



Appeal Decision

Site visit made on 30 October 2024

by N Perrins BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st January 2025

Appeal Ref: APP/L3625/D/24/3345711

Nork Park Farm House, 453 Reigate Road, Epsom Downs, Surrey KT18 5XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Andrew Binks against the decision of Reigate and Banstead Borough Council.
 - The application Ref is 23/00275/S73.
 - The application sought planning permission for a proposed canopy over the existing swimming pool, at Nork Park Farm House, 453 Reigate Road, Epsom Downs, Surrey KT18 5XE without complying with conditions 1 and 3 attached to planning permission Ref: 22/01945/HHOLD, dated 28 October 2022.
 - The first condition in dispute is No 1, which states: The development hereby permitted shall be carried out in accordance with the following list of approved plans: Location Plan Ref: 3086/HH-01/KG, Floor Plan Ref: 3086/HH-02/KG, Elevation Plan Ref: 3086/HH-03/KG, Floor Plan Ref: 3086/HH-04/KG, Elevation Plan Ref: 3086/HH-05/KG.
 - The reason given for the condition is to define the permission and ensure that the development is carried out in accord with the approved plans and in accordance with National Planning Practice Guidance.
 - The second condition in dispute is No 3, which states: No development shall take place above slab level until written details of the materials to be used in the construction of the external surfaces, including fenestration and roof, have been submitted to and approved in writing by the Local Planning Authority, and on development shall be carried out in accordance with the approved details.
 - The reason given for the condition is to ensure that a satisfactory external appearance is achieved of the development with regard to Reigate and Banstead Development Management Plan policy DES1.
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Decision

1. The appeal is allowed and planning permission is granted to amend conditions 1 and 3 of planning approval Ref: 22/01945/HHOLD dated 28 October 2022 for a proposed canopy over the existing swimming pool, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Planning permission Ref: 22/01945/HHOLD was granted for a proposed canopy over the existing swimming pool. Condition 1 of planning permission Ref: 22/01945/HHOLD set out the approved plans. The approved scheme proposed the erection of a canopy around the swimming pool at the site, including providing a covered roof. The approved canopy would have extended around the front and rear entrance steps to the swimming pool.

3. Condition 3 of planning permission Ref: 22/01945/HHOLD required details of the materials to be used in the construction of the external surfaces, including fenestration and roof, to be submitted to and approved by the Local Planning Authority prior to any works taking place above slab level. I am aware that Condition 3 was discharged that approved a dark grey powder coated aluminium structure and clear glass roof.
4. Planning application Ref: 23/00275/S73 was submitted seeking to vary condition 1 of decision Ref: 2019/1703 to substitute amended plans to change the canopy structure to include glass and panel walls to enclose the swimming pool area. The canopy would also not extend around the steps to the rear of the swimming pool and instead finish in line with the host property. The structure would include a disability access area at the front of the swimming pool. The materials shown on the proposed plans comprise powder coated aluminium grey and toughened glass on the roof and side elevations.
5. Although not applied for in the application form, the Council's decision notice includes reference to the development seeking to vary Condition 3 due to the inclusion of the materials on the proposed plans.
6. A structure that encloses the swimming pool has been completed at the site. The structure at the site, however, does not correlate exactly with the plans before me, which show a building with a different roof pitch and a set of steps at the rear that have not been built at the site.
7. Whilst there is a material difference between the plans before me and what has been constructed at the site, I am satisfied that the appeal proposal can still be implemented as the differences are relatively minor and the appellant would be able to modify what has already been built to correspond to the plans before me. Specifically, the changes required to implement the development before me would involve amending the rear section to install a door and then steps leading down to the garden area from the existing structure. The roof would also need to be modified to match the roof pitch shown on the plans before me. The overall structure would remain in place and would not need to be substantially changed other than to ensure that the aforementioned works could take place in order to be consistent with the plans subject of this appeal.
8. Accordingly, I am considering the proposal under S.73 of the Town and Country Planning Act 1990 (amended). As I can only assess what is in front of me, and should the appellant wish to retain what has been constructed at the site, this would be a matter for them to discuss with the Council with regard to a fresh application and separately to this appeal process.

Main Issue

9. The main issue is the effect of changing conditions 1 and 3 on the character and appearance of Nork Park Historic Park and Garden.

Reasons

10. The appeal site is a detached house within a relatively spacious plot with a garden to the rear and driveway to the front. The appeal property is made of brick and stone construction and characterised by its pitched gable to the front elevation. The appeal site is located within Nork Park, which is a historic park and garden as well as a Site of Importance for Nature Conservation (SINC).

