The Planning Inspectorate

Appeal Decision

Site visit made on 8 November 2017

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 29 November 2017

Appeal Ref: D3125/D/17/3181009
Fardon House, Frog Lane, Milton-under-Wychwood, Chipping Norton OX7 6JZ

- 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 & Mrs P R & D A Horner against the decision of West Oxfordshire District Council.
- The application Ref: 17/01304/HHD dated 20 April 2017, was refused by notice dated 19 June 2017.
- The development proposed is construction of garden shed (retrospective) and greenhouse.

Decision

1. The appeal is allowed planning permission is granted for construction of garden shed (retrospective) and greenhouse at Fardon House, Frog Lane, Milton-under-Wychwood, Chipping Norton, OX7 6JZ in accordance with the terms of the application, Ref: 17/01304/HHD dated 20 April 2017 and the plans submitted with it, subject to the following conditions:

    1) The erection of the greenhouse hereby permitted shall begin not later than three years from the date of this decision.

    2) The greenhouse development hereby permitted shall be carried out in accordance with the following approved plan: 087-PL-200.

    3) The external materials for the greenhouse hereby permitted shall be glass and green powder coated aluminium frames.

Application for costs

2. An application for costs was made by Mr & Mrs P R & D A Horner against West Oxfordshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The original dwelling, Fardon House and its plot of land was granted planning permission in 2014 under the Council's reference 14/1143/P/FP for its redevelopment for two dwellings. The two dwellings have been erected with Fardon House being the westernmost house and Stoneham House to its north-east.

4. A Certificate of Lawfulness of Existing Use (CLEUD) was granted in 2017 under the Council's reference 17/00103/CLE. It is the Council's view that the site where the garden shed has been erected and the greenhouse proposed has a lawful use as garden land, but it is not considered to lawfully form part of the curtilage of the appeal property. This is disputed by the Appellants but they concur that planning permission is required for the garden shed and greenhouse, because of the location of the land within the Cotswolds Area of Outstanding Natural Beauty (AONB). I have therefore considered the appeal on this basis.

5. At the time the application was submitted the garden shed had been erected but not the greenhouse.

Main Issues

6. The main issues in this appeal are:

   a) the effect of the development on the character and appearance of the local area, including with regard to its location within the Cotswolds AONB; and

   b) the effect of the development on the living conditions of the neighbours at Stoneham House and along Frog Lane, with particular regard to loss of outlook, and noise and disturbance.

Reasons

Issue a) Character and Appearance

7. The appeal property is a recently constructed detached dwelling on the south – east side of Frog Lane. It has garden area to the immediate rear of the property and also a parcel of land to the rear of the adjoining property, Stoneham House. Beyond the garden area and to the south west side, are open paddocks /fields in the same ownership. Fardon House is the south-western most house of the houses on the same side of Frog Lane, within the village of Milton-under-Wychwood.

8. The appeal property and surrounding land is in the Cotswolds AONB. Paragraph 115 of the National Planning Policy Framework (Framework) indicates that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

9. There is an irregular rear garden line to the properties along Frog Lane on its south eastern side, before opening out to paddocks and then to more open fields. A number of the other properties have garden sheds and other domestic paraphernalia within their rear gardens. There are limited public views of the garden shed from Frog Lane but where such views are possible from the south or the west, including from public right of ways, the garden shed is seen within the cluster and grouping of domestic properties and the scale of the garden shed appears modest and ancillary to the scale of the dwellings. The proposed greenhouse given its very modest form and largely glazed appearance would not affect this finding.

10. I do not therefore consider that, taken on their own and together, the garden shed intrudes, nor the proposed greenhouse would intrude, within the open countryside or harms the local distinctiveness of the area. Given that the

garden shed is seen in the context of the residential development along this side of Frog Lane, and given its scale, I am also satisfied that there would be no harm to the landscape and scenic beauty of the Cotswolds AONB. The addition of the proposed greenhouse, given its small scale and largely glazed appearance would not affect this finding. There is in respect of the garden shed no conflict with and in respect of the proposed greenhouse there would be no conflict with the Framework or Policies BE2, NE1, NE3 and NE4 of the adopted West Oxfordshire Local Plan 2011, all of which seek a high quality of design which respects the local context and protects the landscape and scenic beauty of the AONB.

11. The Council has also referred in its decision notice to two policies, Policy OS2 and EH1 from the emerging West Oxfordshire Local Plan 2031, although it is not clear to me the stage that this plan has reached and this necessarily limits the weight that can be afforded to it.

12. In the officer's report on the application there is also reference to the public benefit not outweighing the harm to the AONB. However, it is clear from paragraph 116 of the Framework that this assessment refers to major developments in such designated areas. Whilst the term 'major' is not specifically defined in the Framework and does not appear to be defined in the development plan, I do not consider that the development and proposal before me, given their form and scale, fall to be considered as major development.

Issue b) Living Conditions

13. The garden shed can be seen from the rear windows and rear garden of the property at Stoneham House as well as from adjoining houses and gardens on the same side of Frog Lane. As the neighbours at Stoneham House have acknowledged there is, in planning terms, no right to a view and the relevant consideration relates to whether the existing and proposed development materially harms and would harm their outlook, with particular reference to being oppressive or resulting in an overbearing sense of enclosure.

14. Given the scale and height of the garden shed, as well as its siting, and the remaining available and open outlook to the rear I do not consider that it is oppressive or overwhelming for the neighbours at Stoneham House or adjoining properties. Moreover, for the neighbours at Stoneham House closest to the garden shed, the orientation of the structure further reduces the massing of the shed as seen by these neighbours both from within their property as well as from within their rear garden. As a result, I am satisfied that it does not materially harm the outlook of these neighbours, or the neighbours further along Frog Lane. The proposed greenhouse would be of smaller scale and tucked behind the shed. Given these factors and its largely glazed appearance, it would not further intrude and affect the outlook from these dwellings. Furthermore, there is some recent planting within and around the boundaries which over time will mature and further enclose the existing and proposed structures.

15. The Council has raised a particular concern over noise and disturbance but there is no evidence before me as to why the erection of a garden shed and a greenhouse should lead to concerns of noise and disturbance. The erection of a shed and greenhouse are typically associated with residential properties and found in garden areas. The appeal property is the 'last' house on this side of Frog Lane but the properties further along have gardens to neighbouring

properties on both sides and this is a usual arrangement. Some noise and disturbance is associated with residential use but, in my view, is more typically associated with activities undertaken rather than the erection of built structures.

16. I also do not consider that there are any material issues of loss of privacy arising from the erection of the garden shed and the proposed greenhouse, given the form of the structures and their siting in relation to the surrounding properties. These structures do not and would not on their own lead to material concerns on this matter.

17. I am therefore satisfied that, taken on their own and together, the garden shed as erected does not materially harm and the proposed greenhouse would not materially harm the living conditions of the neighbours at Stoneham House or further along Frog Lane. There would be no conflict with Policy BE2 of the Local Plan in so far as it relates to respecting the living conditions of residents or the Framework, including one of the Core Principles at paragraph 17 requiring a good standard of amenity for all existing and future occupants of land and buildings.

Other Considerations and Conditions

18. There are references to matters of dispute between the Appellants and their neighbours at Stoneham House but my assessment has been on the planning merits of the development and proposal before me.

19. The Council has raised a concern over setting a precedent for other proposals, but each application must be judged on its individual planning merits.

20. In terms of conditions, I agree that the approved plan should be set out regarding the siting, scale and dimensions of the proposed greenhouse. I agree with the Council that the submitted plans do not include details relating to the materials greenhouse but the application forms state that it is to be constructed of glass and green powder coated aluminium frames. I consider that these can be specified by condition and that the submission of materials would not therefore be necessary or serve a useful planning purpose.

21. The Appellant has offered to accept a condition to require a solid timber garden fence but given the conclusions I have reached I do not consider that there would be any planning justification to impose such a condition. If the Appellants or their neighbours seek to erect further fences, that is a matter for them, subject to any permissions and consents which may be required and any restrictions or obligations which may be relevant.

Conclusion

22. For the reasons given above and having regard to all other matters raised, including in representations from the adjoining neighbours and the Parish Council, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR