Expiry Date - 18/09/2023

Development Control – Delegated Officer Report

Application Number: AWDM/1021/23 Recommendation – APPROVE

Site: 52 Nelson Road Worthing West Sussex BN12 6EN

Proposal: Proposed use of existing outbuilding (currently used as home office/gym) to Annexe accommodation with a shower room, open-plan kitchen, living and sleeping area for a disabled relative.

Date of site visit: 13.09.2023

Neighbours checked: Y

Additional neighbour notifications: Y – Amended Plan (No.54)

Site, Surroundings and Proposal

This application relates to a mid-C20 detached house occupying a good-sized plot on the north side of Nelson Road.

The property adjoins No.54 to the west, a semi-detached house of similar design occupying a deeper plot backing onto Field Place Infants School and No.50 to the east, a semi-detached house also of similar design but occupying a shallower plot.

The rear garden of No.52 adjoins the gardens of 3 and 5 Frobisher Way to the north and east.

A detached pitched-roof outbuilding in the rear part of the garden was granted under AWDM/0119/22 (part retrospectively) to be used as a home office/gym with WC. That application followed an enforcement investigation (AWEN/0034/22) and discussions whilst the application was under consideration resulted in an amendment to reduce the overall height of the building by reducing the angle of roof pitch.

The permission is subject to planning conditions which stipulate:

2. Within 3 months of the date of this permission the outbuilding hereby permitted shall be altered to adhere to the approved plans, including the external dimensions annotated thereon, and shall thereafter be completed using the external materials and finishes stipulated on the submitted application forms unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and local character and to comply with saved policies H16 and H18 of the Worthing Local Plan, policy 16

of the Worthing Core Strategy and policy DM5 of the Submission Draft Worthing Local Plan.

3. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification), no windows or other openings (other than as hereby approved) shall be formed in the walls or roof of the outbuilding.

Reason: To prevent overlooking and to comply with saved policy H18 of the Worthing Local Plan.

4. The outbuilding hereby permitted shall only be used for purposes incidental to the domestic use of the existing dwellinghouse 52 Nelson Road and shall not be used the purposes of primary living accommodation (i.e. bedroom, living room, dining room or kitchen) or for any commercial or business use.

Reason: In the interests of residential amenity having regard to saved policies H16 and H18 of the Worthing Local Plan, policy 16 of the Worthing Core Strategy and policy DM5 of the Submission Draft Worthing Local Plan.

Condition 2 has been complied with and the roof height of the building lowered.

An application for a Non Material Amendment to insert 4no rooflights on the front roof slope of the outbuilding was approved under AWDM/0962/22 and has also been implemented.

The current application seeks permission to use the outbuilding as annexe accommodation with shower-room, open-plan kitchen, living and sleeping area for a disabled family member. The application is accompanied by supporting statement which explains the circumstance of the need for the annexe accommodation.

Relevant Planning History:

AWDM/1134/21Single storey rear extension, loft conversion with hip to gable to rear and flat roof dormer to side, and garage conversion with roof alterations. Permitted 06.08.2021.

AWDM/0119/22 Outbuilding with a pitched roof to be used as home office/gym with WC. Permitted 11.05.2022.

AWDM/0360/22 Application for Non-Material Amendment to previously approved AWDM/1134/21. Amendment: Change the Flat Roof with Lantern Light to Pitched Tiled Roof. Permitted 11.05.2022.

AWDM/0962/22 Addition of 4no rooflights to front (south) roofslope of detached outbuilding approved under AWDM/0119/22. Approved 02.09.2023.

AWDM/1561/22 Rooms in roof consisting of hip to gable roof extension with enlarged dormer to West elevation and new dormer to East elevation (removal of chimney). Refused 18.11.2022 on grounds:-

1. *The proposed hip to gable roof extension, due to its uncharacteristic form and prominent position at the front of the building would be entirely out of keeping with the street scene, appearing as a visually discordant, incongruous and dominant addition to the property that fails to reflect the prevailing character of the street scene or respond positively to important aspects of local character, disrupting the rhythm of development in the area and resulting in significant harm to the visual amenities of the locality. The proposal is therefore contrary to saved Policy H16 of the Worthing Local Plan, Policy 16 of the Worthing Core Strategy, Policy DM5 of the Draft Submission Local Plan (As Modified), Supplementary Planning Guidance 'Extending or altering your home' and the policies of the revised National Planning Policy Framework.*

2. *The proposed side dormers by reason of their excessively large scale, poor design, flat roof form and prominent position on the building, would result in an alien, intrusive and dominant form of development that fails to reflect the prevailing character of the street scene and would appear as visually discordant and incongruous additions to the property causing significant harm to the visual amenities of the locality. The proposal is therefore contrary to saved Policy H16 of the Worthing Local Plan, Policy 16 of the Worthing Core Strategy, Policy DM5 of the Draft Submission Local Plan (As Modified), Supplementary Planning Guidance 'Extending or altering your home' and the policies of the revised National Planning Policy Framework.*

Consultations:

WSCC: The Local Highway Authority has raised no objection, commenting:-

"The proposal is to use the existing outbuilding to the rear of 52 Nelson Road as an annexe for a disabled family member. The site is accessed via Nelson Road, a residential D class road subject to 30mph speed restrictions in this location. I have checked the most up to date accident data which demonstrates that there have been no highways accidents or personal injury claims at the existing access point to flag a concern with its operation.

