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## Appeal Decision

Site visit made on 1 November 2022

**by C Megginson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> November 2022**

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**Appeal Ref: APP/X4725/W/22/3301899**

**Elm Lodge, Cluntergate, Horbury, Wakefield WF4 5DB**

- 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 Mrs Yasmin Ravat against the decision of Wakefield Metropolitan District Council.
  - The application Ref 20/02211/S7301, dated 3 April 2022, was refused by notice dated 30 May 2022.
  - The application sought planning permission for the erection of single room garden cabin/outbuilding in courtyard (retrospective) without complying with a condition attached to planning permission Ref 20/02211/FUL, dated 26 April 2021.
  - The condition in dispute is No 2 which states that: The garden cabin pod hereby permitted shall be removed on or before the 26<sup>th</sup> April 2022 and the land restored to its former condition in accordance with a scheme of work which has first been submitted to and approved in writing by the Local Planning Authority.
  - The reason given for the condition is: In the interests of visual amenity and to avoid substantial harm to the setting of Elm Lodge Care Home, a Building of Local Interest and to accord with policies D9 and D19 of the LDF and the National Planning Policy Framework.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of single room garden cabin/outbuilding in courtyard (retrospective) at Elm Lodge, Cluntergate, Horbury, Wakefield WF4 5DB in accordance with the terms of the application, Ref 20/02211/S7301, dated 3 April 2022, subject to the following conditions:
  - 1) The development hereby approved shall be carried out strictly in accordance with the following approved plans as listed below unless required otherwise by this decision or its attached conditions: Design and Access Statement; Block Plan (1033 20B); Proposed Plans Elevations (PL.101 Rev A)
  - 2) The garden cabin pod hereby permitted shall be removed on or before the 26<sup>th</sup> April 2024 and the land restored to its former condition in accordance with a scheme of work which has first been submitted to and approved in writing by the Local Planning Authority.

### Background and Main Issue

2. The garden cabin has been completed. The appellant now wishes to vary condition 2 to extend the time period for the removal of the cabin by two years. The main issue is the effect that varying the condition would have on the

character and appearance of the area, including the non-designated heritage asset; and whether the adverse impacts of approving the variation of condition would significantly and demonstrably outweigh the benefits.

## **Reasons**

### *Character and appearance*

3. The appeal site sits at the entrance to a self-contained cul-de-sac, comprised of detached residential dwellings. Built form is close knit, with some of the dwellings sitting forward in their plots, close to the road. The dwellings are constructed with light coloured bricks and boundary hedgerows, trees and lawns give the street a verdant feel.
4. Elm lodge sits close to the road and its prominent bay windows contribute to the significance of the non-designated heritage asset. The main elevation of Elm Lodge which features such prominent bay windows, faces onto a small yard area, where the cabin is located along the boundary with the adjacent residential property.
5. The bulk, curved design and dark materials of the cabin stand out as visually prominent and markedly contrast with the light materials of the surrounding dwellings. It is highly visible in the immediate street scene from Elm Grove, fails to assimilate with its surroundings and by obscuring views of the bay windows of Elm Lodge, results in harm to the significance of the non-designated heritage asset.
6. Therefore, for the above reasons, the extension of the time limit for the removal of the cabin would, for a temporary period of time, result in moderate harm to the character and appearance of the area, including the non-designated heritage asset. This would be contrary to Policies D9 and D19 of the Wakefield Local Development Framework Development Policies Document (2009) (LP), which require development to achieve a high standard of design which contributes to the distinctiveness of the local area. It would also conflict with the National Planning Policy Framework (the Framework) which amongst other things requires development to be sympathetic to local character and for heritage assets to be conserved in a manner appropriate to their significance.
7. The Council are concerned that the proposal would result in the outbuilding remaining on site for an indefinite period of time and third parties suggest that an alternative location would be more appropriate. These issues are not before me to consider in this case.

### *Planning Balance*

8. Whilst the Covid 19 pandemic situation has significantly improved since the grant of the original temporary planning application, for those who are vulnerable, Covid 19 remains a notable threat. I appreciate that visits to the care home may be able to be facilitated in a controlled way, without the use of an outbuilding. Nevertheless, the extension of time for the removal of the cabin would enable safe family and friend visiting to continue, for a temporary period of time, in a physically separate building and this benefit attracts moderate weight in favour of the development. Overall, the adverse effect of the proposal, resulting from moderate conflict with LP Policies D9 and D19, would not significantly or demonstrably outweigh the moderate benefits identified above.

## **Other Matters**

9. Third party representations have raised concerns regarding the effect of the proposal on the occupiers of the adjacent residential property, due to a loss of light to the front garden, and the effect on highway safety for the residents turning out of their drive. From my site visit, I observed an established hedgerow and tree on the boundary, between the appeal site and the neighbouring property. These features shade the driveway, and along with a small, sloped boundary fence at the entrance to the drive, would already obscure visibility for those exiting the driveway. As a result, the cabin would not block a drivers view any further. Similarly, whilst the height of the cabin would result in a small increase in overshadowing of part of the front driveway for part of the day, this would not result in unacceptable harm.
10. I have considered this appeal proposal on its own merits, and I have no evidence to suggest that the proposal would create an undesirable precedent in the area.

## **Conditions**

11. 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. I have retained the plans condition in the interests of certainty.

## **Conclusion**

12. For the reasons given above I conclude that the appeal should be allowed.

*C Megginson*

INSPECTOR