



Appeal Decision

Site visit made on 6 December 2022

by Ms Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/M0655/C/22/3299431

32 Keyes Close, Birchwood, WARRINGTON, Cheshire, WA3 6RU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Gordon Blair against an enforcement notice issued by Warrington Borough Council.
 - The notice, numbered ENF/21/08911, was issued on 27 April 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the construction of a wooden gazebo.
 - The requirement of the notice is to: Remove the wooden gazebo OR reduce the height of the wooden gazebo to no higher than 2.5m above ground level.
 - The period for compliance with the requirement is: 2 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 as amended.

Main Issues

2. The main issues are the effect of the gazebo on (i) the living conditions of the occupiers of 6 Keyes Garden and 8 Keyes Close in respect of outlook and (ii) the character and appearance of the area.

Reasons

Living Conditions

3. The gazebo has solid timber side and rear walls which are adjacent to the boundary fences between the appeal site and 6 Keyes Garden and 8 Keyes Close. These timber walls project some way above the boundary fences and on top of the walls is a solid hipped roof. The total height of the gazebo is around 3m.
4. I accept that the hipped roof slopes away from the boundaries but this does not adequately mitigate the height and solid appearance of the structure and its proximity to the neighbouring gardens. The adjoining gardens are of a modest size and the gazebo is obtrusive and dominant upon them. It therefore harms the outlook from inside these gardens and from rear windows within these neighbouring dwellings.

5. I note the appellant's comments that there was previously a dead tree and a magnolia on the site of the gazebo. However, the gazebo has a very different appearance to trees, which are not solid due to space between branches. I also saw the conifers next to the boundary fence at No 8 but these do not screen the gazebo.
6. I therefore find that the gazebo harms the living conditions of the adjoining occupiers. Therefore, the gazebo conflicts with Policy QE6 of the Warrington Local Plan Core Strategy (WLPCS) which seeks to protect the living conditions of neighbours, including in relation to outlook.

Character and appearance

7. The gazebo is located in a rear garden of a house on a suburban residential estate. There is another outbuilding in the same garden and the house has been extended. Together, the erection of these outbuildings and extension have considerably reduced the amount of garden space. Nevertheless, the gazebo is a typical garden structure and a small area of open garden space remains. Furthermore, although the gazebo can be glimpsed from Keyes Garden, it is not an obvious or prominent feature from any public vantage point. It therefore has no harmful effect upon the street-scene or the wider area.
8. I therefore find no harm to the character and appearance of the area and no conflict with Policy QE7 of the WLPCS which seeks to protect the character and appearance of the area. For the same reasons, I find no conflict with the Council's House Extensions Supplementary Planning Document which advises that development to the rear should not be out of keeping with the character of the area.

Conclusion

9. Whilst I find no harm to the character and appearance to the area, I find that the gazebo harms the living conditions of neighbouring occupiers and it therefore conflicts with the development plan as a whole.
10. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should fail and the deemed planning application should be dismissed. I shall uphold the enforcement notice and refuse planning permission on the deemed application.

Ms Watson

INSPECTOR