The Planning Inspectorate

Appeal Decision

Site visit made on 21 January 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Appeal Ref: APP/R4408/C/19/3233865
44 High Street, Bolton Upon Dearne, Barnsley S63 8LJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Paul Potter against an enforcement notice issued by Barnsley Metropolitan Borough Council.
- The enforcement notice was issued on 4 July 2019.
- The breach of planning control as alleged in the notice is: development has taken place pursuant to planning permission ref: 2018/0581 (Demolition of existing garage and erection of detached annexe/garage to rear of dwelling), granted by the Council on 15th August 2018. However, the development which has been constructed on site is not in accordance with the approved plans and conditions granted by the Council. The development has therefore been constructed in a way which is materially different to that approved by the Council and therefore does not have planning permission.
- The requirements of the notice are:
  (i) Demolish the unauthorised structure, or
  (ii) Amend the build to comply with the plans and particulars of the approved planning permission reference 2018/0581 dated 15th August 2018.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the enforcement notice be corrected by the substitution of the allegation to refer to without planning permission the demolition of an existing garage and erection of detached annexe/garage to rear of dwelling. Subject to this correction the appeal is allowed, and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the demolition of an existing garage and erection of detached annexe/garage to rear of dwelling subject to the following conditions:

   1) The building hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling known as 44 High Street.

   2) All surface water run off shall be collected and disposed of within the site and shall not be allowed to discharge onto the adjacent highway.

   3) Vehicular and pedestrian gradients within the site shall not exceed 1:12 to ensure safe and adequate access.

Preliminary Matters

2. Planning permission was granted in August 2018 for the demolition of an existing garage and the erection of a detached annexe/garage to the rear of a dwelling (ref: 2018/0581). There is no dispute between the parties that the annexe/garage that has been erected is materially different to that approved and is unauthorised and a breach of planning control. The main differences are the increase in the height of the building to incorporate space in the roof and a gable projection over the garage entrance.

3. In the photographs attached to the enforcement notice, although not showing the whole of the building, there appears to be no roof covering and the walls are partially finished with brick. At my site visit I observed that the external finishes had been applied to the walls and roof but there were no doors and windows and internally the building was not finished or in use.

Appeal on ground (a) the deemed planning application

4. The main issue is the effect of the detached annexe/garage on the character and appearance of the area.

5. The annexe/garage, subject of the appeal, is located to the rear of a bungalow which occupies an elevated position set well back from but facing High Street. Further to the rear and broadly west are a number of detached dwellings, set in relatively generous grounds, with those at the rear occupying elevated positions due to sloping ground levels. The surrounding context is residential and consists of a variety of styles and types of properties, mostly relatively modern with the exception of the short terrace on the opposite side of High Street, such that there is no evident uniformity.

6. The annexe/garage is visible in views approaching along High Street from the east and from the public footpaths which cross the neighbouring open amenity land, as well as from the dwellings to the rear.

7. The building is around 0.38m taller than No.44 however, this difference is largely imperceptible in wider public views and in any event, does not appear unusual in this context given the rising ground levels and as there are dwellings behind which occupy an elevated position above the site. The annexe/garage is set back behind No.44 and as a result of its single storey appearance, straightforward design and use of materials seen widely in the local area, it does not appear unduly large or dominant nor out of place in this residential context. Accordingly, it causes no harm to the wider streetscene.

8. Although the Council stated that the building is likely to be used as a dwellinghouse, and third parties have also suggested it may be used for business purposes, there is no evidence to suggest that it will be used for anything other than an annexe/garage. Indeed, the appellant confirmed that it will be used for purposes incidental to the use of No.44 as a garage and hobby area with ancillary storage in the upper floor. If there is a subsequent material change of use of the building it is open to the Council to take enforcement action and I cannot dismiss the appeal on the basis of what might be.

9. The annexe/garage is not located between the bungalow and the road, the roof space will be used for ancillary storage and the privacy of neighbours is not compromised. As such, despite a breach of the guidance in respect of the external finishes not matching those used in the existing bungalow, which as

set out above has not resulted in harm to the character and appearance of the area, the development complies with the overall design and amenity protection aims of the Council's Supplementary Planning Document House Extensions and Other Domestic Alterations Adopted May 2019.

10. Overall, for the reasons given above, I conclude that the annexe/garage causes no harm to the character and appearance of the area in accordance with Policies D1 and GD1 of the Barnsley Local Plan Adopted January 2019 which together expect development to be of a high quality design which respects local character. There is also no conflict with the design aims of the National Planning Policy Framework (the Framework).

Other Matters

11. Although the building is visible from those dwellings to the rear, due to the separation distances and their elevated positions, the development causes no harm as a result of an overbearing impact on outlook. Further, although there are two rooflights in the rear roof slope, they overlook a parking area and given their high-level location, angle and distance in relation to neighbouring houses, there is no harm as a result of loss of privacy.

12. In their statement the Council raised concerns around increased vehicular activity and noise and disturbance which were not identified in the enforcement notice as reasons for taking action. In any event, given that the building is to be used for purposes incidental to the existing dwelling I find there would be no material increase in vehicular activity and based on separation distances, I consider there would be no harm as a result of noise and disturbance.

13. Third parties raised issues around land ownership in respect of the access drive and the use of a turning area. However, these are private legal matters which have no bearing on the planning merits of the appeal scheme. Comments were also made about visibility on the access drive however, there is no evidence that the development would pose a risk to highway safety and I note that the Council had no objection in this regard. I see no reason to take a different view.

14. For the reasons given above, having regard to all matters raised, the appeal on ground (a) therefore succeeds.

Conditions

15. The Council have not suggested any conditions in the event that the appeal was allowed. I have therefore, having regard to advice in the Framework and Planning Practice Guidance, considered those conditions imposed on the original planning permission and imposed those which I consider are reasonable and necessary.

16. I have imposed a condition limiting the use of the annexe/garage in the interests of certainty and conditions relating to surface water drainage and gradients in the interests of highway safety.

17. As the development is largely externally complete a time limit or plans condition is not necessary nor is a condition regarding external materials. In the absence of any explanation, a condition removing permitted development rights under Schedule 2 Part 1 of the Town and Country Planning (General

Permitted Development) (England) Order 2015 (as amended) is not reasonable or necessary.

Conclusion

18. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The appeal on ground (g) does not therefore fall to be considered.

Felicity Thompson

INSPECTOR