



Appeal Decision

Site visit made on 7 December 2021

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 29th December 2021

Appeal Ref: APP/X0360/C/21/3283127

2 Riverside, Wargrave Road, Henley On Thames, Berkshire, RG9 3JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Peter Doherty against an enforcement notice issued by Wokingham Borough Council.
 - The notice was issued on 12 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an extension to the main cabin building, formation of veranda and erection of a raised platform (decking) edged in orange on the attached Plan 2.
 - The requirements of the notice are (i) demolish the unauthorised development outlined in orange on the attached Plan 2 comprising: - the extension to the cabin (edged in pink on Plan 2) - veranda (edged in blue on Plan 2); and - raised decking (edged in green on Plan 2); (ii) permanently remove the resultant materials from step (i) above from the Land edged in red on Plan 1 attached; (iii) return the Land to its former condition i.e. grass.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and 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 erection of an extension to the main cabin building, formation of veranda and erection of a raised platform (decking) at 2 Riverside, Wargrave Road, Henley On Thames, Berkshire, RG9 3JD as shown on the plan attached to the notice and subject to the following condition:
 - 1) Notwithstanding the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by the provisions of Classes A, AA, B, C, D and E shall be carried out.

Background to the Appeal

2. The site lies in a strip of land sandwiched between the A321 and the River Thames on the eastern bank opposite the outskirts of Henley-on-Thames which lies on the western bank. It is a much sought after location and the whole strip of land from the bridge over the river into Henley and running south for several miles is developed to a greater or lesser degree. The appeal site slopes gently down towards the river.

3. The planning history shows the growth of the site and is, I should imagine, typical of many of the plots on this strip of land. In 1977 vehicular access was granted permission, followed by a storage shed in 1990 and a changing room and store in 2000. The appellants bought the plot in 2010 at which point there were several cabins on the land. Access is taken off the A road into a turning and parking area that serves several plots, a house, Aspen, to the north, a boat house in a separate plot, then a recently permitted modernist house on stilts, and the appeal property.
4. In 2010 the property consisted of a storage unit and sheds close to the road and further down the site nearer the river two cabins which were separated but formed a dwelling. The two front cabins were linked by a verandah and raised decking. In 2012 the appellant carried out works to demolish the sheds and create new 'back-cabin' (used residentially) and to unite the two front cabins to form a single dwelling with a large area of verandah and decking in front. This verandah ran along the entire frontage of the property and was covered by a permanent roof, but open to the front and sides. Photographs show it was large enough to comfortably contain an outdoor dining table and chairs. The cabin and its verandah almost filled the width of the plot. Subsequently, in 2021 two LDCs were obtained the first made lawful the operations to construct the back-cabin (now used as a utility and bedroom), the storage shed and a gazebo closer to the water. The second made lawful the construction of the main cabin as described above following the 2012 works, its use as a dwelling and the use of the gazebo as incidental to it.
5. In the meantime the appellant began works to extend the cabin forwards and these works are now substantially complete, although work has been suspended pending the outcome of this appeal. The works essentially doubled the depth of the cabin, bringing the front closer to the river. The new cabin takes up much of the space of the old verandah, which itself has been extended to provide a narrower verandah running across the front of the building. Planning permission was refused for these works in 2020 and the notice issued in 2021.

The Appeal on Ground (a)

6. The site lies in the green belt and the 2019 application was refused on green belt grounds and encroachment into the countryside. This appeal turns on the issue of whether the extended cabin is inappropriate development or not. It is clear from the discussion below that harm to the character and appearance of the area is negligible but there are no very special circumstances to justify inappropriate development.
7. The NPPF at 149 (c) states that the extension of a building is not inappropriate development if it is not disproportionate in size compared to the original building. Policy TB01 of the local plan relies on the definition of the original building as provided for in the NPPF, which in this case is the building as it was built originally. It goes on to say in the description below the policy that only limited extensions will be allowed and by 'limited' they mean no more than 35% increase in volume above the original dwelling.
8. The Council suggest the original building is the changing room and store that was granted planning permission in 2000. The appellant prefers the larger single cabin as it was in 2012, as that was the first lawful dwelling on the site. He also suggests the verandah and decking attached to the 2012 cabin should

- be included and further argues the back-cabin and gazebo should also be added as they are lawful and part of the built structure on the site.
9. Firstly it is clear to me the gazebo is not included, it is not part of the dwelling. The back-cabin is a separate building, and regardless of its use is clearly not part of the original building, however that is defined. The Officer's report for the 2020 planning permission discussed the original building granted permission in 2000 but it is clear from the plans and aerial photographs that this building was never built, or if it was it had been demolished by 2003.
 10. An aerial photograph from 2003 shows a cabin on the northern side of the plot in what is revealed by a 2010 aerial photograph to be the position of one of the 2 cabins that were then converted into a dwelling in 2012. I do not think that the 'original building' as defined in the NPPF has to be lawful, there is nothing in the NPPF that suggests this and as far as I am aware no case law either. However, it does have to be the building that was subsequently extended. The first building on the plot was the cabin shown in the 2003 aerial photograph. A second building was added to form the two cabin unit. But then the two cabins were merged into one larger unit with a substantial verandah at the front. Thus the first building was not simply extended but was subsumed by a much larger structure which, in my view, became a new building in its own right. It is this, the 2012 cabin, that forms the 'original building' for the purposes of green belt policy.
 11. The question remains, therefore whether the decking and verandah form part of the building, or whether it is just the cabin that gained the LDC. As noted above I do not think the extent of the LDC is particularly pertinent. I do not know why the verandah/decking was not considered to be lawful as it would seem to have been in place since 2012 and so was more than 4 years old, but in any case, its lawfulness or lack thereof doesn't stop it from being considered as part of the building. I agree with the appellant that the relationship of the verandah, with its substantial roof and the decking to the cabin and both the voids underneath all form an integral part of the building as a whole. In which case the figures suggest the increase in volume is only 29% and so the extension is not disproportionate and so is not inappropriate development.
 12. Another way of looking at the problem is to ask what is the purpose of paragraph 149 (c)? It is to allow modest extensions to existing buildings in the green belt in such a way as to protect its openness. Looking at photographs and aerial shots of the 2012 cabin and the current one there is very little apparent difference in the bulk and footprint of the two.
 13. As the cabin is not inappropriate development then it only remains to look at character and appearance. The riverbank in the immediate locality is largely built up with a mix of larger brick houses, some modern riverside wood clad dwellings and more low key chalets, boatsheds and even railway carriages. These are set among trees and often with lawned frontages with moorings and sometimes pleasure cruisers.
 14. The Council accept the new dwelling is not intrusive but would still harm the character of the area by introducing residential paraphernalia and built form into the designated countryside area. I do not agree. The site is clearly seen from the Thames Path across the river and more so from passing boats and other users of the river. However, the view of the building as it is now is little different from that in 2012, the extra depth is not noticeable and the width and

verandah/decking arrangement has hardly visibly changed. I do not think that increasing the footprint by about 13sqm has any impact on the character of the area. The building remains a low, flat roofed cabin, that fits into the wider sense of the built up nature of this part of the riverbank.

15. In conclusion I consider the new cabin with its associated verandah and decking are not inappropriate development and help to maintain the character and appearance of the area. They are thus not in conflict with policies CP1, CP11 and CP12 of the Core Strategy and TB01 and TB21 of the local plan. As I am granting planning permission there is no need to consider grounds (f) and (g).

Conditions

16. No conditions were suggested by either party but if I were to allow the appeal it would be on the basis the cabin as it is now does not harm the character and appearance of the area nor the openness of the green belt. If it were to be further extended, or more garden buildings were constructed, then that may not be the case so removing permitted development rights would be sensible. Class E rights only apply within a residential curtilage. The Council seem to assume the building does not have a curtilage. Certainly the LDC for residential use was limited to the cabin only, but that does not mean it does not also have a curtilage, which is a matter of fact and degree in each case. Consequently I shall remove class E rights also.
17. This condition has been canvassed with the parties so would not come as a surprise. The Council also suggested further conditions, but these have not been subject to consultation and so I cannot impose them. However, they included plans and materials conditions which are not necessary as the development has already been built, an off-street parking condition, which is also not needed as there is already off-street parking provided, a landscaping condition, again not needed for a residential garden and finally a bio-diversity condition which would have been nice but is not essential.

Simon Hand

INSPECTOR