

Appeal Decision

Site visit made on 4th August 2016

by Alison Roland BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 October 2016

Appeal Ref: APP/Z2830/W/16/3147998

9 Longcroft Lane, Paulerspury, Towcester, NN12 7NL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Stuart McCutcheon against the decision of South Northamptonshire Council.
 - The application Ref: S/2015/2544/FUL, dated 29 October 2015, was refused by notice dated 22 December 2015.
 - The application sought planning permission for semi detached dwelling with detached double garage without complying with a condition attached to planning permission Ref: S/2009/0261/P, dated 14 May 2009.
 - The condition in dispute is No 4 which states that: *"The garage hereby permitted shall not be used for any purpose other than the garaging of a private motor vehicle"*.
 - The reason given for the condition is *"To ensure that an adequate and safe access is provided to the site in accordance with policy G3(B) of the South Northamptonshire Local Plan which requires that development shall have a satisfactory means of access"*.
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Procedural Matter

1. The application was submitted in relation to condition No 4 of permission Ref: 2009/0261/P. The Council questioned the validity of the appeal and the original planning application on the basis that a later permission (Ref: 2009/0644/P) was the one in fact implemented on site and the evidence supports that assertion. Nonetheless, the Council registered, publicised and determined the application which has given rise to the current appeal.
2. The 2009/0644/P permission is for ostensibly the same development on the same site as the 2009/0261/P permission with the same description of development on the Decision Notice. The wording of Condition No 03 on the former permission is also identical to the wording of condition 04 of the latter. The main parties were canvassed in relation to the appeal proceeding on the basis of an appeal against condition 03 of 2009/0644/P. Both parties were agreeable to this course of action and I do not consider there is any prejudice caused by my determining the appeal in this manner.

Decision

3. The appeal is allowed and planning permission is granted for semi detached dwelling with detached double garage, at 9 Longcroft Lane, Paulerspury,
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Towcester, NN12 7NL, in accordance with the application Ref: S/2015/2544/FUL, dated 29 October 2015, without complying with condition No 3 set out in planning permission Ref: S/2009/0644/P dated 19 August 2009, but otherwise subject to the conditions set out in the attached Schedule of Conditions appended to this decision.

Main Issue

4. The Council raise no issue with the original reason for condition No 3 and I have no reason to either, especially since there is room for several vehicles within the site curtilage. Their concern rests instead with the manner of occupation of the garage which has already been built and is occupied as an annex. Accordingly, the main issue in this appeal is whether the continued occupation of the garage as a habitable annex is acceptable in principle in this location, particularly in terms of its impact on the character and appearance of the area.

Reasons

5. The Council refer to Supplementary Planning Guidance for Residential Extensions (June 1998). In relation to ancillary accommodation this states that separate but annexed accommodation such as a granny annex may not always be appropriate and that freestanding buildings which are not linked to the main house are in many cases unlikely to be acceptable. However, this document is dated, does not form part of the Development Plan and it is unclear to what extent it was subject to public consultation. This limits the weight I attach to it.
6. Either way, the fact is that the original permission authorised the construction of a freestanding garage at the end of the garden. Although the accommodation therein does provide all the facilities necessary for occupation as an independent unit, this is not decisive in itself. Submissions for the appellant indicate that there is a degree of interaction between the occupation of that building and the main house, including for example, the provision of meals and child care. It is also possible to prohibit occupation as a separate dwelling by means of a condition.
7. The Council's assertion that the proposal amounts to tandem development (i.e. one dwelling behind another), are unfounded based on the reasoning above. It follows that Policy H12 of the South Northamptonshire Local Plan (1997) (LP) which relates to new residential development in backland locations is not relevant to the appeal. In the event, if the building was no longer required in the future as an annex, it could be easily adaptable for some other purpose ancillary to the use of the main dwelling.
8. The building insitu is slightly different (in terms of its eaves height and external detailing) to that originally authorised by the permission. The difference between the size of the original garage authorised and the building now on site appears to me to be relatively minor and I cannot accept that it in any way dominates the host property or appears out of keeping with the prevailing character of the area, despite being somewhat taller than neighbouring outbuildings. Moreover, the Council concede in a delegated enforcement report that it is immune from enforcement action through the passage of time. Whilst there will be additional light spillage through the openings than might otherwise have been the case

with a garage, in the context of this row of residential properties, I do not consider this will appear out of place.

9. Overall on the main issue, I conclude the continued occupation of the garage as a habitable annex is acceptable in principle and its occupation in this fashion has no adverse implications for the prevailing character or appearance of the area. Accordingly, I find no conflict with Policies G3 and EV1 of the LP, or the advice in the National Planning Policy Framework, which seek to ensure that development is compatible with the character of the locality. It follows that condition No 3 is unnecessary.
10. The Council suggest several conditions. The Planning Practice Guidance (PPG) makes it clear that decision notices for the grant of planning permission under Section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have very limited information before me about the status of the remaining conditions on the original planning permission, I have imposed them again as they remain relevant (particularly in terms of ensuring that development has an acceptable impact upon the character and appearance of the area). In the event that some or indeed all have in fact been discharged, that is a matter which can be addressed by the parties. Where necessary, I have made minor changes to the wording of these repeated conditions, in the interests of precision and clarity and in order to comply with advice in the PPG.
11. Condition Nos 2 and 4 on the original consent relate to the driveway and front wall. Evidence from the appellant suggests that condition No 2 has been partially discharged, but is not entirely clear. The driveway is already insitu and appears acceptable, but there is no front boundary wall. I shall therefore re-impose a condition in relation to the front boundary treatment with slightly amended wording, in the interests of the appearance of the area and require any gates to be inward opening for safety reasons. Condition No 6 relating to timing of construction work is superfluous as the development is complete. I shall repeat the condition withdrawing permitted development rights for the enlargement or alteration of the dwelling and obscure glazing of North facing first floor windows which are necessary to protect residential amenity, since it is considerably deeper in plan than the houses to either side.
12. The Council also suggest additional conditions to those on the original permission. A condition requiring occupation of the building to remain ancillary to the host dwelling is necessary as an independent dwelling would have a number of additional implications for neighbouring properties and the character of the area. A condition withdrawing permitted development rights for the insertion of additional windows or other openings (other than those already insitu), is necessary to protect the amenity of neighbouring occupiers. However, I see no basis whatsoever for additional conditions further restricting the permitted development rights enjoyed by the main dwelling in relation to means of enclosure and outbuildings and accordingly, shall omit them.

ALISON ROLAND

INSPECTOR

SCHEDULE OF CONDITIONS

1. The garage/annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of No 9 Longcroft Lane.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no additional windows or other openings shall be formed in the walls or roof of the detached garage/annex hereby permitted.
3. Any gate(s) at the point of access shall be hung to open inwards only.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the exterior of the dwellinghouse (including the insertion of any additional windows) shall be undertaken at any time.
5. The house and garage shall be constructed using Furness Paulerspury Blend brick and Dreadnought Brown Antique Sandfaced plain tile.
6. The north elevation first floor windows in the main dwelling shall be obscure glazed and thereafter retained as such.
7. Any boundary treatment to the front of the property shall be constructed in accordance with details which have been first submitted to and approved in writing by the local planning authority.