
Appeal Decision

Site visit made on 30 June 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2020

Appeal Ref: APP/N3020/D/20/3245467

The Old Stables, Wood Lane, Gedling, Nottingham NG4 4AD

- 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 John Harrold against the decision of Gedling Borough Council.
 - The application Ref 2019/0969, dated 7 October 2019, was refused by notice dated 20 December 2019.
 - The development proposed is erection garden room/summer house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and brevity I have used the description on the decision notice in the heading above.
3. The officer's report notes that the garden room would be 16.5 metres in length. However, having reviewed the plans I have concluded that it would be 12.5 metres in length. I have used this as the basis for my reasoning.

Main Issues

4. The main issues are:
 - Whether the development would represent inappropriate development in the Green Belt, including its impact on openness;
 - Whether the development would preserve the Grade II listed Gedling House (the House) and the curtilage listed The Old Stables (the Stables) or any special architectural features or historic interest they possess, including their setting;
 - The effect of the development on the character and appearance of the area; and,
 - Whether the harm by reason of inappropriateness, or any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt

5. The rear garden of the Stables is on sloping ground to the immediate north of the House. The garden room would be located within the Stables' rear garden, close to a timber boundary fence, and about 12 metres from the House's former front elevation. It would replace but have a considerably larger footprint than an existing chalet style shed with pitched roof. Having roughly assessed the shed's height on site I conclude that the garden room's flat roof would be at least as high as the shed's ridge.
6. Paragraph 145 of the National Planning Policy Framework (the Framework) sets out exceptions for new buildings in the Green Belt, including limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development. There are also exemptions for extensions and alterations to existing buildings which would not amount to disproportionate additions to the original, and replacement buildings where the replacement would be in the same use as, and not materially larger than the original.
7. The shed is of modest size and the garden room would be considerably larger. My observations in this regard are confirmed by the scaled site plan which shows the garden room's footprint to be several times that of the shed. Taking its footprint and height into consideration, I conclude that it would introduce considerably more bulk and built form than currently exists.
8. With regard to the other exceptions set out in Paragraph 145 of the Framework, the garden room would be some distance from the host dwelling and would not fall under the exception for the extension or alteration of a building. It would also be materially larger than the shed. In any case, the Council has raised the concern that the shed itself may not have planning permission and this is not disputed. Consequently, the existence of the shed carries little weight. I conclude that the garden room would fail to meet any of the criteria for exceptions set out in Paragraph 145 of the Framework.
9. Openness is generally taken to mean an absence of development. Whilst the shed appears incidental and proportionate to the garden, the garden room would introduce a much larger built form and would intrude into the openness between the House and the Stables. It would therefore have a greater impact on the openness of the Green Belt than the existing shed, even if I accepted that that was lawful. It would consequently be inappropriate development in the Green Belt, as set out above.
10. Under current circumstances views of the garden room would be limited to occupiers of the Stables and the current commercial occupiers of the House. Visual intrusion would be experienced only by those receptors. However, the number, category or location of visual receptors is not necessarily determinative. Use of the House may change and there is nothing before me to indicate that commercial occupiers carry lesser weight in any assessment of visual intrusion than residential occupiers.
11. The garden room would be highly visible from the House, particularly from the first and second floor windows. The fact that its use might be limited to weekends and holidays does not make any difference to its physical presence.

Consequently, although the courts¹ have clarified that a development which would harm openness could be acceptable visually, in this case there would also be moderate visual intrusion.

12. Schedule 2, Part 1, Paragraph E1(g) of the Town and Country Planning (General Permitted Development) (England) Order 2015 sets out that permitted development under Class E is not permitted within the curtilage of a listed building. Whilst I agree that the garden room would fall within the parameters set out in Class E for outbuildings, it remains that in this instance planning permission is needed. There is nothing before me to substantiate the argument that lesser weight should be given to Green Belt considerations in circumstances such as this. Consequently, I give full weight to the relevant policies and the Framework in this regard.
13. I conclude that the garden room would be inappropriate development and would also be detrimental to the openness of the Green Belt. Paragraphs 143 and 144 of the Framework state that inappropriate development is harmful to the Green Belt.
14. The provisions of the Framework are reinforced by Policy LPD15 of the Local Plan² (LP) which is concerned with infill development in the Green Belt and sets out a closed list of criteria. Even if the garden room met the criteria set out in LP Policy LPD15 with regard to the scale of development and enclosure, it remains that it would have a detrimental effect on the openness of the Green Belt as defined by the Framework. Issues concerning the effect of the garden room on the character and appearance of its surroundings are considered further below.
15. As set out in the Framework, harm to the Green Belt arising from inappropriate development carries substantial weight.

Heritage Assets

16. The House is an imposing three storey 19th stucco dwelling. Its southern elevation with central bowed section is viewed at distance from the public domain across the expanse of school playing fields and appears to sit against a backdrop of wooded and rising ground. On its eastern side an attached two storey service wing and single storey coach-house have distinctive slate pyramid roofs, topped with chimney stacks or louvred vents. To the rear there are brick buildings, now in residential use. The evidence before me suggests that at least some of the fabric of these brick buildings formed ancillary buildings relating to the former use and occupation of the House.
17. The courts have found that there are three factors to be taken into account with regard to curtilage. These are the physical layout of the listed building and the host structure, their ownership both historically and at the date of listing, and their use and function, also historically and at the date of listing.
18. The Council states that the brick buildings were in the same ownership as the House and in ancillary use at listing in 1950. This is not disputed. As such, the Stables falls under curtilage listing as set out in S1(5) of the Planning (Listed Building and Conservation Areas) (England) Act 1990 (the Act). The fact that the use and ownership of the ancillary building has changed since listing does

¹ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

² Local Development Plan, Part 2, adopted July 2018

not alter the curtilage protection. This can only be changed by a change in the listing.

19. The House's rear elevation is a long and impressive flat stucco façade with repeated windows openings in a distinct geometric arrangement, and a rear portico on a central entrance door within the main three storey section. The central section has a parapet roof with dentils and what appear to be original chimneys, and a window hierarchy rising up the building. The scale and size of the glazing bars and the depth of rebate suggests that the original window frames are intact. The diminishing hierarchy of the stepped down wing and coach-house, and consistency of original design features is particularly evident from the garden. Overall the original fabric appears largely unchanged and in good condition.
20. The Stables is a two-storey dwelling. Having reviewed its brickwork and detailing it seems that the original ancillary building has been significantly altered and extended. There is nothing before me to indicate that the unusual semi-circular window openings are original or reflect earlier features, or to indicate the building's former entrance point or principal elevation. Moreover, the garden development with low walls and patios appears unrelated to a former function or layout.
21. The House's extent, proximity and orientation makes it a very dominant and enclosing feature in outlook from the Stables' garden. The rising ground and woodland to the north of the House further limit views in the other direction. Consequently, although truncated at mid-ground floor level by a timber boundary fence, there are close, slightly elevated and unimpeded views of the House which appear to be unavailable from anywhere else by reason of topography and intervening structures.
22. The topography and building pattern suggest that this close visual relationship reflects both the functional relationship of the House with its ancillary buildings, and site constraints. By locating the building at the foot of the hillside long open views were enable from the House's southern façade, but this left limited space for ancillary functions to the north.
23. The House's significance is therefore derived from its intact historic fabric, and the intimate spatial relationship between it and the cluster of former ancillary buildings, of which the Stables appears to be the closest. This spatial and visual connection reflects the former social and functional relationship between the main house and its subservient functions.
24. The functional relationship has been severed by the development of the ancillary buildings, and the visual relationship has been adversely affected by plot subdivision and the intrusion of the fence. Nonetheless, there remains a striking inter-visibility between the House and the Stables' garden. Moreover, there are few if any vantage points from where the extent and carefully calibrated hierarchy of this northern elevation can be fully appreciated with so few obstructions.
25. Accordingly, the garden room would appear as a large intrusion into that spatial relationship. It would appear particularly oversized and monolithic in the context of the coach-house which it would largely obscure when viewed from the garden. I appreciate that those views would be from within a private

- garden but the assessment of harm in respect of heritage assets is not predicated on visibility from the public realm.
26. Moreover, the garden room's scale and size, the treatment of window and door openings, as well as lack of articulation would fail to reflect its proximity to the House or relate to any features on either the House or the Stables.
27. The commercial use of the House and hours of activity are not determinative. The House's significance is not predicated on its hours of occupation as this does not alter the host building's relationship to its curtilage. In any case, use can change over time.
28. I conclude that there would be less than substantial harm to the setting of the House. Paragraph 196 of the Framework states that where there would be less than substantial harm, this harm should be weighed against the public benefits of the proposal. In this case the benefits arising from the development would be limited to occupiers of the Stables and would therefore be private.
29. The phrase 'less than substantial harm' does not signify no, negligible or minor harm. A garden location does not reduce the need to demonstrate public benefits where harm has been identified to designated heritage assets.
30. I conclude that the works would fail to preserve the features of special architectural interest of historic character that the Hall possesses, including its setting. This would be contrary to the provisions of Section 16(1) of the Act, which requires me to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
31. It would also be contrary to the design aims of LP Policy LPD 27b) which requires that proposals should protect the significance of a heritage asset, including its setting, and it would be contrary to LP Policy LPD26 insofar as this is concerned with the identification of the effects of a development on heritage assets, and where there would be harm, the demonstration of overriding public benefits and mitigation measures. The garden room would also fail to reinforce local characteristics amongst other considerations as required by Policy 10 of the Core Strategy³ (ACS). Finally, the development would be contrary to the guidance in Section 16 of the Framework with regard to designated heritage assets.

Character and appearance

32. The garden room would be a long low box with flat elevations and an open sided roofed section at one end. Its overall scale and form, as well as the use of rubberised almost flat roofing, and grey aluminium doors and windows would neither reflect nor relate to the design or typology of either the House or the Stables. It would display no sensitivity to its location.
33. It is argued that the garden room's materials have been chosen to be in keeping with an extension nearby. I am unclear where that might be and in any case it did not appear to be within the same visual context as this proposal. Even if the garden room's render were to be painted the same colour as the House, its rather utilitarian form would be seen in direct juxtaposition to

³ Greater Nottingham Aligned Core Strategy, adopted September 2014

the House. Its design style would be highly incongruous with and unsympathetic to both the House and the Stables.

34. I conclude that the development would be detrimental to the character and appearance of the area. This would be contrary to LP Policy LPD15 which requires infill development in the Green Belt to be in keeping with the surrounding character in terms of height, bulk, form and general design. It would also be contrary to the design aims of ACS Policy 10, set out above.

Public Sector Equality Duty

35. I appreciate the arguments advanced in relation to provision for an elderly person at The Old Stables who would benefit from sitting in a light bright room and have given those arguments due regard, as required by the Equality Act 2010 and the Public Sector Equality Duty. However, there is no medical evidence to support this argument and a significant section of the structure would be used to locate a hot tub under a canopy. This would not contribute to the provision of a light bright room.
36. In any case, given the extent of fenestration, aspect and the fact that the canopied area would be shaded by the flat roof, I am not entirely convinced that this particular structure would provide sufficient brightness to make an appreciable difference. Moreover, there is nothing before me to indicate that alternative provision has been considered.

Other matters

37. I acknowledge that the appellant may have had other works approved by the Council but this does not alter my reasoning. Whether the appellant was aware of the curtilage listing at the time they purchased the dwelling is not determinative.
38. The lack of objection from other parties weighs neither for nor against the appeal as there can be many reasons parties do not object to a development. In any case, the reasons for refusal are not concerned with the living conditions of neighbours.
39. The appellant argues that there are metal containers in the grounds of Gedling House. However, the existence of harm does not justify the introduction of additional harm nearby.
40. The appeal statement argues that the summer house would be temporary as it would lack foundations and could easily be moved. However, it seems unlikely that a structure comprising cavity blockwork would be readily movable. Moreover, the drawings show concrete footings extending to a depth of 1 metre so I give this argument no weight. In any case, temporary structures are not necessarily exempt from planning permission⁴.

Conclusion

41. The Framework indicates that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.

⁴ Part 4 Class B Town and Country Planning (General Permitted Development) (England) Order 2015

42. In this case the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. Moreover, I have found harm in relation to the setting of a listed building and the character and appearance of the area.
43. In the light of the above, I conclude that the development would fail to accord with Section 16(1) of the Act, the relevant policies of the Local Plan, or national guidance. The appeal should be dismissed.

A Blicq

INSPECTOR