11. Policy NHE9 of the Reigate and Banstead Development Management Plan 2019 (DMP) requires development to protect, preserve and wherever possible, enhance, the Borough's designated and non-designated heritage assets. Nork Park is identified as a Historic Park and Garden of Special Borough Interest (NPHPG) in the Council's Historic Parks and Gardens Supplementary Planning Document (SPD). The SPD confirms that NPHPG is a non-designated heritage asset. NHE9 (5) states that in considering proposals that directly or indirectly affect non-designated heritage assets, the Council will give weight to the conservation of the asset and will take a balanced judgment having regard to the extent of harm or loss and the significance of the asset.
12. NPHPG is an 18th Century Park with large areas of open grass set around formal tree lined avenues. From the limited information before me and as observed on my site inspection, the significance of NPHPG derives from its historic park origins and its verdant, tranquil and open park setting with treed avenues that compartmentalise the grassed areas.
13. The contribution of the appeal site to the significance of NPHPG is limited as it is an isolated pocket of development in what is otherwise a large and expansive area of open space and trees. The appeal property is prominently visible from the parts of the park immediately around the site. However, the appeal site and its neighbouring property appear as a sympathetically scaled and designed development that assimilates sensitively within its historic park setting. The appeal site is also framed by dense mature vegetation beyond, which further ensures the appeal property is a subservient and inconsequential feature within the wider park setting.
14. The appeal proposal would amend the previously approved plans by enclosing the swimming pool with glass and panel elevations. Steps are proposed to provide access to the building to the rear and to an area for disability access to the front. The proposal is longer than the approved design due to accommodating the proposed disability access area to the front.
15. The building's frame would be coloured grey anthracite. The Council confirmed that this colour palette is acceptable when discharging Condition 3 of Ref: 22/01945/HHOLD. I also note that there are similar grey features on the host property and its neighbour that the colour scheme proposed would reflect. I am, therefore, satisfied that the proposed grey frame would integrate successfully with the host property and not cause any harm to the significance of NPHPG. I also find that there would be no harm from the height of the structure as it is very similar to the canopy approved under Ref: 22/01945/HHOLD.
16. Beyond the frame, the proposal would replace the previously approved open canopy with glazing and panels to create walled elevations. Albeit slightly different to the proposal before me, the structure as built integrates well with the host dwelling and does not appear as an incongruous or jarring feature such that it would denude from the significance of the non-designated asset, which overwhelming derives from its historic open areas and tree-lined features that are not materially affected by the development as built. I also note that the dense mature vegetation behind the appeal site enables the structure to blend unassumingly into the wider landscape. The existing fence also screens most of the wooden panelling from wider views.

17. For these reasons I find that the appeal proposal, which would be very similar to the building that has been built, would similarly not have a materially adverse impact on the significance of the non-designated heritage asset.
18. Moreover, in reaching a balanced judgement as required by Policy NHE9, I give moderate weight to the benefits of the development in providing a safe and secure facility to help meet the needs of the appellant. As observed on my site inspection and as set out in the appellant's supporting information, the development is providing an important facility to support the care needs of family members. In view of the foregoing, including absence of material harm to the non-designated heritage asset, I do not find there is a compelling justification to refuse planning permission in this case.
19. To conclude, I find that the proposed amendments to the original design would not adversely harm the harm the character and appearance of Nork Park Historic Garden and accord with Policy NHE9 of the DMP and the guidance set out in the SPD.

Conditions

20. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should set out all the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect¹. As the proposal before me has not been implemented, I impose the standard time limit for implementation. I also include a condition specifying the approved plans, which is necessary to be clear on what has been approved.
21. I also include a condition requiring materials to be agreed by the local planning authority before the commencement of development for them to retain control over the final details. However, given that the existing structure at the site would likely be retained and re-used as part of the implementation of the development albeit with the rear roof and steps added as well as the roof pitch changed, I have limited the requirement to materials to be agreed prior to the commencement of the development to just those aspects.

Conclusion

22. For the reasons given above, the proposal is consistent with the policies of the development plan as a whole, and there are no material considerations that would lead me to a different conclusion. The appeal is allowed and the planning permission is varied subject to conditions.

N Perrins

INSPECTOR

¹ Paragraph: 040 Reference ID:21a-040-20190723

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: (i) Block Plan Location Plan Drawing No: 3086/HH-01/KG Revision B, (ii) Existing Ground Floor Plan Drawing No: 3086/HH-04/KG Revision A and (iii) Existing Elevations Drawing No: 3086/HH-05/KG Revision A.
3. Notwithstanding the details of materials shown on the approved plans, prior to the commencement of the relevant part of the development, details of the materials to be used in the construction of the roof, rear door and steps shall be submitted to and approved in writing by the Local Planning Authority, and on development shall be carried out in accordance with the approved details.