
Site Address:	28 Wittering Road, Hayling Island, PO11 9SP		
Proposal:	Conversion of existing garage into ancillary accommodation to the main dwelling.		
Application No:	APP/13/00604	Expiry Date:	15/08/2013
Applicant:	Mr Gibson	Team:	Team 1
Agent:	Mr Walker	Case Officer:	Stephen Andrews
	Island Design		
Ward:	Hayling East		

Recommendation: **REFUSE PERMISSION**

1 Site Description

The application site is made up of a two storey Art Deco dwelling, with flat roof and parapet wall. The dwelling has a single storey rear extension with balcony that overlooks the Creek to the rear of the site (north). The site has access to the Creek, which has the following designations AONB, SPA, SAC, SSSI, English Nature Conservation Zone, RAMSAR. To the front of the site is a large detached double garage with large store at first floor level. There is on site parking for several vehicles with a single access onto Witterings Road. There is a TPO tree towards the front boundary of the application site, with areas of the front of the site falling within Flood Zones 2 and 3.

Witterings Road is a quiet residential thoroughfare at the Eastern end of Hayling Island. The dwellings along Witterings Road are predominantly detached within good sized verdant plots; particularly those along the east side of the road.

Despite the natural screening that dominates the street scene, the existing detached garage of the site has a strong visual presence.

2 Planning History

03/55227/004 - Proposed new dwelling over site of detached garage and store approved under planning permission 97/55227/002. Refused - 27/10/2003. Appeal Dismissed - 23/11/2004.

98/55227/003 - Two storey and single storey side extensions. Approved - 15/12/1998.

97/55227/002 - Replacement of existing garage with detached double garage and store over to south-west of dwelling. Approved - 20/02/1998.

90/55227/000 - Ground floor rear extension and extension to existing balcony. Approved - 21/08/1990.

3 Proposal

Planning permission has been applied for to convert the existing detached double garage and store to ancillary accommodation to the main dwelling.

The proposal includes the removal of the garage doors and insertion of two patio

doors and single entrance door and two roof lights in the front elevation.

The floor plans as proposed show the provision of a kitchen, shower room, games room/lounge at ground floor and two bedrooms and a bathroom at first floor level.

4 Policy Considerations

National Policies

National Planning Policy Framework, 2012

Core Strategies 2011 forming part of the HBLDF

CS16 (High Quality Design)

DM13 (Car and Cycle Parking on Residential Development)

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Chichester Harbour Conservancy - No objection subject to a condition being imposed preventing the building being used as a separate unit of accommodation.

Environment Agency - No objection subject to standing advice for an ancillary use.

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: 4

Number of site notices: At least one site notice exists - check the number.

Statutory advertisement: Not applicable.

Number of representations received: 1

Summary: 25 Wittering Road - Objection to the creation of a new dwelling. Increase in traffic. Out of character.

Comment: It is agreed that the proposal is tantamount to a new dwelling and would be unacceptable in principle.

The increase in traffic associated with a new dwelling has not been fully assessed by the Highways Authority because the applicant has stipulated that the proposed use is ancillary.

It is agreed that the use of the building as an independent dwelling would be out of character. Its ancillary use however, would not and would not require formal planning consent.

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

In considering this application, particularly for the 'annex' (as described on the application form) it is pertinent to consider whether there is a material change of use. If there is not then the 'fall back' position would be that the building could be occupied as an annex regardless of the outcome of this planning application as there are no restrictive planning conditions to prevent such an alteration and because such a change would not meet with the definition of development as provided by Section 55 of the Town and Country Planning Act 1990.

In respect of the proposed 'annex' concern is expressed regarding the intended use. This is based on the layout of the building and accommodation to be provided, as shown on the submitted plan (Proposed layouts, dated June 2013).

The proposed 'annex' would have two bedrooms and a bathroom on the first floor, with a kitchen, shower room and lounge/games room on the ground floor. For all intent and purpose the building would have the appearance and function of an independent detached dwellinghouse, with no reliance on the dwelling of 28 Wittering Road.

Whilst the development does not propose the subdivision of the plot in this application there is no escaping the fact that the conversion would result in a building that has all the characteristics, appearance and function of a dwellinghouse.

Circular 10/97 at paragraph 2.81 provides an interpretation of "use as a single dwellinghouse". Initially it begins by stating that "...although there is no definition of what is a dwellinghouse, it is possible for the reasonable person to identify one when he sees it. If no reasonable person would look at a particular structure used as a dwellinghouse and identify it as such, it is justifiable to conclude, as a matter of fact, that it is not a dwellinghouse." More helpfully paragraph 2.82 goes on to say: "It is considered that the criteria for determining use as a single dwellinghouse include both the physical condition of the premises and the manner of the use. In this instance it is noteworthy that the neighbours residing at 25 Wittering Road have raised objection to the creation of a new dwelling, despite the application being described and advertised as the conversion of existing garage into ancillary accommodation to the main dwelling.

Where a single, self contained set of premises comprises a unit of occupation, which can be regarded as a separate "planning unit" from any other part of a building containing them; are designed or adapted for residential purposes, containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse; and by a single person or more than one person living together as, or like, a single family, those premises can properly be regarded as being in use as a single dwellinghouse for the purposes of the Act."

"It is clear that the use of an existing residential outbuilding for accommodation in association with a main dwellinghouse, is not considered to require planning permission. Section 55(2)(d) of the 1990 Act provides that the use of buildings within the curtilage of a dwellinghouse is not development if used for any purpose "incidental to the enjoyment" of that dwellinghouse." Development Control Practice note recognises that "incidental to the enjoyment" may be interpreted generously to mean

that outbuildings within a residential curtilage may be used for any residential purpose whatever, for whatever the meaning of “incidental” might be, there is no material change of use...Of course, if the accommodation created constitutes a separate self contained unit and a separate planning unit (see 4.324), this is a different matter as sec. 55(3)(a) makes clear” (Development Control Practice, Vol.3, Issue, 75-11/05, paragraph 10.211, p.102-000).

In this example it is considered that the proposed conversion of the detached garage and store, by reason of the layout, facilities provided and its scale and appearance are tantamount to the creation of an independent dwelling. As such the development would involve the material change of use of the garage building which would require formal planning permission. Having regard to this conclusion the proposal would be a material change of use of an ancillary domestic building beyond that included within householder development. A full planning application would therefore be required for such a change of use with a different assessment of how such a proposal would be considered.

The principle of the development is therefore considered to be unacceptable and beyond the scope of householder development. The consultation responses received have considered the development as an ancillary use. However based on the above assessment and position taken by the Council, the conclusions reached by third parties may need to be re-assessed.

(ii) Flood Risk

The front corner section of the application site, along Wittering Road, falls within Flood Zones 2 and 3 and part of the area covered by the garage building. As part of the submission the applicant has provided a flood risk assessment, demonstrating that an ancillary residential use, with protective measures would be acceptable.

The Environment Agency during their consideration of the proposal have looked at the proposal and guidance in respect of an ancillary use and raised no objection to the development subject to their standing advice. However, it is considered that should the development be considered as an independent dwelling the advice provided may be different as a residential use would be a vulnerable use in Flood Zones 2 and 3, with more suitable sites needing to be considered prior to a site within an area at risk of flooding.

(iii) Residential Amenity

The building identified for conversion is well screened from the east and west of the application site by the natural vegetation within and outside of the site ownership of 28. Neighbour 26a is beyond this area of screening some 10m away, whilst neighbours to the south are positioned some 26m away and the dwelling of 28 some 22m from the building. It is considered that the combined distance and screening would adequately protect the residential amenities of neighbouring properties from the increase in activity and disturbance associated with such a conversion. This would also be the case if the building were to become an independent residential unit.

(iv) Character and Appearance

The ancillary use of the building would not materially alter or harm the prevailing character and appearance of the area. However, should the building be used as a separate unit of accommodation this would not be the case. The creation of an

independent unit of accommodation in this location was considered under application 97/55227/002 which was subsequently refused and then dismissed at appeal.

It is considered that such creation of an independent dwelling would be out of keeping with the prevailing character and appearance of the area, with the use resulting in an intensification in use and activity of the site, close to the front boundary of the application site that would be noticeable and incongruous. The relationship between 28 and the converted building would also need to be duly considered, in relation to vehicle and site access as well as the provision of appropriate amenity space. This would form an integral consideration of such a development. Given the level of independence provided to the converted unit and its overall appearance an objection would be raised on character grounds in respect of the formation of a separate residential unit.

8 Conclusion

Having regard to the above information it is considered that the proposal goes beyond the realms of householder development and has all the hallmarks and appearance of an independent residential unit. This raises several issues of concern, in respect of the principle of the development, flood risk and the overall character and appearance of the conversion. Therefore an objection is raised to the development for these reasons and the application put forward with a recommendation to refuse as it would conflict with the aims and objectives of policies DM13 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the requirements of the National Planning Policy Framework, 2012.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **REFUSE PERMISSION** for application APP/13/00604, for the following reasons:

- 1 The development as proposed would result in the creation of an independent dwelling, by reason of the layout, scale, appearance and all the internal facilities associated with that of an independent dwelling. The result would be a cramped form of development, with the resultant activities associated with an additional independent dwelling materially altering the character and appearance of the site. The development would therefore be unacceptably harmful to the character and appearance of the area contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework, 2012. In arriving at this decision regard has been given to Sections 55 and 56 of the Town and Country Planning Act 1990 and advice contained within paragraphs 2.81 and 2.82 of Circular 10/97.
- 2 Part of the site is included within Flood Zones 2 and 3 and it has not been appropriately demonstrated that the creation of a separate unit of residential accommodation, which is recognised as a vulnerable use, could be provided without putting future occupants at an unacceptable risk from flood water. The development therefore conflicts with the requirements of the National Planning Policy Framework, 2012.