

Application Reference: 2025/0645

Site Address: 94 Summer Lane, Royston, Barnsley, S71 4HW

Introduction:

The applicant gained planning permission for the *'Erection of single storey annex outbuilding in rear garden to be used for ancillary residential use in association with the existing dwelling'* under planning application number 2021/0680. The application was approved subject to 7 conditions. The applicant is now applying to vary condition 5 (occupancy restriction) and remove conditions 6 (garden restriction) and 7 (removal of PD rights).

Relevant Site Characteristics

The application relates to a detached 2.5 storey dwelling and its associated curtilage and outbuilding. To the front of the dwelling is a garden area and a driveway which is shared with the neighbouring property. The driveway leads from Summer Lane, down the side of the property to an area of hardstanding providing off road parking for several vehicles. Immediately adjacent to the hardstanding is a detached garage with a storage area above.

In terms of the gardens, there is a seating/entertaining area immediately adjacent to the rear elevation of the host property and an area, mainly laid to lawn, beyond the parking/garaging. The site slopes up from West to East and is separating from neighbouring amenity spaces by fencing to the North and mature hedging to the East and South.

The site is surrounded by existing residential properties and their associated amenity spaces and outbuildings.

Since the approval of application 2021/0680 work has commenced on the annex within the 3 year start date. The work includes digging a trench from the property to the location of the annex to serve the relevant services.

Site History

Application Reference	Description	Status (Approved/Refused)
2021/0680	<i>Erection of single storey annex outbuilding in rear garden to be used for ancillary residential use in association with the existing dwelling'</i>	Approved subject to conditions and permission implemented

Detailed description of Proposed Works

The applicant seeks permission to amend the wording of condition 5. The original wording is;

The development hereby permitted shall only ever be used as ancillary residential accommodation by immediate family members of the application dwelling known as 94 Summer Lane, Royston, Barnsley, S71 4HW and shall at no point in time be severed from the main house as a separate dwelling.

Reason: In the interest of residential amenity in accordance with Local Plan Policy GD1.

The applicants proposed wording is;

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.

The applicant also seeks permission to remove conditions 6 and 7.

Condition 6 states;

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.

Reason: 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'.

Condition 7 states;

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.

Reason: To safeguard visual and residential amenity in accordance with Local Plan Policies GD1 'General Development' and D1 'Design'.

Relevant policies

The Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for Barnsley consists of the Barnsley Local Plan (adopted January 2019).

The Local Plan review was approved at the full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means, no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027, or earlier, if circumstances require it.

The following Local Plan policies are relevant in this case:

- Policy SD1: Presumption in favour of Sustainable Development.
- Policy D1: High Quality Design and Place Making.
- Policy GD1: General Development.
- Policy T4: New Development and Transport Safety

National Planning Policy Framework (NPPF) and the National Planning Practice Guidance

In December 2024, The Government published a revised National Planning Policy Framework ("NPPF") which is the most recent revision of the original Framework, published first in 2012 and updated a number of times, providing the overarching planning framework for England. It sets out the Government's planning policies for England and how they are expected to be applied. The NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions. This revised document has replaced the earlier planning policy statements, planning policy guidance and various policy letters and circulars, which are now cancelled.

Central to the NPPF is a presumption in favour of sustainable development which is at the heart of the framework (paragraph 10) and plans and decisions should apply this presumption in favour of sustainable development (paragraph 11). The NPPF confirms that there are three dimensions to sustainable development: economic, social and environmental; each of these aspects are mutually dependent. The most relevant sections are:

Section 2 - Achieving sustainable development

Section 4 - Decision making

Section 12 - Achieving well-designed places

The National Design Guidance (2019) is a material consideration and sets out ten characteristics of well-designed places based on planning policy expectations. A written ministerial statement states that local planning authorities should take it into account when taking decisions.

Adopted Supplementary Planning Guidance

In line with the Town and Country Planning (Local Planning) (England) Regulations 2012, Barnsley has adopted twenty eight Supplementary Planning Documents (SPDs) following the adoption of the Local Plan in January 2019. The most pertinent SPD's in this case are:

- House extensions and other domestic alterations
- Parking

The adopted SPDs should be treated as material considerations in decision making and are afforded full weight.

Consultations

The application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015.

Any neighbour sharing a boundary with the site has been sent written notification and the application has been advertised on the Council website.

No representations have been received.

Planning Assessment

Principle

The site falls within Urban Fabric within the Local plan where extensions and alterations to a domestic property are acceptable in principle provided that they remain subsidiary to the host

dwelling, are of a scale and design which is appropriate to the host property and are not detrimental to the amenity afforded to adjacent properties.

The annex has already been approved under application 2021/0680 and work has commenced on the development within 3 years, in accordance with condition 1 of that approval. The applicant is not proposing to make any amendments to the approved annex, they are just seeking approval for the re-wording of condition 5 and the removal of conditions 6 and 7 of that approval, as such, this report will purely focus on the conditions and not revisit the merits of the annex.

It should be noted, however, that since the approval of application 2021/0680 SPD 'House Extensions and other Domestic Alterations' has been amended, including para 7.29 which specifically relates to annexes. Previously there was no size limit for an annex, subject to it not occupying a disproportionate amount of the garden and not having its own separate access or garden area. An annex also needed to have a close physical relationship with the host dwelling, be single storey and in all circumstances, should only have 1 bedroom and no more than 3 rooms in total.

The current SPD states that '*An annex should normally have a close physical relationship with the host dwelling and maintain a reliance with it having some shared facilities, be single storey and their size shall be up to 39m² and no larger than the size of a double garage*'. The approved annex measures 58.5m² so would not have been supported under the current SPD.

In terms of the conditions, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practical. The main powers are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990.

Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose "such conditions as they think fit". This power needs to be interpreted in light of material considerations such as the National Planning Policy Framework, this supporting guidance on the use of conditions, and relevant case law.

Para 57 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

The applicant has referenced the appeal decision at 119 Cross Lane, Royston (APP/R4408/W/24/3337802), which also relates to an annex. The applicant states that appeal decision did not impose the same conditions as were placed on application 2021/0680. However, the Council refused that application and it was the Inspector who determined the

conditions, furthermore, that appeal was dated after the applicant's approval. The two cases are not directly comparable, and, in any case, each case should be assessed on its own merits.

Assessment

Condition 5

The condition associated with application 2021/0680 states;

The development hereby permitted shall only ever be used as ancillary residential accommodation by immediate family members of the application dwelling known as 94 Summer Lane, Royston, Barnsley, S71 4HW and shall at no point in time be severed from the main house as a separate dwelling.

Reason: In the interest of residential amenity in accordance with Local Plan Policy GD1.

Condition 5 is relatively standard condition associated with applications for annexes. Where the Council is minded to grant planning permission, it will almost always be subject to a condition which requires the annex to remain ancillary to the main dwelling, same family occupancy and one which prevents it being used, sold or rented as an independent dwelling/separate planning unit at a later date. This is reflected in the SPD.

The applicant proposes to amend condition 5's wording to;

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.

It is noted that the revised wording would omit the restriction to immediate family members, however, the SPD states 'same family occupancy' and, on balance, the amendment would still prevent the annex from being used, sold or rented as an independent dwelling/separate planning unit at a later date, as such, on this occasion the amended wording is accepted.

Condition 6

Condition 6 of application 2021/0680 states;

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.

Reason: 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'.

The applicant states that condition 6 is unnecessary and duplicative as condition 5 already requires the annex to remain ancillary. However, condition 5 relates to the occupancy of the annex, not its surroundings and is not explicitly regarding and physical separation from the curtilage of the host property, as such, condition 6 is considered necessary. The SPD is clear that an annex would not be supported if it had its own garden area, therefore, the condition is in line with the SPD and is tailored to tackle a specific problem and allows the development to proceed where it would otherwise have been necessary to refuse the application.

The applicant, in their planning statement, says the annex will continue to share open garden space with the main dwelling, as such, the condition does not unreasonably impact the deliverability of the development or prejudice the applicant in any way.

The condition is considered to meet the 6 tests and a compelling argument has not been put forward by the applicant to justify the removal of this condition.

Condition 7

Condition 7 of application 2021/0680 states;

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.

Reason: To safeguard visual and residential amenity in accordance with Local Plan Policies GD1 'General Development' and D1 'Design'.

NPPF Paragraph 55 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In terms of application 2021/0680, the applicant already has a detached double garage and, as stated above, the approved annex at 58.5m is larger than would normally be supported. It is acknowledged that the applicant has a relatively large plot and there is further scope for extension and additions, however, in order to protect the residents of the host property, the annex and the neighbouring properties, as well as restricting further expansion of the already large annex, it was considered reasonable, relevant and necessary to remove permitted development rights.

Further additions could be accepted on the host property and within the curtilage, but these should be fully assessed, particularly in terms of residential amenity and policy GD1. The applicant has not put forward a convincing argument that condition 7 does not meet the 6 tests and should be removed.

Planning Balance and Conclusion

For the reasons given above, and taking all other matters into consideration, the proposal to vary condition 5 is approved and the removal of conditions 6 and 7 is refused. The conditions associated with application 2021/0680 are considered to be necessary, relevant to planning and to the development of the annex, enforceable, precise and reasonable in all other respects, in accordance with paragraph 57 of the NPPF. The conditions are tailored to address specific problems and mitigate adverse effects. The applicant has not put forward a compelling argument to justify the amendment/removal of the conditions.

RECOMMENDATION: Split decision – Approval of the amended wording to condition 5 and refusal of the removal of conditions 6 and 7. The reason for refusal is;

In the opinion of the Local Planning Authority conditions 6 and 7 associated with the approval of planning application 2021/0680 for the 'Erection of single storey annex outbuilding in rear garden to be used for ancillary residential use in association with the existing dwelling' are considered to be necessary, relevant to planning and to the development of the annex, enforceable, precise and

reasonable in all other respects, in accordance with paragraph 57 of the NPPF. The conditions are tailored to address specific problems and mitigate adverse effects, as such, the applicant has not put forward a compelling argument to justify the amendment/removal of the conditions. Furthermore, Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose "such conditions as they think fit".

Justification

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

It has not been necessary to make contact with the applicant to request amendments to the proposal during the consideration of the application.

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering objections, the determination of the application and the resulting recommendation. it is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.