

Appeal Decision

Site visit made on 7 November 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 16th November 2016

Appeal Ref: APP/M2372/D/16/3155628

20 Ashwood Avenue, Blackburn BB2 4JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Matthew Cumpsty against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/16/0625, dated 9 June 2016, was refused by notice dated 25 July 2016.
 - The application sought planning permission for a wooden framed garden room with storage area and raised patio level without complying with conditions attached to planning permission Ref 10/15/1412, dated 29 April 2016.
 - The conditions in dispute are Nos 1 and 2 which state that:
 - 1) Within three months of the date of this decision, the amendments to the height of the rear elevation wall and the roof of the wooden framed garden room, set out on plan number 15-177-11 dated received 7th April 2016, are to be implemented and thereafter retained.
 - 2) Within three months of the date of this decision, the amendments to the boundary hedging set out on plan number 15-177-13 dated received 7th April 2016 are to be implemented. The new hedging shall thereafter be retained. Should the hedges die or become diseased, removed, or seriously damaged within five years of planting, it shall be replaced by a hedge of similar size and species to those originally required to be planted during the first available planting season after the loss of the hedge.
 - The reasons given for both the conditions are: To secure a satisfactory level of amenity for occupants of Nos 6 and 8 Ashwood Avenue, in accordance with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2.
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Decision

1. The appeal is allowed and planning permission is granted for a wooden garden room with storage area and raised patio area at 20 Ashwood Avenue, Blackburn BB2 4JD in accordance with the application Ref 10/16/0625 dated 9 June 2016, without compliance with the conditions previously imposed on planning permission Ref 10/15/1412 dated 29 April 2016 and subject to the following conditions:
 - 1) By 29 January 2017 the amendments to the height of the rear elevation wall and the roof of the wooden framed garden room, set out on plan number 15-177-11 dated received 7th April 2016, are to be implemented and thereafter retained.
 - 2) By 29 January 2017 the approved amendments to the boundary hedging set out on plan number 15-177-13 dated received 7th April 2016 are to be implemented. The new hedging shall thereafter be retained. Should the
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hedges die or become diseased, removed, or seriously damaged within five years of planting, it shall be replaced by a hedge of similar size and species to those originally required to be planted during the first available planting season after the loss of the hedge.

- 3) This consent relates to the submitted details marked received on 6 November 2015, the amended plans received on 7 April 2016 and numbered 15-177-11, 15-177-12, 15-177-13, the additional information received 25 April 2016 and numbered 15-177-12a; and any subsequent amendments approved in writing by the Local Planning Authority.

Background and Main Issue

2. The appeal relates to a garden room and surrounding patio area that have been erected in the rear garden of the appeal property. Permission was granted for this in April 2016 subject to conditions which required alterations to the garden room, and the implementation of an approved landscaping scheme within three months of the date of the permission (i.e. 29 July 2016). This proposal seeks to extend the period for complying with these conditions from 3 to 9 months (i.e. 29 January 2017).
3. The reason for seeking this extension of time was that the appellant had resubmitted the application¹ to retain the garden room as it had been constructed and was intending to submit an appeal should the application be refused. The application was refused on 25 July 2016 and this decision is the subject of an appeal² which I am determining at the same time.
4. The main issue in the appeal is whether the conditions are reasonable and necessary.

Reasons

5. Although the garden room has been constructed, this appeal relates not to the building as it is built at present, but to an amended structure which has a lower rear elevation wall, and changes to the roof design. As this would require work to be carried out on the garden room, it is reasonable and necessary to impose Condition 1 to ensure the implementation of this work within a defined timescale. However, in the light of the on-going planning processes outlined above, I consider that it is reasonable to extend the period of time given to comply with Condition 1 to nine months from the date of the original permission as this allows the outcome of the linked appeal to be known, and for the appellant to decide upon a course of action following this.
6. Similarly, a condition to ensure the implementation of the landscaping proposed along the boundary with adjacent neighbours is reasonable and necessary, but for the reasons outlined above, it is reasonable to extend the period of time given to comply with Condition 2 to nine months from the date of the original permission as well.
7. For the reasons set out above, I conclude that the appeal should be allowed. I have therefore granted a new planning permission, with new conditions, in line

¹ Application Reference 10/16/0600

² Appeal Reference APP/M2372/D/16/3155626

with that suggested by the appellant, in place of the disputed conditions which reflect the timescales sought for implementation.

Alison Partington

INSPECTOR