



Appeal Decision

Site visit made on 26 November 2024 by T Mansfield

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Appeal Ref: APP/Z3635/D/24/3353543

129 Staines Road, Laleham, Surrey TW18 2SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Fiona Mackenzie Andrew against the decision of Spelthorne Borough Council.
 - The application Ref is 24/00687/HOU.
 - The development proposed is the erection of an outbuilding at the rear of garden to be used as a granny annexe.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of an outbuilding at the rear of garden to be used as a granny annexe at 129 Staines Road, Laleham, Surrey, TW18 2SS in accordance with the terms of the application, Ref 24/00687/HOU, 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 drawing numbers 01 A and 02.
 - 3) All spoil and building materials stored anywhere on the appeal site outside of Flood Zone 1 both before and during construction shall be removed not later than two weeks after completion of the development hereby permitted.
 - 4) The building hereby permitted shall not be occupied until the side window of the living room has been fitted with obscured glazing. That window shall remain obscure glazed thereafter. No part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened at any time.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. Following on from the submission of the application, the Council and appellant agreed on an updated description of development by email. Therefore, I have assessed the proposal against this updated description rather than the description found on the application form.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of nearby residents, with particular regard to noise and disturbance, outlook and privacy.

Reasons for the Recommendation

5. In order to determine the effects of the proposal in relation to the main issues, and having regard to matters raised by the parties, I must first assess the nature of the proposed accommodation.
6. The plans show that the proposed annexe would have one bedroom, a living room and a bathroom. Without a kitchen, the annexe would not contain all the facilities required for independent living and the expectation would be that any occupier would take meals together with the main household. The two buildings would also share both garden space and parking. The shared use of these facilities would make occupiers of the annexe significantly reliant on the main dwellinghouse.
7. The annexe would also be substantially smaller than the main dwelling. As the Council has acknowledged, the proposed development falls short of the nationally described Technical Housing Standards and so it would not provide sufficient living space were it an independent unit of accommodation. This further suggests that its use would be in association with the main dwelling rather than independent.
8. The Council suggests that the floor plans demonstrate that a kitchen could be included, however this is not part of the proposed plans. In any event, the courts have held that even if accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling, instead it would be a matter of fact and degree.
9. Although the Council considers that an annexe should form an extension to the existing house, I have not been directed to any policy or guidance that supports this statement. The location of the annexe responds to the layout of the garden, avoiding a central row of trees, and does not clearly point to independence of the development.
10. The proposed annexe could be accessed without entering the main dwelling, but this would only be possible through a narrow side gate. As the annexe is intended for a parent, there would be a familial relationship between the occupiers of the annexe and the main dwelling. Therefore, this connection along with the shared use of facilities would mean that although the annexe could be accessed independently, it is highly likely that there would be frequent comings and goings between the two buildings.
11. For these reasons, taking into account its facilities, size, location and prospective occupant, I find that the appeal proposal would be capable of being occupied as an annexe and not tantamount to a separate unit of living accommodation and will consider the appeal on his basis. If the structure were not built or used as proposed, or if there is a material change of use, this would require separate planning permission. If such permission is not granted, the

building would be at risk of enforcement action. Furthermore, the courts have held that a residential annexe would normally be part and parcel of the dwellinghouse, rather than being incidental or ancillary to it. As such, a condition limiting the use to ancillary use would not be necessary.

Character and appearance

12. The appeal site is in a residential area where a number of properties have outbuildings of a similar size to the proposal close to their rear boundary. It is normal to find outbuildings with pitched roofs in such a setting. Furthermore, the building would not be easily visible from the public realm due to screening from vegetation and the existing dwelling. The use of an outbuilding for domestic residential purposes is also not unusual in a residential area. The proposed development would therefore not be out of character for the surrounding area.
13. Consequently, the proposed development would not harm the character and appearance of the area and would accord with Policy EN1 of the Core Strategy and Policies Development Plan Document (adopted 2009) (the Core Strategy), insofar as it requires a high standard in the design and layout of new development.

Living conditions

14. The proposed development would introduce day-to-day activities of the occupier at the rear end of the garden, however, some levels of noise and activity are to be expected in the rear gardens of residential dwellings. The type of noise and disturbance from a small annexe is unlikely to be materially different from that produced by any other use of a similar outbuilding such as a gym or home office. Therefore, it has not been demonstrated that the proposed development would result in unacceptable levels of noise and disturbance for neighbouring occupiers.
15. The annexe would extend across a significant portion of the rear boundary of 2 Cleveland Drive and the gable end and part of the wall would be visible above the fence, altering the rear outlook from this property. However, the proposed annexe would be set away from this boundary, and the low pitch of the gable end facing the neighbouring property would mean that the roof visible from No 2 would not be particularly large or bulky. Consequently, it would not appear harmfully overbearing from the rear of No 2 or its garden.
16. Although the neighbours have suggested that a flat roof would be a preferable design, I am only able to assess the proposal before me. While I understand their concerns and desire for the annexe to be delivered in a different way, for the reasons above, the proposal would not cause a significant adverse impact to the outlook from No 2.
17. Parts of the living room window of the annexe would be higher than the fence that divides the garden of the appeal site and 2 Cleveland Drive. This would provide the living room with a view into the garden and rear dining room window of No 2, to the detriment of the privacy of its occupants. However, this harm could be mitigated by a condition requiring this side window to be obscure glazed and the lower part fixed shut. This would protect the privacy of the occupants of No 2 and achieve a satisfactory relationship between the two buildings.

18. I note concerns over the height of the annexe listed on the plans and the lack of clarity surrounding the additional height of the base. Although no dimensions are written on the drawing for the base, the drawing is drawn to scale. I am satisfied that this demonstrates that the base would be a minimal addition to the overall height of the proposed annexe. I also recommend a condition requiring development to be carried out in accordance with the approved plans. This will ensure that the Council could take measurements from the drawing and check these on site, and were the outbuilding not built to the approved dimensions, the Council would have the option to take enforcement action.
19. Therefore, subject to the conditions set out above, the development would not significantly adversely affect the living conditions of nearby residents, with particular regard to noise and disturbance, outlook and privacy. It would therefore accord with Core Strategy Policy EN1 and its requirement that development should avoid significant harmful impacts through loss of privacy and outlook. The development is also compliant with Core Strategy Policy EN11 insofar as it seeks to minimise the adverse impact of noise.

Other Matters

20. Concerns have been raised the impact of the proposed development on property values. The planning system does not exist to protect private interests such as this and I therefore cannot consider this matter.

Conditions

21. In addition to the conditions referred to above, a condition for implementation is necessary. The Council has suggested a set of conditions to be imposed in the event that the appeal is approved. I have assessed these using the six tests contained in paragraph 57 of the National Planning Policy Framework.
22. I have not recommended that the suggested condition be imposed requiring there to be no raising of existing ground levels on the site within the area liable to flood. The plans contain no reference to the raising of existing ground levels and so this condition will not be necessary.
23. I have recommended the inclusion of the suggested condition on the removal of spoil and building materials from the areas liable to flood with some alterations. I have however changed the timescale for compliance as the Council's suggestion would be unduly onerous on the appellant. Furthermore, the wording 'areas liable to flood' has been changed to 'areas outside of Flood Zone 1' for clarity. This condition will ensure that the development accords with Policy LO1 of the Core Strategy which seeks to reduce flood risk and its adverse effects on people and property.
24. The proposed annexe is to be built from wood with a felt roof, unlike the brickwork and tiling of the main dwelling. It would therefore not be reasonable to require matching materials to be used, as the Council suggests. The proposed materials would be appropriate in a garden context and would not harm the character or appearance of the area, and so a materials condition is not necessary.
25. In the Council's officer report, it was suggested that the appellant should provide a block plan showing which trees are going to be retained. Although the appellant indicated on their application form that no trees would need to be removed, the site plan shows the proposed plot of the annexe located right up

against the rear boundary of the garden where the two conifer trees are located. It is therefore possible that these trees may have to be felled if the development is carried out in accordance with the plans. However, as the trees do not contribute positively to the character and appearance of the area, their loss would not be harmful. Therefore, submission of a tree retention plan will not be necessary.

Conclusion and Recommendation

26. The proposal accords with the development plan as a whole. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to conditions.

T Mansfield

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and my representative's report and I agree with the reasoning and recommendation. On that basis the appeal is allowed subject to the conditions listed above.

L McKay

INSPECTOR