The existing access onto the publicly maintained highway is considered sufficient to serve the proposed and should any overspill parking occur this would be anticipated to be made up via on street parking which appears an existing practice in this location. Given the existing traffic generated by residents at Nelson Road the impact of a single room annexe dwelling would not result in a material increase in movements.

The LHA does not consider that the proposal would have a 'severe' impact on the operation of the highway network, therefore is not contrary to the National

Planning Policy Framework (para 111), and there are no known transport grounds to resist the proposal."

Southern Water:

Southern Water records show the approximate position of an existing public foul sewer within the development site. The following advice is provided:

- The 150 mm diameter gravity sewer requires a clearance of 3 metres on either side of the gravity sewer to protect it from construction works and to allow for future maintenance access.
- No new development or tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water.
- No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of public or adoptable gravity sewers.
- All existing infrastructure should be protected during the course of construction works.

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

Southern Water requires a formal application for any new connection to the public foul sewer to be made by the applicant or developer.

In situations where surface water is being considered for discharge to the Southern Water network, Southern Water requires the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations. Whilst reuse does not strictly form part of this hierarchy, Southern Water would encourage the consideration of reuse for new developments.
- Reuse
- Infiltration
- Watercourse
- Storm Sewer
- Combined Sewer.

Adur and Worthing Council's

Private Sector Housing Team: No objections.

EHO (Public Health): No comment.

Representations: 3 Objections have been received from nearby neighbours raising the following concerns (which have been summarised):-

- The case officer for the previous application stated that amendments were made to reduce the overall height of the building and omit sleeping accommodation plus shower & kitchen facilities. Condition 4

clearly states the outbuilding should only be used for purposes incidental to the domestic use of the property not primary living accommodation for the reason of safeguarding residential amenity. The case officer also said that the overall scale of the building is is notably larger than a typical garden building considered to be on the margins of acceptability in a good-sized garden occupying 25% of the total rear garden – right up against our garden boundaries! The case officer goes on that although conspicuously visible from the adjoining rear gardens the building will not be visible from the road. What a ridiculously absurd statement this is, of course it is not visible from the road. The officer states that is will not be harmful to visual amenity but how could they know without visiting 3 and 5 Frobisher Way. It's a tragic shame that despite several requests not one person from the planning department had the courtesy to come a view this from the 2 most affected gardens. Now this huge bungalow sized building is complete it towers menacingly several metres above the height of our boundary fences and the guttering on the north-east side sits directly above our and our neighbour's fencing within touching distance which is outrageous and surely breaches planning regulations on closeness of neighbours boundaries. The Applicant is still banging and drilling in there virtually everyday. I am sure it has been fitted out prior to planning permission. The boundary fence between 52 and 54 has been removed for the last few months to facilitate installing drainage and water facilities.

- Surely the ideal accommodation for the disabled relative would be in the main detached house which already has an extension which could be used as an annex, not an isolated wooden building 100ft away at the end of the garden with all the associated accessibility problems for a disabled person. The outbuilding should have been built closer to the house.
- [The Applicant] has made our lives a misery since moving in, and this cannot be allowed to continue without any care of the effects on neighbours. Enough is enough. We can no longer go out and enjoy the garden as we used to without hearing him banging in his shed or listening to booming music whilst sitting in our garden.
- The effect on our mental health has been disastrous, out nerves are shot to bits. This application has to be refused.
- We have to live with this awful oversized building every time we go into out lounge/kitchen and garden for the rest of our lives. Shame on you planning department for the total lack of support and consideration and not listening to our requests.
- Please confirm that when the occupier who is both disabled and a relative no longer requires to live in the outbuilding its permissible use will revert to that previously permitted
- Since the fence incident of 2015 we have spent the whole time emailing and worrying about problems caused by [the Applicant], he continues to ask what he wants, no doubt the planning department will be on his side once more. The planning department told him the building had to be used as an office/gym but he insists on changing its usage. The list of his planning applications is endless. It's about time the planning department said enough is enough and refused all further

applications. In a few months the next letter we receive will be about the loft conversion again. New staff in the [planning] department don't always appreciate the history of a case. We don't have Lionel anymore [former Cllr Lionel Harman] so we will have to start explaining all over again. The stress [the Applicant] has put neighbours through over the last few years is ridiculous. Once the planning department has refused something there should be no way of re-applying to get your own way.

