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## Appeal Decision

Site visit made on 5 June 2018

**by Mrs J Wilson BA BTP MRTPI DMS**

Inspector appointed by the Secretary of State

Decision date: 29<sup>th</sup> June 2018

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**Appeal Ref: APP/X1735/W/17/3191873**

**137 Victoria Road, Emsworth, Hampshire PO10 7LX**

- 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 Mrs Amy Celik against the decision of Havant Borough Council.
  - The application Ref APP/17/00718, dated 28 June 2017, was refused by notice dated 28 September 2017.
  - The development proposed is described as change of use for a summer house. Construction (existing) into annexe accommodation for residential use.
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### Decision

1. The appeal is allowed and planning permission is granted for the use of an existing summerhouse as an annexe for residential accommodation at 137 Victoria Road, Emsworth, Hampshire PO10 7LX in accordance with the terms of the application, Ref APP/17/00718, dated 28 June 2017, and the plans submitted with it, subject to the following conditions:
  - 1) The summerhouse shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 137 Victoria Road, Emsworth PO10 7LX. It shall not at any time be occupied independently to No 137 Victoria Road.

### Preliminary Matter

2. The application and the decision refer to the building as being an existing structure. The appellant also refers to the summerhouse being permitted development and this is not disputed by the Council. It is therefore the change of use of the building to which I address my considerations in this appeal.
3. I have used the Councils' description of the development from the decision notice as this more succinctly describes the nature of the development applied for than that given on the application form.

### Main Issue

4. The main issue is the effect of the development on the living conditions of occupants of the adjoining residential dwellings with particular regard to disturbance arising from pedestrian movements and light.

### Reasons

5. The property is a mid-terraced house where there is no separate means of access to the outbuilding other than that via the main house. The garden area

is shared and there is no opportunity for a separate frontage to be created to serve the building as a separate use.

6. The appellant explains that the use of the summerhouse enables an older family member to live in close proximity to the family which is the main requirement for the ancillary accommodation. The Council accept that the provision of kitchenette and bathroom facilities reduces some of the movement between the main house and the summerhouse though they comment that this has the potential to cause nuisance to neighbouring occupiers. The accommodation is modest with a single living/bedroom/kitchen area and even though movements will inevitably occur on a day to day basis the distance between the accommodation and the house is modest and the effect on neighbours would be limited.
7. Taking into account the relationship with the main dwelling, the lack of separate access and garden and the use of the building in the manner proposed I consider there would be only a modest impact on the neighbouring dwellings. This would not be likely to cause the adverse impacts by reason of activity, light and noise that the Council fears and will not, in the context described, cause harm to the living conditions of the occupants of adjacent properties.
8. Whilst I can understand the concerns of the Council regarding a self-contained use, from the evidence it is clear to me, in these particular circumstances that a level of dependency would exist between the family use of the main house and the residential activity in the outbuilding. Even though there would be facilities for day-to-day living it would not become a separate planning unit due to that level of dependency.
9. For these reasons the proposal would not conflict with Policy CS16 of the Havant Borough Core Strategy (2011) which seeks to protect neighbours from unacceptable harm to their amenity or to Policy DM10 of the same strategy which has an overarching remit to minimise pollution including that from external lighting.

### **Other Matters**

10. The Council make a number references to the National Planning Policy Framework in response to the appellants' grounds of appeal however those references relate to the provision of additional housing and to previously developed land which are not directly relevant to the specifics of this appeal.
11. The Council consider that the proposal may set a precedent for similar developments. However, given the specific circumstances of the proposal, I do not consider that this would be the case. In any event, I have determined that the development is acceptable in its own right and each proposal must be considered on its own merits.

### **Conditions**

12. A single condition has been suggested by the Council which would ensure that the use of the summerhouse would be restricted to ancillary use to the main dwelling. Given the relationship of the building to the main house this is an essential requirement as access to it is via the host property and there is a level of dependency involved though I have adjusted the suggested wording in

the interests of precision. It is not necessary to impose a time limit condition or plans and materials conditions as the development has already taken place.

**Conclusion**

13. For the above reasons and having regard to all other matters raised the appeal is allowed in the terms set out above.

*Janet Wilson*

INSPECTOR