



Appeal Decision

Site visit made on 15 August 2025

by **D R Kay BA Dip.Arch RIBA**

an Inspector appointed by the Secretary of State

Decision date: 8 October 2025

Appeal Ref: APP/W1715/W/25/3365615

Barn Court, High Street, Bursledon, Hampshire, SO31 8DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr B Wright against Eastleigh Borough Council.
 - The application Ref is H/24/98637.
 - The development proposed is the conversion of existing detached garden store to an annexe ancillary to the host dwelling.
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Decision

1. The appeal is dismissed and planning permission for the conversion of existing detached garden store to an annexe ancillary to the host dwelling is refused.

Applications for costs

2. An application for costs was made by Mr B Wright against Eastleigh Borough Council. That application is the subject of a different decision.

Preliminary Matters

3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission, should it have made a decision on the proposal, though note that the committee's decision would have been against the recommendation of the planning officer. I have had regard to the parties' submissions in establishing the main issues, which I set out below. However, having regard to my duties as Competent Authority for the purposes of this appeal, under the Conservation of Habitats & Species Regulations 2017, I have elevated the effect of the proposal on the adjacent SSSI and protected European sites, to a main issue.
4. At my visit, it was apparent that works to convert the existing garden store building into residential accommodation were already well advanced, the bathroom and kitchenette being in the final stages of installation. I have therefore determined the appeal based on retrospective development.
5. The appeal site is near to a Listed Building and is situated within the Old Bursledon Conservation Area (CA). I am mindful of the statutory duties placed on decision-makers by sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) to have special regard to the desirability of preserving listed buildings or their settings, and to preserve or enhance the character or appearance of conservation areas respectively.

6. The description of development I have used in the header differs from that on the application form. However, this revised description of development was agreed between the parties, following registration of the application, as it more accurately described the proposal.
7. The appeal site is within an area where an Article 4 Direction, which removes Householder Permitted Development rights under Class E, is in force.

Main Issues

8. The main issues are, i) whether in land use principle, the development would constitute an appropriate form of development in the countryside, and ii) the effect of the development on the character and appearance of the local area, bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade II listed building 'Lattice Cottage', and the extent to which it would preserve or enhance the character or appearance of the Old Bursledon Conservation Area, and iii) the effect of the development on international and nationally designated sites of importance for biodiversity.

Reasons

Appropriate Form of Development

9. The appeal site is located within Zone 7 of the Old Bursledon Conservation Area (CA) and within the Old Bursledon Special Policy Area (OBSPA) as defined by the policy map within policy BU7 of the Eastleigh Borough Local Plan (2022) (the Local Plan). The special policy area excludes the area defined within the red line boundary from the urban area of Bursledon. In policy terms, the appeal site is therefore regarded as being within the countryside, where new development is controlled by Strategic Policy S5, via compliance with specific development management (DM) policies.
10. However, policy BU7 of the Local Plan permits residential extensions and replacement dwellings within the OBSPA, subject to meeting six specific criteria. As the proposal is a change of use of an outbuilding previously approved¹, the proposal is therefore an extension of the main dwellings residential use by conversion. It is therefore covered by policy BU7.
11. The outbuilding being converted is modest in size, occupying a footprint of around 6.3m x 6.3m and single storey in height under a pyramidal roof. The main dwelling is significant in size, such that the extension of the residential use because of the development would not increase its' volume by more than 25%, it would be significantly below this percentage. It therefore satisfies clause 1a of the policy.
12. The outbuilding being converted is located within the garden area around 25m east of the main dwelling, connected by a hardstanding and pathway. It is located within a discrete area of the garden, separated by hedges and under the canopy spread of a number of mature trees. Accordingly, the development would maintain the space between and openness of the area, does not create a dwelling disproportionately larger, and is subservient and in proportion to the existing building in form, scale and design. It therefore satisfies clauses 1b, 1c and 1d of policy BU7.

