

Appeal Decision

Site visit made on 7 November 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 14th November 2016

Appeal Ref: APP/J1915/W/16/3155559

Palace House, Winding Hill, Much Hadham, Hertfordshire SG10 6HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr A Eastwood against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/0669/HH, dated 21 March 2016, was approved on 12 May 2016 and planning permission was granted subject to conditions.
 - The development permitted is the creation of a first floor within a garage for domestic storage purposes and provision of workshop and lobby area at ground floor.
 - The condition in dispute is No 3 which states that: The use of the building that forms the subject of this application shall be used for purposes ancillary to the residential use of the dwelling known as Palace House, and for no other purpose.
 - The reason given for the condition is: To ensure the Local Planning Authority retains control over any development and in accordance with Policy GBC3 of the East Herts Local Plan Second Review April 2007.
-

Decision

1. The appeal is allowed and planning permission Ref: 3/16/0669/HH for the creation of a first floor within a garage for domestic storage purposes and provision of workshop and lobby area at ground floor at Palace House, Winding Hill, Much Hadham, Hertfordshire SG10 6HW granted on 12 May 2016 by East Hertfordshire District Council, is varied, by deleting Condition No 3 and substituting for it the following condition:
 - 1) The building to which this permission relates shall only be used as a domestic garage and for no other purpose.

Application for Costs

2. An application for costs was made by Mr A Eastwood against East Hertfordshire District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. The appellant has questioned whether the proposed development requires planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 and 192 of the Act. Any such application would be unaffected by my determination of this appeal.
-

Background and Main Issue

4. Planning permission was granted for the proposed development subject to conditions. Condition 3 requires the building to be used for purposes ancillary to Palace House. The reason for the condition refers to saved Policy GBC3 of the East Herts Local Plan Second Review 2007 (LP). This policy seeks to safeguard rural areas beyond the Green Belt. The original approval of the appeal building (Ref. 3/0671-86FP) limited its use to a domestic garage in view of its setting. As such, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site encompasses a modern building sensitively designed in a traditional style. In this respect the form and external materials echo the local vernacular, particularly the timber boarding and rectangular plan. Internally, the building is more functional with exposed block work and structural steels visible. The use of a traditional form has resulted in a large vaulted ceiling.
6. The building adjoins a large open meadow to its south and west. To the east is Palace House and to the south east St Andrews Church. This arrangement has created a very attractive rural scene that can be appreciated from local vantage points including Winding Hill and the High Street. In my view, this is an area that adds greatly to the visual quality and setting of the village and is thus sensitive to change.
7. The appeal scheme is to insert a first floor into the large vaulted ceiling of the building. There would be no external alterations. The additional floor would be used for domestic storage of household items. The appellant intends to sell Palace House and move into another house nearby. The appellant wishes to retain the appeal building as a general domestic garage, which would include domestic storage as well as a place to continue to keep and work upon his classic cars as a hobby.
8. The Council do not object to the insertion of the first floor or the domestic uses proposed. To this end they have attached a condition requiring the building to be ancillary to Palace House. This would of course present a problem for the appellant if Palace House were sold as he could not use the building and adhere to the condition.
9. An intensive or inappropriate use of the building would be undesirable due to its sensitive location. To this end I share the view of the Council that some form of condition is necessary to ensure the building is used for the low key domestic purposes sought by the appellant.
10. The original grant of planning permission only restricted the use to a 'domestic garage'. The condition did not tie the use to the occupation of Palace House. Moreover, reference has been made to an Inspector's decision which subsequently found the building to be outside the residential curtilage of Palace House¹. I have no reason to disagree and the fact the application appears to have been made on an incorrect form does not alter this. In effect, the appeal building can currently be used as a domestic garage unrelated to Palace House but not for any purpose involving a trade or business or any other use that would not be domestic in scale and character.

¹ The Council's reference for this application is 3/07/2090/FP

11. I have seen no compelling argument that it is necessary to go beyond the scope of this original condition to safeguard the setting of the appeal site. In particular, it is unnecessary for the building to be used for purposes ancillary to the occupation of Palace House. There is no need for the building to be tied in this way to achieve the Council's aim.
12. The appellant intends to use the building, in part, for the storage and sorting of domestic items. In my view this falls within the scope of the domestic garage use already permitted. In my experience, garages used for domestic non-commercial purposes, whether within a residential curtilage or not, often include an element of storage and will often function in a low key way as a workshop. As such, it is not necessary to expand the scope of the original condition beyond that of a domestic garage, which in my view encompasses the activities the appellant intends to undertake within it. I also note that the building is already used for low key domestic storage and as a workshop and therefore it would be difficult to enforce a condition requiring that it was not.
13. In reaching this view I note the Council's concerns that an unrestricted use of the building for storage could result in a harmful intensification in activity at the appeal building, a concern I share. Nevertheless, by preventing a commercial use of the building by requiring it to be a domestic garage the use would remain low key and thus similar to the existing approved activity. This is even with the additional floor space proposed. This would safeguard the character and appearance of the area as well as highway safety and the living conditions of the occupants of properties nearby.
14. I therefore conclude that Condition 3 should be substituted so that it is in line with the condition imposed on the original planning permission. Such a condition is necessary to protect the character and appearance of the building and its setting. I have therefore deleted Condition 3 in full and replaced it with a modified version.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR