

Appeal Decision

Site visit made on 19 June 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/Z3825/W/22/3312292

Shaw Cottage, Blackstone Lane, Woodmancote BN5 9TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Keith Toogood against Horsham District Council.
 - The application, Ref. DC/22/1175, is dated 21 June 2022.
 - The development proposed is described on the application form as seeking '*Planning Permission and Listed Building Consent for the demolition of an existing pre-fabricated concrete domestic garage and erection of replacement incidental building*'.
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Application for Costs

1. An application for costs was made by Mr Keith Toogood against Horsham District Council. This is the subject of a separate Decision.

Decision

2. The appeal is allowed and (i) listed building consent is granted for the demolition of an existing prefabricated concrete domestic garage, and (ii) planning permission is granted for the erection of a replacement incidental building, at Shaw Cottage, Blackstone Lane, Woodmancote BN5 9TA, both in accordance with the terms of the application, Ref. DC/22/1175 dated 21 June 2022 and subject to the conditions in the attached Schedule.

Background and Main Issue

3. Shaw Cottage is a Grade II listed building (and therefore a designated heritage asset) positioned within a large garden in a rural location outside of any designated built-up boundary. The original building has been considerably extended by a detached garage with storage above in 2004 and again with a large extension in a more contemporary style pursuant to a planning permission and a Listed Building Consent granted in 2016.
 4. The appeal application description is for both Planning Permission and Listed Building Consent, but the application has been made on a Householder Application form. The appellant has explained that this is because a joint application form for both the Householder Planning Permission and Listed Building Consent was not available on the planning portal.
 5. The appeal is against the Council's failure to determine the application and there is no officer's report. However, the Council has submitted an appeal statement, and this does address the effect on the setting of the listed building
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- with a referral to the advice of the Senior Conservation Officer that the proposal would cause no harm to this setting. On this basis the Council has accepted that there would be no conflict with Policy 34: 'Heritage Assets and Managing Change in the Historic Environment' of the Horsham District Planning Framework 2015 ('the HDPF'). The Conservation Officer advised that the application for listed building consent should be 'withdrawn', presumably under a misunderstanding that this was a separate application.
6. In this regard, I note that in his email of August 11, 2022, to the case officer the appellant's agent agreed with the view that listed building consent is not required for the replacement building because it would not be attached to Shaw Cottage. However, it is clear that as regards the proposed demolition of the existing garage this is probably a pre-1948 constructed curtilage building and is therefore technically included in the listing. As such its demolition requires listed building consent.
 7. Whilst noting that the conservation officer at one point also refers to '*immediate setting*' which is somewhat confusing given the reference only to '*setting*' in the relevant Heritage legislation and guidance, I therefore consider it expedient to deal with this appeal on the basis of the Council's statement and define the main issue (ie the area of disagreement) in this appeal as being '*the effect of the proposed outbuilding on the character and appearance of the site*'. This is because the benefits of the removal of the existing unsightly building is the part of the proposal that is beyond dispute between the parties and, as such, an argument for its demolition does not have to be made in terms of the heritage safeguarding objectives for listed buildings. In the event, to the extent that there is a visual relationship between the area adjacent to the prefabricated garage and the extended Shaw Cottage, its removal and replacement with the 'incidental building' would result in the enhancement of the significance of the heritage asset and its setting.
 8. I understand the Council's reluctance to endorse the construction of a two-storey building in the garden insofar as more often than not within the planning system there is an 'in principle' convention of resistance to two-storey ancillary domestic buildings in residential curtilages. However, in this case the original dwelling has already been increased in size by two large extensions and in my view dominated by these additions.
 9. In addition, the proposed building's siting in front of a line of mature trees on the boundary would reduce any perception of excessive height and bulk, whilst the particularly large garden together with adjoining open land owned by the appellant would mean that the building would have little if any effect on the spacious and verdant character and appearance of the location. I do not agree with the Council's view that grouping with the other buildings would be more appropriate.
 10. I have also had regard to the Council's concern of cumulative development on the site but even with the proposed building, the ratio of built form footprint to open land would be minimal. And although I agree with the Council that the proposed building would be 'substantial', I consider that it is of a good design in keeping with the second of the cottage extensions and of appropriate external materials. I also give weight in the planning balance to the appellant's personal circumstances, albeit in themselves these are not the deciding factor.

Conclusion and Conditions

11. Overall, I find that the 'replacement incidental building' would not conflict with HDPF Policy 28 and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2021. The demolition of the prefabricated garage is necessary to achieve this, and it is an unsightly feature within the appeal site. I shall therefore allow the appeal in the terms applied for and consider that it is expedient to do so, notwithstanding the variations from the norms of due process in the handling of the application.
12. A condition requiring the development to be carried out in accordance with the proposed plans is needed for the avoidance of doubt and is in the interests of proper planning. A condition restricting the hours of work during the construction period will safeguard the amenities of neighbours. Finally, a condition restricting the building being used as a dwelling independent of Shaw Cottage will prevent an unsatisfactory relationship between the two buildings and protect the character and appearance of the countryside.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
- 2) The development shall be carried out in accordance with the following approved plans: Drawing Nos. 0938.17/01; 0938.17/02; 0938.17/02;
- 3) No works for the implementation of the development hereby approved shall take place outside of the periods 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours Saturdays, nor at any time on Sundays and Bank or public holidays.
- 4) The outbuilding hereby permitted shall be occupied solely for purposes incidental to the occupation and enjoyment of Shaw Cottage, Blackstone Lane, Woodmancote as a dwelling and shall not be used as a separate unit of accommodation.