Relevant Planning Policies

Worthing Local Plan policies (WBC 2003): SP1, DM5
National Planning Policy Framework (HCLG 2021)
National Planning Practice Guidance
SPG 'Extending or Altering Your Home' (WBC)

Planning Assessment

Policy DM5 of the Local Plan supports the principle of residential annexes providing they are designed to be ancillary to the main dwelling and be capable of satisfactory conversion for use in association with the main dwelling when no longer required by a relative or dependant.

The supporting text indicates:

Annexes should be ancillary to the main dwelling both in scale and range of accommodation and facilities, and must not assume a detached or independent identity by design or sub-division of the curtilage of the main dwelling.

The proposed accommodation would be occupied by a family member suffering from a chronic disease that is expected to result in increased disability over time. The annexe is intended to provide the occupier with as much independence as possible whilst having support close-at-hand to provide increasing assistance with daily living requirements as the need arises, including assistance with meals, laundry, waste disposal etc. and additional support in the case of any emergencies. It is stated the accommodation will be ancillary to the main dwelling. There will be no need for extra parking needed for vehicles.

Although full range of facilities will be provided in the annexe, it's siting at the bottom of the garden does not lend itself to independent use as a separate dwelling. The annexe can only be accessed from the garden of No.52.

A condition of planning permission would be adequate to control the ancillary use of the accommodation.

Visual Amenity

The existing outbuilding is large as noted in the on-balance justification for its approval under AWDM/0119/22, but not out of scale in the context of this good-sized garden. Whilst prominently visible from the rear of neighbouring properties, as noted in the representations received, it cannot be seen from any public vantage point and the current proposal will have no adverse impacts on the character of the area.

A condition could be imposed to remove permitted development entitlements for fences/walls to prevent the creation of a separate garden or curtilage for the annexe.

Residential Amenity

The most affected properties are neighbouring propertied 54 and 58 Nelson Road and 3 and 5 Frobisher Way.

The occupiers of No.3 and 5 have submitted a strong objections to the proposal on various grounds, including increased noise and disturbance.

The existing building is sited at the bottom of the garden with windows and a large door opening facing into the garden. Whilst the neighbours on either side would be aware of comings and goings to and from the annexe by the occupier, and members of the main household, it is not considered this would amount to an unacceptable or intrusive loss of privacy for those occupiers. Despite the concerns raised by neighbours, it is not considered the amount of activity associated with a single dependent occupier, together with close interactions with the members of the host dwelling, would give rise to unacceptable levels of noise or disturbance beyond what may reasonably be considered ancillary to the domestic use of the host dwelling.

The application has been amended to retain an opening window that has been inserted into the west side of the building, adjacent to the proposed kitchen area and within 0.5m of the boundary with No.54. The window is obscure-glazed and the opening is 1.53m above FFL. It is visible above the fence line adjacent to the rear part of the deep garden of No.54. Shrub planting within the garden border of No.54 is visible just above the fence. It is noted that no objection has been received from the occupiers of No.54 following re-notification of the amended plan. The neighbour could allow the border planting to grow into a more effective screen should they choose. Whilst it is important that a condition is imposed to retain the obscure-glazing it is considered a requirement for the window to be fixed would not be justified.

Highway safety

The LHA has raised no objection to the proposals noting that on-street parking is available on Nelson Road, and that the impact of a single room annexe dwelling would not result in a material increase in traffic movements.

Conclusion

Neighbours have questioned the apparent conflict with the earlier decision (AWDM/0119/22) which specifically limits the use of the existing outbuilding to a home office/gym. The purpose of the condition is to exercise future control over the use of the outbuilding beyond any incidental use.

In this case, the need for the proposed annexe accommodation by a dependant family member suffering from a chronic disease as explained in the supporting letter accompanying the application is a material consideration which adds weight to the balance of considerations in favour of the proposal.

It would not be reasonable or justifiable to require the outbuilding to be returned to incidental use once there is no longer a need for the annexe accommodation (for example, by removing the kitchen or shower room). However, it would be reasonable to impose a condition stipulating that the annexe accommodation should not be occupied as a separate dwelling unit independent of the main dwelling or for the purposes of a short-term holiday let.

Recommendation

APPROVE subject to Conditions:-

1. Drawing Numbers
2. Time limit
3. Obscure-glazing to west side window retained at all time
4. No additional windows/openings to walls or roof
5. Ancillary annexe only inc. no use as short-term holiday let
6. No separate curtilage created

Informative

Pro-Active Amendment
Southern Water Advice
Contact Building Control for advice on Building Regulations

Is recommendation contrary to letter(s) of representation? Y

Case Officer: Jo Morin Date: 02.10.2023

Authorised by: Gary Peck Date: 2 October 2023