
Site Address: The Annex, North Farm Cottage, Northney Lane, Hayling Island
Proposal: Variation of S106 Agreement of Planning Permission 03/67620/001 to allow the use of the annex for any purpose ancillary or incidental to the main dwellinghouse, including as a 'granny annex' or 'staff/nanny accommodation' or 'home office'.
Application No: APP/13/00495
Applicant: Mr R Wardle
Agent:
Ward: Hayling East
Expiry Date: 19/07/2013
Team: Team 1
Case Officer: Richard Nash

Recommendation: **GRANT PERMISSION**

1 Site Description

The application site comprises a large detached dwelling of traditional design and brick and tile finish, located within extensive grounds at the eastern end of Northney Lane. At the north west corner of the site there is a detached annex building. There are residential properties to the north and south of the site, an area of informal open space to the west and open agricultural land to the east.

2 Planning History

02/67620/000

(A) Demolition of existing outbuildings and erection of a detached car port and annex for elderly relative. (B) Construction of two dormer windows to roof on east elevation and single storey addition to form utility room on north elevation.

Split Decision: (A) Refused and Dismissed at Appeal. (B) Approved.

03/67620/001

Demolition of existing outbuildings to north west of dwelling and erection of two storey detached structure comprising double garage and workshop at ground floor level and store and study at first floor level, and the erection of a single storey detached structure to form a store.

Approved.

05/67620/000/CMP

Enforcement case: Use of building as separate unit of accommodation.

Case closed (no evidence of separate use).

3 Proposal

The current application proposes the variation of a Section 106 Agreement attached to Planning Permission 03/67620/001, in order to allow the use of the detached annex building for any purpose ancillary or incidental to the main dwelling house. The Applicant initially suggested that specific uses could be defined as being included in this category, such as a granny annex, staff or nanny accommodation or a home office.

4 Policy Considerations

National Policies
National Planning Policy Framework

Core Strategies 2011 forming part of the HBLDF
CS16 (High Quality Design)

Listed Building Grade: Not applicable
Conservation Area: Not applicable

5 Statutory and Non Statutory Consultations

Development Engineer:

No adverse comment, providing permission is given as stated on the application form (i.e. that the building cannot be used a separate dwelling unit).

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: 10

Number of site notices: Not applicable

Statutory advertisement: Not applicable

Number of representations received: 2

Summary:

North East Hayling Residents Association:

No objection in principle to a genuine granny annex being tied to the main house but seems this garage/store has already morphed into a separate dwelling and is very close to Spinnaker Grange. Building has been for sale on internet. Seems Section 106 has not been adhered to at present. Concerned use might not remain incidental to main house, even if this was set as a condition. No application boundary shown on site plan and there are three separate residential buildings in this area.

From occupiers of North Farm House (immediate neighbours to south, within gated area shared with North Farm Cottage):

Strongly object. New dwelling being established by stealth. 'Annex' appears to have been designed as a house from the outset. Understand this was a major concern of HBC and planning consent was very specific concerning its use. Current request is extremely wide - 'for any purpose ancillary or incidental to the main dwelling house'. 2003 Planning Permission does not refer to 'incidental use' - requires building to not be used other than as a garage, workshop, study and store. Major concern over possibility of establishing separate dwelling as the 'annex' already has own unique identity and postal address. Therefore strongly question that use as staff accommodation, granny annex or home office would be entirely incidental or ancillary to use of cottage and would not result in creation of separate unit of accommodation. Should consent be given for living quarters then building effectively becomes a

dwelling house and use could include business, B&B, rented to another family, holiday etc. This would have a material impact on amenities of neighbours – e.g. noise, visitors, security, additional traffic. Shared electric entry gates are subject of a legal agreement relating to ownership, operation and maintenance. Change of use of the 'annex' will increase use of gates, traffic and disturbance and decrease security, and require a new agreement.

Comment:

The planning merits of the proposal are discussed below. The concerns raised regarding possible breaches of planning control are understood. However, as a general principle, the acceptability of a planning proposal must be judged on its own merits and previous, extant or suspected future breaches of planning control cannot be used as a reason for refusal of a planning application. Whatever the outcome of the current application, the existing use(s) of the building could be investigated once a decision has been issued. The legal agreement relating to the use of the access gates is not a material planning consideration.

7 Planning Considerations

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) Impact on application site and neighbouring amenities

(i) Principle of development

The use of the building for purposes incidental and ancillary to the principal dwelling has been established under the 2003 planning permission - albeit that this was specifically limited, by way of a Section 106 Agreement, to uses that reflected the approved layout of the building (in terms of descriptions of rooms). Consideration therefore has to be given to the implications of varying or widening this permitted use.

(ii) Impact on application site and neighbouring amenities

The Applicant explains their wish to amend the lawful use of the building, which it is claimed has been used for purposes incidental and ancillary to the main dwelling since its initial construction in 2004. The Applicant specifically suggests that the building could be used as a granny annex, staff or nanny accommodation or a home office. The Applicant considers these suggested uses would be entirely incidental or ancillary to the use of North Farm Cottage and would not result in the creation of a separate unit of accommodation.

In general terms this is agreed, although in each case fact and degree would have a bearing on whether the use was truly incidental or ancillary. Indeed it is questionable whether it was reasonable to have limited the use of the building in such specific terms as is the current situation, as it is considered that if an outbuilding is being used for a purpose at a degree genuinely incidental or ancillary to a dwelling, then such use would by definition not have a material impact on the character of the site or on the amenity of the wider area.

By contrast, where the level of use of an outbuilding (for example as a separate unit of residential accommodation, as a holiday let or for business purposes) is such that it

does have a material impact on the character of the building and/or host site, then a material change of use requiring planning permission would be likely to have occurred. This would be the case whether or not the use of the building was controlled by a planning condition or legal agreement.

It should be noted that, in terms of room use, the current layout of the building is different to that approved in 2003 and would readily lend itself to wholly separate residential occupation. There is a suggestion that the building was initially constructed in this way and has been used for purposes in breach of the original agreement since that time - its current use is for storage and an office (in connection with the owner's business) and associated facilities.

Whether or not the current use conforms to the extant agreement is open to debate. However, as noted above, the current proposal must be judged on its own merits and previous, extant or suspected future breaches of planning control could not be used as a reason for refusing the application. Whatever the outcome of the current application, the ongoing use of the building could be investigated once a decision has been issued.

Given the above, particularly the point that a genuinely incidental or ancillary use of the building would by definition not have a material impact on the character of the site or the amenity of the wider area, there is no reason to continue to limit the use of the building in a prescriptive manner.

8 Conclusion

A genuinely incidental or ancillary use of the building would by definition not have a material impact on the character of the site or the amenity of the wider area. There is therefore no reason to continue to limit the use of the building in the current prescriptive manner. The Applicant has signed an appropriate Deed of Variation to the extant Section 106 Agreement, to the effect that the building will be used only for (non-specified) purposes ancillary or incidental to the main dwelling house. The application should therefore be approved.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **GRANT PERMISSION** for application APP/13/00495.