

Robert Halstead

Chartered Surveyors & Town Planners

N.C. Willock MRICS MRTPI

Office G of H, Bridge Mills, Huddersfield Road, Holmfirth, HD9 3TW

e mail:

Planning Development

By Email Only

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Kirklees Planning Services
Development Control

FAO Katie Chew

RE: OBJECTION TO ERECTION OF DETACHED BUILDING TO CREATE DWELLING FORMING ANNEX ACCOMMODATION ASSOCIATED WITH 10 FULNECK CLOSE, FIXBY, HUDDERSFIELD, HD2 2LJ

LPA REF: 2023/91287

Dear Madam,

Robert Halstead Chartered Surveyors and Town Planners have been instructed to submit an objection letter to Kirklees Council on behalf of an immediately adjacent property.

Firstly, our clients' concerns are based upon whether or not the proposed annex is genuinely ancillary residential accommodation, and secondly, the impact the proposed development would have on their residential amenity, as well as highway safety generally.

These matters form the basis of this objection and are discussed in detail in the following sections.

The Proposed Annex

The applicant has applied for the erection of a detached building to create a dwelling forming an annex associated with the main dwelling house, No. 10 Fulneck Close. The plans show that the annex would comprise of an open plan lounge and kitchen, a bathroom and one bedroom. Under the heading 'Application Proposals' in the applicant's Design and Access Statement, it is stated that,

'The building is designed to provide residential accommodation for a family member, who will generally use the welfare (kitchen, dining, bathroom) functions of the existing house, but will need small scale provisions within the new structure.'

Cases such as *Uttlesford DC v Secretary of State for the Environment and White [1992]* make it clear that a fact and degree judgment must be made on the specific circumstances of the case. The courts have determined that the key issue is whether a separate planning unit has been created. If an outbuilding with its living accommodation is part of the same land unit as the dwelling house and provided that the planning unit remains a single-family occupation, continues to function as a single

household, no material change of use is involved. However, where this is not the case and separate primary living accommodation can be identified, it is likely a separate planning unit has been created and hence planning permission for a new dwelling house would be required.

Our client's concern is that if it is indeed the applicant's intention that the family member still uses the main dwelling house for cooking, dining and bathing, why do the plans include a fully functioning bathroom with a bath, and a fully functioning kitchen with a sink, cooker etc. Such facilities would arguably constitute a fully self-contained unit providing all of the facilities necessary for independent day-to-day living, thus potentially representing a new planning unit.

Our client contends that a simple W.C and a kitchenette should be adequate if the family member is still going to continue to use the facilities in the main dwelling. Clarifying this through the plans would also avoid any objective doubt concerning potential future uses of the proposed outbuilding in future (i.e. use as an independent dwelling house).

If it is concluded that the proposed annex is likely to form an independent residential unit, there are additional planning implications of the proposed development (residential amenity and highway matters) which would require careful consideration.

Residential Amenity

Kirklees Local Plan Policy LP24 states the following,

'Proposals should promote good design by ensuring b. they provide a high standard of amenity for future and neighbouring occupiers.'

Our clients have lived in their property for approximately 23 years. Their outdoor space, which includes the rear garden, decking, summer house and outdoor living area, is extremely important and valuable to them; providing respite from their busy lives and is very significant in relation to their health and well-being.

The proposed building would be constructed directly adjacent to their eastern side boundary at the rear of their property, extending along the majority of the boundary. They are therefore extremely concerned about the impact the annex would have on their residential amenity by way of outlook, noise and odours in particular.

It is also important to note that our clients received planning permission on their property for the erection of a single storey rear extension, demolition of existing conservatory and associated works in August 2021 (LPA Ref: 2021/92502). They fully intend to build the approved extension, which, when built, would be less than 2 metres away from the location of the closest part of the proposed building.

Key Design Principle 6: Preventing overbearing impact, in the Kirklees Extensions and Alterations SPD states that, *'Extensions and alterations should not unduly reduce the outlook from a neighbouring property.'*

Paragraphs 4.19 and 4.20 in the guidance go on to state that,

'Dominance and outlook relate to how an extension will change the character of the neighbouring house and garden and affect the outlook from a neighbour's window. Proposals which would result in a poor or reduced outlook from neighbouring properties are unlikely to be acceptable ... When assessing the impact that an extension or alteration may have on outlook, regard will be given to the

established character of an area and the existing feeling of openness. It is important that neighbours do not feel unduly 'hemmed-in' by the proposals.'

Although the proposed building is single storey, its height would still project above the existing boundary fence. Furthermore, the overall scale of the building and its location directly adjacent to the shared boundary, would result in an intrusive and overbearing impact on our clients' house and garden, reducing their current outlook and enjoyment of their property.

In relation to noise, paragraph 185 in the NPPF states that,

'Planning policies and decisions should also ensure that new development is appropriate for its location ... In so doing they should: - avoid noise giving rise to significant adverse impacts on health and the quality of life.'

It is considered that most domestic outbuildings (home offices, gyms, garden rooms etc) would only be used occasionally by their occupants or mainly in use during daytime hours. The proposed annex, however, would presumably be used daily and would be occupied for longer periods of time including during unsociable hours. The frequency and duration of use is highly likely to result in an increase in noise and disturbance for our clients, particularly given the close proximity of the building to their property. Noise sources are going to include, comings and goings by the occupant and any visitors of the occupant, talking, T.V and/or music systems, cooking etc.

Likewise, the level of odours/smells coming from the annex as a result of cooking within the kitchen, are also likely to increase. Again, given the close proximity of the annex to our clients' house and garden, the odours and smells created have the potential to have a detrimental impact on their quality of life. The occasional BBQ in the summer, for instance, is not the same as someone cooking on a daily basis just metres from your home.

Given the above, the proposed development is considered to be unacceptable with regard to residential amenity and does not comply with Local Plan Policy LP24, paragraphs 130 and 185 in the NPPF and the relevant guidance within the Extensions and Alterations SPD.

Highway Matters

Finally, under the heading 'Vehicle Access' in the applicant's Design and Access Statement, it is stated that,

'The site is currently well served for both vehicle access and parking, having off street facilities.'

However, no details regarding the exact number of parking spaces have been provided to help determine whether or not there is enough parking provision to accommodate the existing dwelling and the proposed building. It is requested that this information be obtained by the Local Planning Authority prior to a decision being reached as a lack of off-street parking could have highway implications.

Given the reasons outlined above, our clients strongly object to the proposed development. It is therefore respectfully requested that the Council refuse this application.

Yours faithfully,

Robert Halstead Chartered Surveyors and Town Planners