grounds of impact on living conditions, impact on trees, suspicion that the building will later have its use changed to a dwelling, impact on parking, and highway safety.
23. I note that the highway authority raises no highway objections, and that a condition is proposed dealing with trees. I have considered whether any unacceptable impact on the living conditions of neighbouring occupiers might arise and have concluded that it would not. The Council came to the same conclusion in its delegated report. Finally, whether future applications may be submitted for a change of use is not a reason to refuse the current proposal. None of the matters raised outweigh my conclusion that the proposal is acceptable, for the reasons set out above.

Conditions

24. As well as standard conditions relating to when the development should commence and compliance with the approved plans, a condition requiring the

external materials used to match the existing building is necessary, to protect the character and appearance of the CA.

25. The Council has also suggested a condition stating that the outbuilding must only be occupied as residential accommodation ancillary to the main house and not as an independent unit. However, such a condition is unnecessary, as planning permission would be required to use the building as an independent dwelling. The appellants have suggested alternative conditions preventing the installation of a kitchen and the formation of any new access from Bury Lane. This would help to allay the Council's concerns that the annexe might not be occupied as ancillary accommodation. I have therefore imposed these conditions. I have also imposed a condition preventing the erection of any fence, wall or other means of enclosure that might otherwise be erected under permitted development rights to separate the annexe from the main house.
26. The Council has also suggested that conditions are imposed requiring tree protection measures and a landscaping scheme. Tree protection measures are required in order to safeguard trees of public amenity value. However, given that this site at the rear of No 51 would remain hidden from public view, and the proposal is for an ancillary annexe, not a new dwelling, I consider that this would be unnecessary and unreasonable. A condition requiring the rooflights in the side and rear elevations to be obscurely glazed is similar to one imposed on the garage and art studio permission, and is necessary to prevent overlooking of the occupiers of adjoining properties.
27. Finally, the Council has proposed a condition requiring details of surface water to be agreed prior to development commencing. This is required to ensure no additional flood risk arises. I have imposed this condition, redrafted so as not to amount to a pre-commencement condition that the appellants have not agreed to.

Conclusions

28. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions set out in the schedule below.

Michael J Muston

INSPECTOR

Schedule of Conditions

- 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 external surfaces of the development hereby permitted shall match those used in the existing dwelling known as 51 Waldens Park Road.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: J119-P01 Rev A, P02 Rev A, and P03 Rev A.

- 4) No kitchen units or appliances shall be installed or used in the annexe hereby permitted.
- 5) No vehicular or pedestrian access shall be formed from the site onto Bury Lane, and a fence, of at least 1.8 metres in height, on the boundary of the site with Bury Lane, shall be retained as long as the ancillary building hereby permitted exists on site. In the event that the existing fence is damaged, destroyed or removed, it shall be replaced by one of the same height within 3 months of the damage, destruction or removal having occurred.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fence, wall or other means of enclosure shall be erected across the site from the boundary with Bury Lane to the boundary with 49 Waldens Park Road.
- 7) The development hereby permitted shall take place in strict accordance with the Arboricultural Impact Assessment and Method Statement from APArboriculture dated 08.02.2022 ref: APA/AP/2022/018, including the convening of a pre-commencement meeting and arboricultural supervision as indicated. No works or demolition shall take place until the tree protection measures have been implemented. Any deviation from the works prescribed or methods agreed in the report will require prior written approval from the Local Planning Authority.
- 8) The rooflights in the north-east and south-east facing roof slopes of the building hereby permitted shall be glazed entirely with obscure glass and shall be non-opening unless the parts of the rooflights which can be opened are more than 1.7 metres above the finished floor levels of the rooms in which the rooflights are installed. Once installed the rooflights shall be permanently retained in that condition unless otherwise agreed in writing by the Local Planning Authority.
- 9) Within one month of the commencement of the development hereby permitted, details of the design of a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and maintained in accordance with the agreed details for the lifetime of the development hereby permitted.