



## Appeal Decision

Site visit made on 25 February 2026 by S Jamieson BA(Hons) MPlan MRTPI

### Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2026

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### Appeal Ref: 6001789

#### 94 Summer Lane, Royston, Barnsley S71 4HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Chris Oliver against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref is 2025/0645.
  - The application sought planning permission for erection of single storey annex outbuilding in rear garden to be used for ancillary residential use in association with the existing dwelling without complying with conditions attached to planning permission Ref 2021/0680.
  - The conditions in dispute are Nos 6 and 7 which state that:  
*(6) The annex hereby approved shall remain open to the domestic curtilage of 94 Summer Lane at all times and shall not be enclosed or served by a separate garden area independent to 94 Summer Lane; and*  
*(7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellings which would otherwise be permitted by Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority, and no garages or other outbuildings shall be erected.*
  - The reasons given for the conditions are:  
*(6) In the interest of residential and visual amenity and in accordance with Local Plan Policies D1 and GD1 and SPD 'House Extensions and Other Domestic Alterations'; and*  
*(7) To safeguard visual and residential amenity in accordance with Local Plan Policies GD1 'General Development' and D1 'Design'.*
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### Decision

1. The appeal is allowed and planning permission is granted for erection of single storey annex outbuilding in rear garden to be used for ancillary residential use in association with the existing dwelling at 94 Summer Lane, Royston, Barnsley S71 4HW in accordance with the terms of the application, Ref 2025/0645, without compliance with condition numbers 5, 6 and 7 previously imposed on planning Permission Ref 2021/0680 and subject to the following conditions:
  - 1) The development hereby approved shall be carried out strictly in accordance with the plans (Revision E 'Granny Annex' dated 01/07/2022) and specifications as approved unless required by any other conditions in this permission.
  - 2) The external materials shall match those used in the existing adjacent garage building.
  - 3) The window on the northern elevation of the building facing the amenity space of number 98 Summer Lane shall at all times be fitted with obscure glass and retained as such thereafter.

- 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 94 Summer Lane, Royston, Barnsley S71 4HW.

### **Appeal Procedure**

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### **Background and Main Issue**

3. Planning permission was granted in 2022 for the erection of a single storey annex outbuilding in rear garden to be used for ancillary residential use in association with the existing dwelling (Ref 2021/0680, the 'original permission').
4. The application that led to this appeal was made under section 73 of the Town and Country Planning Act 1990 and sought to vary and remove conditions pursuant to the original permission. In determining that application (the 's73 permission'), the Council issued a split decision whereby a variation to condition 5 was approved, removing the requirement for the outbuilding to be occupied only by 'immediate family members', and replacing it with a condition simply restricting the use of the outbuilding to that which is ancillary to the main house. The proposed removal of conditions 6 and 7 was however refused, and both conditions are retained on the s73 permission. Conditions 6 and 7 are the disputed conditions in this appeal and the appellant contends they are not reasonable or necessary.
5. The main issue is whether the disputed conditions are reasonable and necessary, having regard to the:
  - character and appearance of the area; and
  - living conditions of occupiers of the host dwelling, the annex and neighbouring properties.

### **Reasons for the Recommendation**

#### *Condition 6*

6. The appeal relates to a detached dwelling that is set back from Summer Lane behind a generous front garden, with a shared driveway with 94A Summer Lane providing access to a parking area to the rear. The host dwelling has a sizeable and well-contained rear garden that extends behind 96 Summer Lane and, as a result, is notably wider than the rear gardens of other dwellings in the vicinity. Indeed, there is considerable variation in garden sizes in the area. Alterations and extensions to properties are also commonplace, as are outbuildings of varying scale.
7. The appellant has confirmed that it is not their intention to create a separate garden area for the annex. Even if the garden were to be sub-divided, this would not on its own amount to independent use. As identified by the appellant, the use of the annex as ancillary accommodation is secured through a separate condition. Any occupation of the annex as a separate planning unit would constitute a material change of use that would require planning permission.

8. The Council has not identified any specific harm that would arise through sub-division of the garden, although the s73 permission and associated officer report refer broadly to effects on visual and residential amenity. The Council also cites its House Extensions and Other Domestic Alterations Supplementary Planning Document (2024) (SPD), which post-dates the original permission but pre-dates the section 73 permission and which states that annexes may be permissible in rear gardens where they would not have their own garden.
9. Even if a fence or other means of enclosure were to be erected, given the generous size of the appeal site and the range of plot sizes and boundary treatments in the area, the subdivision of the garden and associated means of enclosure would be unlikely to appear incongruous in its immediate setting. The appeal site is also well screened by existing walls, fences, trees and hedges and such a change would therefore not be prominent from public vantage points or from neighbouring properties. In this context, and despite the guidance contained in the SPD, I am not persuaded that the removal of condition 6 would, in this instance, risk harm the character or appearance of the area.
10. Furthermore, the size of the plot is such that any internal subdivision could be arranged to leave ample garden space for both the main dwelling and the annex and there is nothing to suggest there would be any material effects in terms of levels of activity. Any means of enclosure would also be subject to the height and siting limitations of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO). As a result, I find no evidence to suggest that the removal of condition 6 would adversely affect the living conditions of existing or future occupiers of either the main dwelling, the annex or neighbouring properties.
11. Consequently, condition 6 is neither reasonable or necessary to protect the character and appearance of the area or the living conditions of existing and future occupiers of the host dwelling, the annex or neighbouring properties. As such, removing this condition would not result in conflict with policies D1 and GD1 of the Barnsley Local Plan (2019) (LP), which require developments to be of high quality design that respects, takes advantage of and reinforces the distinctive, local character and features of Barnsley and for there to be no significant adverse effects on the living conditions and residential amenity of existing and future residents.

#### *Condition 7*

12. The National Planning Policy Framework (the Framework) requires that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. It further advises that blanket removal of freedoms to carry out small-scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
13. Condition 7 removes permitted development rights for enlargements, improvements and alterations under the provisions of Schedule 2, Part 1 of the GPDO. The provisions already contains several safeguards, including for example limits on ground coverage relative to the original house. Given the size of the plot, coupled with the well-screened nature of the rear garden, there is nothing to suggest that

future enlargements, improvements or alterations that comply with the GPDO could not be accommodated in a way that would suitably respond to the character or appearance of the area.

14. The condition also prohibits the erection of garages and outbuildings. Such buildings would be typical of a residential setting and, given the size of the plot and subject to the provisions of the GPDO, there is nothing to suggest they could not be reasonably accommodated without appearing discordant in this context.
15. The Council has not alleged any specific harm with regard to any likely adverse effects on the living conditions of existing and future occupiers. However, given the features of the site described, I am unconvinced that utilisation of the identified permitted development rights would result in harm in this regard.
16. I therefore conclude that disputed condition 7 is neither reasonable or necessary having regard to the character and appearance of the area and the living conditions of occupiers of the host dwelling, the annex or neighbouring properties. As such, removing this condition would not result in conflict with policies D1 and GD1 of the LP, the relevant requirements of which are set out under the conclusion to the first main issue.

### **Conditions**

17. For the above reasons, conditions 6 and 7 should be removed in their entirety. The PPG makes clear that decision notices for the grant of planning permission under section 73 should also reinstate the conditions imposed on the earlier permission that continue to have effect.
18. As agreed by the Council under the s73 permission, and for the reasons outlined above, Condition 5 of the original planning permission has again been amended to remove the requirement for the outbuilding to be used only by immediate family members.
19. As the development has commenced, a time-limit condition is no longer required. Conditions are reimposed requiring that the proposed development is carried out in accordance with the approved drawing and for the external materials of the outbuilding to harmonise with that of the existing garage. The condition relating to glazing on the annex facing the boundary with 98 Summer Lane, is not in dispute and is also reimposed.

### **Conclusion and Recommendation**

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*S Jamieson*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

21. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

*M Russell* INSPECTOR