

Appeal Decision

Site Visit made on 25 June 2021 by G Sibley MPLAN MRTPI

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2021

Appeal Ref: APP/F4410/D/21/3271564

17 Westwood Road, Bawtry, Doncaster DN10 6XB

- 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 Tom Lewis against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 20/02761/FUL, dated 6 October 2020, was refused by notice dated 8 January 2021.
 - The application sought planning permission for erection of 2 storey rear extension and creation of dressing room in the loft space and erection of detached garage/workshop following demolition of existing garage with laurel hedge around the boundary and gates to the front and the addition of a detached outbuilding to the rear without complying with a condition attached to planning permission Ref 20/00949/FUL, dated 1 July 2020.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in complete accordance with the details shown on the amended plans referenced and dated as follows: Proposed plans (garage and outbuilding) Rev 7 – amended 25/6/20 Proposed plan (floor plans and elevations) Rev 7 – amended 25/6/20 Site plan (including tree protection) Rev 1 – amended 25/6/20.
 - The reason given for the condition is: To ensure that the development is carried out in accordance with the application as approved.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 2 storey rear extension and creation of dressing room in loft space and erection of detached garage/workshop following demolition of existing garage with laurel hedge around the boundary and gates to the front and the addition of a detached outbuilding to the rear at 17 Westwood Road, Bawtry, Doncaster DN10 6XB in accordance with the application Ref: 20/02761/FUL dated 8 January, without compliance with condition number 2 previously imposed on planning permission Ref: 20/00949/FUL dated 1 July 2020 and subject to the following conditions:
 - 1) Within 6 months of the date of this decision works shall be undertaken to ensure that the development is completed in accordance with the approved plans listed: Existing and proposed plans (garage & outbuilding) DWG No 023/02 Rev 11; and Existing and proposed plans DWG No 023/01 Rev 10.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Applications for costs

3. An application for costs was submitted by the Mr Tom Lewis against Doncaster Metropolitan Borough Council for the award of full costs and this is subject to a separate decision.

Preliminary Matters

4. An outbuilding has been built in the same location of the approved outbuilding, but the outbuilding was not built in accordance with the approved plans. Additionally, the extension and garage have also been built. For the purposes of this appeal the decision has been based upon the plans submitted with this appeal rather than what has been built on site, although elements of what has been built on site are the same as what is proposed.
5. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments which have been received have been addressed within the appeal decision.

Main Issues

6. The application was refused at planning committee against the officer's recommendation and as such, the reasons for refusal are limited to the decision notice which only makes reference to the outbuilding. Based on the scale and appearance of the extension and garage those elements of the proposal would not cause harm to the character and appearance of the host dwelling or the street scene. As such, the decision will focus upon the effect of the proposed outbuilding upon the living conditions of the neighbouring occupiers with regard to outlook, overlooking and odour as well as the effect of the proposed outbuilding upon the character and appearance of the surrounding area.

Reasons for the Recommendation

Living conditions

7. The originally approved outbuilding had a pitched roof and would have been around 4.43 metres (m) tall from the ground level. Based on the information before me, the outbuilding that has been built is taller than this. The proposed outbuilding would replace the pitched roof with a mansard-style roof with a flat top. This would bring the height of the building, taken from the ground level, to approximately 4.43m which would be the same height as the approved outbuilding that the appellant could build regardless of the outcome of this appeal.
8. Some of the other elements that the appellant has applied for have already been built which includes the log burner and flue, swapping a door and window,

removing two rooflights, the insertion of a circular window and the inclusion of an AC unit.

9. The outbuilding has been built in the corner of the garden which is located along the shared boundary of the rear gardens for No 15 Westwood Road and No 6 Binbrook Court. Further to this, the rear elevation of the outbuilding is visible from the front garden of No 3 Leeming Court to the rear. The outbuilding is separated from the side boundary for No.1 Leeming court by a covered seating area and a row of leylandii trees.
10. Planning permission has already been granted for an outbuilding that would be around 4.43m tall that would also be the same width and depth as the proposed outbuilding. Consequently, the baseline assessment would be whether the outbuilding as proposed would have a greater harmful effect upon the neighbouring occupiers living conditions compared to the already approved outbuilding.
11. Given the depth of the rear gardens for the neighbouring dwellings and the scale and siting of the proposed outbuilding, the proposal would not appear overbearing from either the ground floor or the first floor of those surrounding dwellings compared to the already approved outbuilding.
12. The outbuilding would be most visible from the rear garden of No 15, given the low-level boundary treatment and the orientation of the gardens. Because the outbuilding is located more centrally from the rear of No 15, it would occupy a greater proportion of the outlook from the rear of the garden, compared to the other neighbouring gardens.
13. Given the pattern of development in the area, it is not unusual for there to be views of dwellings to the rear and as such, the view of a residential outbuilding would not be unexpected within this setting. Whilst the outbuilding would be closer to the rear gardens than the surrounding dwellings, the outbuilding would be noticeably smaller in scale. Additionally, the roof of the outbuilding is generally all that is visible above the boundary treatment and the ridge height of the proposed outbuilding would be reduced noticeably from the as built outbuilding.
14. The outbuilding has been located in the corner of most of the neighbouring gardens and as a result, the outlook from the rear of these dwellings across the majority of these gardens remains open and unaffected by the proposal. Whilst the outbuilding has been located more centrally for No 15, given the depth and width of No 15's garden, the proposed outbuilding, whilst taller than the boundary fencing, would not enclose the rear of the property. As a result, the proposal would not result in an unacceptable erosion of the usability of the neighbouring garden compared to the already approved outbuilding.
15. The outbuilding would appear taller from No 3 Leeming Court, but given the changes in ground level, the outbuilding would be viewed from the front of the dwelling and the rear garden would be unaffected by the proposal. Additionally, the outbuilding would be located towards the corner of the front garden and as such, it would only occupy one corner of the outlook from the front of the dwelling. Further to this, the outbuilding would be located a sufficient distance from the front of the dwelling to ensure that it would not enclose the outlook from the front to such a degree to create a significantly less pleasant place to use and live in compared to the already approved outbuilding.

16. Whilst the building that has been built does have a first floor, the proposal would not. The proposed outbuilding would be single storey and given the angle of the proposed roof light, the occupiers of No 17 would not be able to overlook the garden for No 1 Leeming Court from the outbuilding. Additionally, the windows to the side and rear would be at ground floor level which would ensure the occupiers would not have an opportunity to overlook No 6 Binbrook Court or No 1 Leeming Court's rear gardens or No 3 Leeming Court's front garden which are bound by relatively tall boundary treatments.
17. The circular window would have a timber fixed louvre which would limit any possible issues with overlooking of No 15 Westwood Road. Additionally, because the building would not have a first floor, there would be no opportunities for overlooking into No 15's garden from the that window.
18. The log burner shown on the plans would be Department for Environment, Food and Rural Affairs approved and because of this there are already regulations in place to ensure that any smoke created by the log burner would be safe to inhale. Further to this, the Senior Environmental Health Practitioner for the Council noted that the proposed log burner would be on the exempted appliances list within the smoke-controlled area that the site is located within. Consequently, the occasional use of the log burner within the outbuilding would not create a harmful or unusable living environment for the neighbouring occupiers.
19. Therefore, the proposed outbuilding would not cause harm to the living conditions of the occupiers of the neighbouring dwellings. Accordingly, the proposal would comply with Policy CS1 of the Doncaster Council Core Strategy 2011 – 2028 (adopted 2012) (CS) which expects development to ensure healthy, safe place where existing amenities are protected. Additionally, the proposal would comply with paragraph 130 (f) of the National Planning Policy Framework (the Framework) which looks to ensure that developments create places that have a high standard of amenity for existing and future users.

Character and appearance

20. The outbuilding is located to the rear of the dwelling and because of this, it is not overly visible from Westwood Road. Given the scale of the building and the relatively low-level boundary treatment in the area as well as the pattern of development, there are glimpsed views of the outbuilding from the surrounding roads. Nevertheless, the timber building has the appearance of a large outbuilding and as such, it does not appear out of context within this residential setting.
21. The proposed outbuilding would be shorter than the as built outbuilding and because of this it would not be as visible within the wider street scene. Additionally, compared to the size of the host dwelling, the proposed outbuilding would be subservient in both scale and appearance. Further to this, the outbuilding would occupy a comparatively small percentage of the garden and would not overdevelop the site. Accordingly, the glimpsed views of the proposed outbuilding with the mansard roof would also not appear out of context within the surrounding area.
22. The flue would be slightly taller than the overall height of the proposed building. Nevertheless, external flues are not uncommon additions to residential buildings. As such, the scale and appearance of the of the flue would

not appear incongruous on the proposed building. Additionally, given the height of the flue and the location of the outbuilding, it would not be particularly visible within the street scene and as such would not cause harm to character and appearance of it.

23. Therefore, whilst the outbuilding would be visible within the wider street scene, the appearance of the outbuilding would not cause harm to the character and appearance of the surrounding area. As a result, the proposal would comply with Policy CS14 of CS which states the development should ensure that the development proposed is robustly designed, works functionally and is attractive. Additionally, the proposal would comply with guidance contained within the Doncaster Council Development Guidance and Requirements: Supplementary Planning Document (adopted 2015) which states that outbuildings should be well designed in relation to the dwelling, compatible with the character of the area and designed and sited to minimise visual intrusion.

Other Matters

24. The proposal is for a residential outbuilding within a residential garden and as such it would not represent an uncommon precedent within the area where there are already a number of outbuildings. In any event, each planning application and appeal is to be considered on its own individual merits. Consequently, a generalised concern of this nature is not sufficient reason to refuse the proposal.
25. Concerns were raised during the determination of the original application and the construction of the outbuilding with regard to the differences between the finished floor level and the ground floor level of the outbuilding and how this affected the overall height of the building. To address this, the proposal before me shows the height of the building from the ground level. This would ensure that the height of the building shown on the plans is the height of the building that would be built.
26. Air conditioning units are common additions for residential buildings and are typically built to run quietly because of this. Additionally, given the likely infrequent use of the AC units in the garage and outbuilding, the units are not expected to create a significant noise disturbance to such a degree that they would cause harm to the neighbouring occupiers living conditions.
27. The Courts have held that planning is concerned with land use in the public interest so the effect of the proposed development upon the value of the neighbouring properties is a private interest and cannot therefore be a material consideration in the determination of the appeal.
28. Given the size of the surrounding gardens as well as the scale of the proposed building, the limited overshadowing that would be caused by the building would be focussed in the corners of the gardens. Accordingly, the gardens as a whole would not be detrimentally overshadowed by the proposal.
29. If the appellants sought to use this building as a separate residential unit, then they would have to seek planning permission to do so. The appeal would not grant planning permission for the outbuilding to be used in this manner.

Conditions

30. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
31. A condition requiring the work to be completed in accordance with the approved plans listed within 6 months of the decision would be necessary in the interests of certainty.
32. The original permission included a condition that required the erection of fencing and the installation of the cell-web system for the protection of trees during construction. Given that the changes to the appearance of the outbuilding would not require changes to the footing of the building and because the extension and garage have already been completed, it would not be necessary to include this condition.
33. A condition requiring the external surface materials used in the construction of the outbuilding match the existing building would be necessary in the interests of the character and appearance of the area.

Conclusion and Recommendation

34. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

35. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall allow the appeal subject to the conditions listed above.

Martin Seaton

INSPECTOR