¹ H/22/93123

13. The development is the conversion of an existing building which is currently in incidental use to the main dwelling, resulting in no changes to the external appearance of the building. I find that the change to residential use ancillary to the main dwelling, whilst it may result in some extended hours of lighting by occupants, does not constitute cumulative urbanisation. Nor do I find that it would be detrimental to the character of the area as viewed from the River Hamble, as there are no physical changes to the existing building. The development would therefore satisfy the requirements of clauses 1e and 1f of policy BU7.
14. Turning to policy S5 of the Local Plan, the policy notes that permission will be granted for new development in the countryside providing it is related under clause 1b, among other things, to residential extensions and replacement buildings, and complies with policies DM18 and DM26. It goes on to provide five criteria under clause 2, which the Council will seek development to achieve. Policy DM18 relates to the extension and replacement of non-residential buildings in the countryside. It is therefore not relevant to the proposal.
15. Policy DM26 relates to residential extensions and replacement dwellings in the countryside, with clauses 1a and 1c of this policy being relevant to this appeal. Clause 1a requires that an extension is not disproportionate in size to the existing dwelling, to neighbouring properties or in relation to its plot, or involve any extension to its curtilage. In the first regard, this reflects the requirement of policy BU7, with which I have already found the proposal would accord. I find the extension would not be disproportionate to neighbouring properties, or its plot, and given the significant size of the existing residential curtilage, it would not involve any increase in residential curtilage. The development would therefore accord with the requirements of clause 1a of policy DM26.
16. However, clause 1c of policy DM26 requires that no additional dwellings are created. The putative reason for refusal of the Council, had the non-determination appeal not been submitted, asserts that due to the level of self-contained internal accommodation and the separating distance between the proposed annexe and the main dwelling, the annexe would be tantamount to the creation of a new dwelling, resulting in intensification of residential development, contrary to policies S5 and BU7 of the Local Plan.
17. The appellant has stated that the annexe would be ancillary to the main dwelling, for use by a family member to provide care support for the appellant in later life. The argument between the parties is therefore whether the use of the annexe is ancillary to the main dwelling, or whether it forms a separate self-contained dwelling, capable of independent use.
18. The annexe would provide open plan living and sleeping accommodation, together with a small kitchen area and shower room. Its size is such that it would not comply with the minimum space standard sizes of the Nationally Described Space Standards for permanent self-contained housing, as required by policy DM30 of the Local Plan. It would therefore not meet the space standards required for a separate dwelling.
19. Whilst the annexe would have independent bathing facilities, the kitchen would not have all required facilities to support fully independent occupation, its occupant would therefore be reliant on using further facilities within the main dwelling. The annexe would be in a part of the main dwelling's rear garden, with which it would

share the use. The annexe's means of access to the highway and parking provision would be provided by the main dwelling, through which any future occupant would need to pass to access between the annexe and its parking.

20. Statements have been made in relation to a potential independent access to the annexe via a widened access adjacent to Lattice Cottage, which is currently in a legal dispute, which is a civil matter. However, this access is not within the red line boundary of the application. I am dealing with the application before me, where access would be provided via the main dwelling. Therefore, the potential future use of a different means of access is outside the remit of this appeal.
21. The Council also raise concerns regarding the distance between the annexe and the main dwelling, considering this strengthens the case of the annexe being a separate dwelling. However, as the annexe is being created by the conversion of an existing outbuilding, this pre-determines the separation distance from the main dwelling. There is an existing hard surfaced pathway between the annexe and the main dwelling, which provides all-weather access, such that its occupant would have adequate and sufficiently close access to the main dwelling.
22. Legal precedent² has established that notwithstanding the extent of self-contained accommodation, the provision of primary living accommodation within an annexe is part and parcel of the existing dwelling. For the above reasons, I conclude that the annexe would be a part and parcel of the main dwelling, as a matter of fact and degree. Accordingly, in land use principle, the development would constitute an appropriate form of development in the countryside.
23. Therefore, I conclude that the development would not conflict with Policies BU7 and S5 of the Eastleigh Borough Local Plan (2022) (the Local Plan), which require, among other things, that development does not create disproportionately larger buildings, which should be subservient to the existing building in form, scale and design and which conserve and enhance the undeveloped landscape between buildings.

Character and Appearance of CA and Setting of Listed Building

24. The development is situated in a portion of the rear garden area of Barn Court, a substantial red brick property under a pitched slated roof, and with seven tall feature brick chimneys. It lies at the heart of a group of five attached buildings forming a hexagonal plan around a landscaped forecourt garden and access driveway. A sixth building, 'Lattice Cottage', a detached Grade II Listed Building forms the sixth building enclosing the forecourt. The entirety of the forecourt is in the ownership of Barn Court, providing vehicular access for the appeal property to The High Street, together with its parking facilities.
25. The group of properties are situated in the centre of zone 7 of the character area of the Old Bursledon Conservation Area (CA). The appeal property itself is not listed, but is highlighted, along with the other four buildings attached to it, in the CA area appraisal and management proposals plan, as an unlisted building that makes a positive contribution to the CA.
26. The CA at this location is the historic core of Old Bursledon, deriving its significance, insofar as it relates to this appeal, from the concentration of historic

² Uttlesford BC v SSE & White (1992)

buildings, the high boundary walls and the presence of mature trees and landscape features. Whilst development is quite dense, gaps between buildings are important, and the backdrop of trees and other green landscaping contributes to a green setting that enhances the built form.

27. The appeal development creates a residential annexe ancillary to the main dwelling, by the conversion of an existing outbuilding within a portion of the rear garden of Barn Court. The development would make no changes to the external appearance, being a change of use, and consisting only of internal alterations. Whilst this is still within the CA, its location to the rear of the property would preclude views from the main public realm within the CA.
28. Whilst there are views of the proposal from the Hamble River, and from the public right of way between Salterns Lane and Hackett's Marsh, this is several hundred metres away. The lack of any change to the external appearance of the existing building, and its location within an area of landscaped garden amid surrounding mature trees, would limit any potential effect.
29. For the above reasons, having regard to my duty under section 72(1) of the Act, I conclude that the appeal development would not cause harm to the character or appearance of the CA, nor would it affect the way in which the CA, as a designated heritage asset, would be experienced.
30. The development is also situated within close proximity to Lattice Cottage, a Grade II listed, 'Cottage Orne' house, of one and two storeys, dating from the mid-19th Century, with yellow brick walls in Flemish bond (some painted), with quoin details and with some original diamond pattern casements and ground floor bays. Given the above, I find that the significance of the listed building and its setting, insofar as it relates to this appeal, is derived partly from the quality of its architectural detail, and partly from its historical and social significance within the village.
31. However, owing to the local topography, the annexe, which would not change the external appearance of the existing building, would be situated on lower ground, and with the substantial property known as The Long Cottage situated between the development and Lattice Cottage. As a result, the development would not be seen within any views of Lattice Cottage within the public realm, including long views from the Hamble River and Hackett's Marsh, where views of Lattice Cottage are obscured by Barn Court and The Long Cottage. It would therefore not be seen within the setting of the listed building.
32. Having regard to my duty under section 66(1) of the Act, and the relevant heritage asset policies in the Framework, based on the evidence before me, my observations on site, and for the reasons highlighted above, I find that the development would not harm either the significance of, or the setting of, the Grade II 'Lattice Cottage' listed building, as a heritage asset.
33. For the above reasons, I conclude the development would preserve the setting of the nearby Grade II listed building 'Lattice Cottage' and would preserve or enhance the character or appearance of the Old Bursledon Conservation Area.
34. Therefore, I conclude that the development would not conflict with Policies BU7 and DM12 of the Local Plan, or with Chapter 16 of the National Planning Policy Framework (the Framework), which require, among other things, that development

conserves and enhances the character and appearance of designated heritage assets.

Effect on International and Nationally Designated Sites of importance for biodiversity

35. The appeal site is within very close proximity to the Solent and Southampton Water SPA, the Solent Maritime SAC, Solent and Southampton Water Ramsar, and the Lincegrove and Hackett's Marshes SSSI. The Chichester and Langstone Harbours SPA, the Portsmouth Harbour SPA and Ramsar Site and the Solent and Dorset Coast SPA are all nearby. It also sits within the 13.8Km zone of influence for The New Forest SPA, SAC and Ramsar sites.
36. These Habitat Sites are all recognised for their national and international importance for nature conservation. They host protected priority habitats and species including Dark-bellied brent goose, Eurasian teal, Ringed plover, Black-tailed godwit, Red-breasted merganser, Dunlin, Mediterranean gull, Sandwich tern, Roseate tern, Common tern, Little tern, European honey-buzzard, Hen harrier, Eurasian hobby, European nightjar, Woodlark, Dartford warbler and Wood warbler, as well as other typical species of wetland, mudflat, sandflats and coastal lagoons, as well as forest and heath areas.
37. Evidence shows that these protected European sites are under significant pressure from an increasing number of people living nearby. As the population grows, urbanising and increased visitor number effects from human pressures and damage caused by domestic pets have the potential to cause ongoing adverse effects on the protected habitats and species.
38. Eastleigh Borough Council (EBC), together with Natural England, other local Councils, and several nature conservation stakeholders, have formed The Solent Recreation Mitigation Partnership. This seeks a method of mitigating the recreational effects of development on the numerous protected Habitat Sites within the area, by the application of a financial contribution from developers for mitigation schemes within the area. The Partnership produce a strategy document called 'Bird Aware Solent' (BAS) which defines the mitigation process and contribution requirements.
39. Appendix B of BAS identifies that residential annexes should be treated like an extension to a residential dwelling, and that therefore mitigation is not required. As I have found that the appeal proposal would be part and parcel of the existing dwelling, and would not form a separate residential planning unit, mitigation is not required for recreational effect on the nearby protected Habitat Sites.
40. Similarly, EBC have a New Forest Interim Mitigation Strategy (NFIMS) which provides mitigation in the form of financial contributions from developers, to provide Suitable Alternative Natural Greenspace (SANG). However, paragraph 13 of the document defines that any contributions would be based on any net gain in the number of dwellings. As I have found that the proposal would not be a separate residential planning unit but would be part and parcel of the existing dwelling, there would be no net gain in the number of dwellings and therefore, the proposal would not be subject to the NFIMS requirements.
41. However, neither the BAS nor the NFIMS mitigation schemes deal with the mitigation of the effects of increased nutrient generation from development. The Solent and Southampton Water SPA and Solent Maritime SAC are also Designated

Nitrogen Sensitive Catchment Areas under the Water Industry Act 1991. There is evidence of high levels of nitrogen and phosphorus in the Solent Water catchment environment, including evidence of eutrophication (the process by which a body of water becomes progressively enriched with minerals and nutrients) within these internationally designated sites, which affects the feeding grounds for several nationally and internationally important wading birds.

42. Whilst I have found that the development would not be a separate residential planning unit, it would provide additional residential living accommodation, together with bathing and WC facilities, which would increase the nutrient output from the dwelling. As the appeal is against non-determination by the LPA, I am acting as the decision maker for the purposes of the application and therefore, as the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) (as amended).
43. There was no evidence submitted with the application which identified the means of disposal of foul wastewater from the proposal. The site is located within 400m of the Solent and Southampton Water SPA, the Solent Maritime SAC and the Lincegrove and Hackett's Marshes SSSI, in an elevated position. Despite requests to the parties as to the means of disposal of foul wastewater from the development, and the potential effects on nearby protected Habitat Sites, no detailed evidence has been received from the appellant which identifies the means of foul wastewater disposal, other than a reference to it being connected to the existing system. No detail has been provided of what that existing system consists of, where it discharges to and with no suggested means of mitigation for the increased nutrient output being put forward. The appellant suggests that it replaces a former WC provided for the gardener, but this is anecdotal, with no documentary proof submitted as evidence to support it.
44. EBC have a nutrient charging policy for development, which requires that 'development must demonstrate that it would achieve nutrient neutrality i.e. avoid nitrogen loading by ensuring there is no nett increase in nitrates leaving the site as a result of the development'. The policy does not define what constitutes development, or if specific forms of development, such as householder development, are exempt. Whilst the development does not constitute a new dwelling, it would still likely result in increased nitrates leaving the site. No details of methods to be employed to ensure no net increase having been submitted, or proposals put forward for the mitigation of such increased levels.
45. In this case, it has not been demonstrated that the development would not have a likely significant effect on the water quality of the nearby protected European Sites. I cannot conclude that the development would not have an adverse effect on the integrity of the nearby protected Habitat Sites. This is because there is no mechanism in place by which the required mitigation can be secured and controlled, in particular (e.g. Section 106 agreement) in respect of a financial contribution in accordance with the EBC Nitrates Credits Charging Policy. Consequently, I find the development would not accord with the Local Plan or with paragraph 193 of the Framework.
46. For the above reasons, I therefore conclude that the development would conflict with Policy DM11 of the Local Plan, which requires, among other things, that development preserves the water quality within the Itchen, Hamble, Southampton Water and Solent, and for development not to adversely affect the integrity of an

international or European nature conservation site. The proposal would also be contrary to the policies within Chapter 15 of the National Planning Policy Framework (the Framework), which require, among other things, that development protects and enhances biodiversity.

Other Matters

47. As I have found that the appeal development would have Likely Significant Effect on the water quality of nearby international and nationally important protected Habitat Sites, with no form of mitigation being put forward, exercising the precautionary principle, I have found the proposal to be contrary to the nature conservation policies of the Local Plan. I have therefore not consulted with Natural England, and have not carried out an Appropriate Assessment, as it would not alter the harm I have found.

Conclusion

48. For the reasons set out above, I conclude that the appeal development would be contrary to the development plan, read as a whole, and that there are no material considerations, including policies in the Framework, that would justify determining other than in accordance with it. Therefore, the appeal is dismissed.

D R Kay

INSPECTOR