
Site Address: 21 Kennedy Close, Waterlooville, PO7 5NY
Proposal: Variation of condition 4 of planning permission APP/22/00370 relating to use of outbuilding for ancillary use.
Application Type: Variation/Relief of Condition
Application No: APP/22/00916 Expiry Date: 15/11/2022
Applicant: Mr Bendon
Agent: Mr Andrews Case Officer: Jenni Price
 SDA Planning and Architecture
Ward: Purbrook

Recommendation: **GRANT PERMISSION**

Site Description

1. The application site is 21 Kennedy Close, Waterlooville, PO7 5NY. The site includes a 1960s, two-storey, end-of-terrace dwellinghouse comprising traditional brick and tile construction with white vertical cladding boards and UPVC windows and doors. The site is accessed via a dropped kerb off Kennedy Close and includes a single garage and conservatory-style porch on its front elevation. The site is separated by its neighbour – No.19 Kennedy Close – to the west via an access path which leads to a sub-station adjacent to the rear of the property. Finally, the street scene is residential in nature and includes a variety of materials, finishes and colour palettes on front and rear elevations.

2. Planning History

APP/22/00370 - Erection of garden room., PERM,15/07/2022

3. Proposal

Variation of condition 4 of planning permission APP/22/00370 relating to use of outbuilding for ancillary use.

4. Policy Considerations

National Planning Policy Framework

Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

CS16 (High Quality Design)

CS17 (Concentration and Distribution of Development within the Urban Areas)

DM10 (Pollution)

Havant Borough Local Plan (Allocations) July 2014

AL1 (Presumption in Favour of Sustainable Development)

AL2 (Urban Area Boundaries and Undeveloped Gaps between Settlements)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5. **Statutory and Non-Statutory Consultations**

Councillor Gary Hughes

No comments received

Councillor Husky Patel

No comments received

Councillor Ms C Howard - Purbrook Ward

No comments received

Developer Services, Southern Water

Southern Water has no objections to the above variation of condition 04. The comments in our response dated 31/05/2022 remain unchanged and valid.

Officer comment: *The comments received in respect of APP/22/00370 dated 31/05/2022 were as follows:*

Please see the attached extract from Southern Water records showing the approximate position of our existing foul sewer within the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water before the layout of the proposed development is finalised.

Please note:

- The public foul sewer requires a clearance of 3 metres on either side of the public foul sewer to protect it from construction works and to allow for future maintenance access.
- No development or tree planting should be carried out within 3 metres of the external edge of the public foul sewer without consent from Southern Water.
- No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public foul sewer.
- All existing infrastructure should be protected during the course of construction works.

Please refer to: <https://www.southernwater.co.uk/media/3011/stand-off-distances.pdf>

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

In situations where surface water is being considered for discharge to our network, we require the following hierarchy – reuse, infiltration, watercourse, storm sewer, combined sewer - for surface water to be followed which is reflected in Part H3 of Building Regulations. Whilst reuse does not strictly form part of this hierarchy, Southern Water would encourage the consideration of reuse of new developments. Guidance on Building Regulations is here:

<https://www.gov.uk/government/publications/drainage-and-waste-disposal-approved-document-h>

Officer comment: *The Southern Water Foul Sewer Line runs along the front curtilage of the property, whilst the proposed development would be at the rear of the property. A standard planning condition has been included to address the possibility of a public sewer crossing the development site.*

6. Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 8

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Appropriateness of design and impact on the character of the area
- (iii) Effect on neighbouring properties

(i) Principle of development

7.2 The application site is located within the defined urban area, therefore development is considered acceptable in principle subject to development management criteria.

7.3 The application has been submitted under Section 73 of the Town & Country Planning Act 1990. Section 73 provides for the determination of applications to develop land without compliance with conditions previously attached. It only provides for the variation of conditions attached to an existing permission; it does not provide a means of varying the development permitted (other than through the imposition of new/varied conditions). Given the previous permission, the principle of the development is considered to be acceptable.

(ii) Appropriateness of design and impact on the character of the area

7.4 The proposed development would involve the variation of condition 4 of planning permission APP/22/00370 to amend the wording from:

"The outbuilding hereby permitted shall be used only for purposes incidental to the enjoyment of the dwellinghouse. It shall not be used for any business, commercial or industrial purposes whatsoever, and it shall not be used as a separate unit of residential accommodation"; to

"the outbuilding hereby permitted shall be used only for purposes ancillary to the enjoyment of the dwellinghouse. It shall not be used for any business, commercial or industrial purposes whatsoever, and it shall not be used as a separate unit of residential accommodation".

- 7.5 The applicant/agent feel that the description given in condition 4 currently prevents alterations to the garden room that could be made that would not normally fall to be determined as development.
- 7.6 On the 15th of December 2022 the agent was asked to provide details of the alterations that they would carry out and the proposed use. The following reply was provided on the 15th of December 2022:

"We are simply seeking a re-wording of the condition. No development is proposed outside of the original permission. If this were to change in the future, we are simply seeking to ensure that the use remains ancillary to the dwellinghouse".

- 7.7 The application makes no changes to the design or layout of the outbuilding previously approved; merely to expand its potential use to include 'ancillary', and not just 'incidental' uses to the host dwelling. Such use changes could normally be made following the bringing into use of an outbuilding for its lawful incidental uses, and with the caveats retained as regards not being used for any business, commercial or industrial purposes whatsoever, and not being used as a separate unit of residential accommodation, there is no evidence to suggest that an 'ancillary' use of the outbuilding would be out of character or harm the surrounding area. It is therefore considered that the change to the wording of the proposal is appropriate in context to the host dwelling and is therefore considered to be acceptable, meeting the requirements of Policies CS16 and DM10 of the HBLP (Core strategy). It is considered that the scheme would not result in an adverse impact on the visual amenity of the locality.

(iii) Effect on neighbouring properties

- 7.8 The application makes no changes to the design or layout of the outbuilding previously approved; merely to expand its potential use to include 'ancillary', and not just 'incidental' uses to the host dwelling. Such use changes could normally be made following the bringing into use of an outbuilding for its lawful incidental uses, and with the caveats retained as regards not being used for any business, commercial or industrial purposes whatsoever, and not being used as a separate unit of residential accommodation, there is no evidence to suggest that an 'ancillary' use of the outbuilding would harmful to the amenity of neighbouring properties.
- 7.9 It is therefore considered that the change to the wording of the proposal is acceptable, meeting the requirements of Policies CS16 and DM10 of the HBLP (Core strategy). The proposed variation of condition 4 would not have a negative impact on neighbouring properties, and it is noted no letters of objection were received with respect to the scheme.

8 Conclusion

- 8.1 The variation proposed to the wording of Condition 4 of Planning Permission APP/22/00370 would have limited and acceptable impact on the character of the area and the amenity of neighbours and is therefore considered to be appropriate and recommended for approval.
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9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for planning application APP/22/0916 subject to the following conditions:

- 1 The development must be begun not later than 15 July 2025.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following plans and details approved under Planning Permission APP/22/00370:

Cover Letter (dated 04 April 2022)

Materials Specification

Drg No: 001 – Location Plan and Block Plan

Drg No: 002 – Site Plan

Drg No: 003 – Proposed Floor and Roof Plan

Drg No: 004 – Proposed Elevations

Reason: To ensure provision of a satisfactory development.

- 3 The external materials used shall be as indicated on the forms and plans approved pursuant to Planning Permission APP/22/00370, or shall match, in type, colour and texture, those of the existing building so far as practicable.

Reason: In the interests of the amenities of the area and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

- 4 The outbuilding hereby permitted shall be used only for purposes incidental or ancillary to the enjoyment of the dwellinghouse as such and shall not be used for any business, commercial or industrial purposes whatsoever, and it shall not be used as a separate unit of residential accommodation.

Reason: In the interests of the amenity of the area and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework

- 5 In the event that public sewers are found at any time when carrying out the approved development which were not previously identified, development shall STOP until details of the measures which will be undertaken to protect the public sewer have been submitted to, and approved in writing by, the Local Planning Authority. Following approval, such measures shall be implemented on site in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the adequate protection of infrastructure having due regard to Havant Borough Local Plan (Core Strategy) Policies CS19 and DM10 and the National Planning Policy Framework.