

Appeal Decision

Site visit made on 28 November 2016

by S D Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 2nd December 2016

Appeal Ref: APP/Z2830/D/16/3160663

11 The Orchard, Kislingbury, Northampton NN7 4BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Tydings against the decision of South Northants District Council.
 - The application Ref S/2016/1543/FUL, dated 8 June 2016, was refused by notice dated 4 August 2016.
 - The development proposed is retention of outbuilding to rear garden area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The outbuilding is in place. Planning permission has been granted for the outbuilding in a different position within the garden Ref S/2016/0098/FUL (the 2016 permission).

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of No 18 High Street taking particular account of outlook.

Reasons

4. The appeal site is a house with a rear garden some 20m long. The outbuilding is approximately 6m long and 3.4m wide. The eaves and ridge are about 3m and 3.7m high respectively. The outbuilding is clad in timber painted light grey. It is positioned in the north east corner of the garden close to the boundaries with No 18 High Street and No 9 The Orchard. The gable end of the outbuilding faces the rear of No 18.
 5. The house and garden at No 18 are some 0.4m-0.5m lower than the garden of the appeal property and there is a brick retaining wall along the shared boundary. Due to its height and the relative land levels the apex of the outbuilding is as high as the first floor windows of No 18. Although there are shrubs, mature ivy and a tree in the garden of the appeal property the outbuilding is clearly visible above and between these from the rear windows and garden of No 18. Due to its solidity, siting, height, mass and its position near the shared boundary I conclude that the outbuilding is overbearing and creates an unacceptable sense of enclosure and demonstrable harm when viewed from the windows and garden of No 18. This is detrimental to the outlook of occupiers of that property.
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6. The appellant has offered to install a 'Green Screen' on the eastern boundary of the application site to screen the outbuilding. This would comprise 1200mm wide by 3000mm high panels containing naturally growing greenery. However, this would in itself have an enclosing effect, albeit softer in appearance. Moreover, it is generally not good design to rely on planting, which may fail, to screen an otherwise unacceptable structure particularly when properties are so close together. I acknowledge that a planning condition to secure replacement planting could be imposed but this would take time to become established during which the screening effect would be significantly lessened. Accordingly I give the offer of screening relatively little weight.
7. Some buildings in gardens do not require planning permission as they benefit from permitted development rights¹. To benefit from such rights a building would have to be 2m from the garden boundaries with a maximum eaves height of 2.5m and a maximum ridge height of 4m and could possibly be longer than the existing outbuilding. A layout plan showing the possible position of an outbuilding some 600mm further west from the boundary with No 18 and 1000mm further away from the boundary with No 9 (the fall-back position) has been submitted.
8. The appellant suggests that a building which could be erected under permitted development rights in the fall-back position would have the same effect on the living conditions of the neighbours so there would be no useful planning purpose in refusing permission to retain the outbuilding in its present location. The appellant has also indicated that, as the estimated costs of works necessary for relocating the structure to the fall-back position would be less than those of relocating it to the position approved under the 2016 permission, the fall-back position would be more attractive and landscape screening would not be obligatory. The appellant also says that the reduction in eaves height by 500mm would be acceptable and would not compromise the use of the gym.
9. Following my observations on site I consider that, despite the increase that would be possible in the height of the ridge line, a building of the size allowed under permitted development rights in the fall-back position would be less harmful to the living conditions of the occupiers of No 18. This is because it would be further from the shared boundary and because of the changed shape resulting from the lower eaves. For this reason I give the fall-back position relatively little weight in my considerations.
10. I acknowledge that No 18 has a relatively short garden and that there are differences in land levels between the two properties. However, I do not consider that the fact that planting on the boundary could have an enclosing effect would justify granting permission for the outbuilding in its present location. I also note that structures on the boundary that exceeded 2m in height would require planning permission. Accordingly these matters have not led me to any different conclusion.
11. For the reasons set out above I conclude that the outbuilding in its present position has an unacceptable harmful effect on the outlook of occupiers of No 18. Accordingly its retention would not amount to good design and would be contrary to those requirements of Saved Policies G3(D), H17 and EV1 of the South Northamptonshire Local Plan (the LP) and those principles of the National Planning Policy Framework (the Framework) that seek a high quality

¹ By virtue of Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015

of design and a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

12. The appeal site is adjacent to the boundary of the Kislingbury Conservation Area (the CA). As required by the Planning (Listed Buildings and Conservation Areas) Act, 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. In this case, as the outbuilding is outside the CA and is relatively minor in scale, I conclude that it has a neutral effect on the character and appearance of the CA taken as a whole. This weighs neither in favour nor against the development.
13. The Council raises no objections in respect of noise, daylight, sunlight or privacy in relation to No 18 and raises no concerns in relation to the houses to either side of the appeal property. Following my site visit I see no reason to reach a different view on these matters.
14. I acknowledge the desire of the appellant to have an outbuilding for leisure purposes and the likely expense of re-locating the building. However, these matters do not lead me to conclude that planning permission should be granted to retain the particular outbuilding in the current position.
15. Whether or not the occupiers of No 18 objected to the 2016 permission is not a relevant material planning consideration in respect of the appeal before me.
16. I note that both parties consider they have acted in a positive and reasonable manner to try to secure sustainable development as required by Paragraph 187 of the Framework. This is commendable but does not in itself lead me to conclude the appeal should succeed.

Conclusion

17. In not complying with Policies G3(D), H17 and EV1 of the LP the retention of the outbuilding would not comply with the development plan taken as a whole. For the reasons set out above and taking into account all other relevant matters raised I conclude that the appeal should not succeed.

SDHarley

INSPECTOR