



Appeal Decision

Site visit made on 13 July 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2023

Appeal Ref: APP/W3005/W/23/3319470

The Maple Tree, 157b Beck Lane, Sutton in Ashfield, Nottinghamshire, NG17 3AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Carl Wilkes against the decision of Ashfield District Council.
- The application Ref V/2022/0910 dated 14 December 2022, was refused by notice dated 15 February 2023.
- The development proposed is proposed garden room.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the impact of the proposal upon i) the openness and character of the locality and whether it is a disproportionate addition to the existing dwelling, ii) neighbouring residential amenity with regard to overbearing and overshadowing and iii) whether the proposal would be for purposes incidental to the main dwelling.

Reasons

Openness and character of the locality

3. The appeal site is a two-storey detached dwelling which currently benefits from a one and a half storey garage and workshop as a result of planning permission granted in January 2020 (V/2019/0732). The dwelling, and existing outbuilding are of relatively recent construction due to being part of redevelopment of the site which was historically associated with a garden centre (the dwelling is understood to have replaced a two-storey building). The appeal site is located to the rear of a row of residential properties on Beck Lane and is immediately adjacent to 1 Penniment Lane. The proposal seeks consent for the construction of a single storey outbuilding with a footprint of 12 metres x 6 metres with an overall ridge height of 4 metres.
4. Whilst the Council's assessment is that the area is largely characterised by open countryside, it should be acknowledged that to the rear (north-west) of the appeal site there is a further residential dwelling with an outbuilding, which means that the appeal site is surrounded on three sides by residential development. I do not disagree that the wider area is currently characterised by open countryside, however, the site-specific location I find to be within a rural, but residential, site context. It should be kept in mind that character and appearance are separate matters as a result of appearance being the outward,

visible qualities, whereas character is the sum of all the qualities which distinguish an area. A lack of visibility from the public highway does not, therefore, automatically result in a proposal being character appropriate. Despite this, I do not find that the proposal, in isolation, would be out of character with the prevailing form of residential development in the immediate area around the appeal site.

5. Whether any change would cause harm to openness can depend on factors such as locational context, its spatial or visual implications, as well as scale. Consideration of scale, or a volumetric approach, alone is not sufficient to support that the development would cause harm to openness. Other considerations include those relevant to how built up the surrounding area currently is as well as factors relevant to the visual impact of the development. The perceived effect upon openness could be less than might be expected because, for example, the development would have a limited effect upon people's perception of openness from beyond the boundary of the site. The proposal would be viewed in the context of surrounding development and in the middle of existing built form and I find the proposal would have a negligible impact upon people's perception of openness from beyond the boundary of the site. Any harm to openness, spatially, is reduced as a result of visual perception in this case and would not warrant refusal in isolation.
6. The appeal site is located within designated countryside, on the planning policy maps, with Ashfield Local Plan Review 2022 (LP) Policy EV2 confirming that the extension of existing buildings is generally appropriate where the resultant form, bulk and general design would be in keeping with the building, where retained and its surroundings. The Council's Adopted Residential Extensions Design Guide Supplementary Planning Document 2014 (SPD) sets out that planning proposals for outbuildings that are not permitted development (as defined within the General Permitted Development Order) shall be treated as an extension.
7. The SPD confirms that proposals for extensions will be considered disproportionate if they would result in an increase in floor area over 30% of that of the original dwelling. The basis of assessment is not based upon overall garden size, it is based upon an assessment of the existing built form and in this case the proposal, combined with the already approved and erected garage/workshop, would result in a cumulative floor area increase of around 66% compared to the original host dwelling. This assessment does not change whether or not the site is classified as a previously developed site.
8. Overall, whilst I acknowledge the policy location within designated countryside, I consider the proposal to stand within a rural, but residential, setting in visual terms as a result of the surrounding residential development outlined. Given this I do not find that the principle of an outbuilding in the area would impact upon the openness and character of the locality, however, I do consider that the proposal would be a disproportionate addition to the existing dwelling.
9. I acknowledge that it is stated that the proposed garden room would replace garages which have been removed, however, these buildings were also proposed to be replaced under the previously approved garage proposal. They were also proposed to be removed on the original scheme for the dwelling and are no longer present on site. For this reason, I do find that they can be used, as leverage, nor that the proposal constitutes the replacement of any existing

buildings. Similarly, I do not find that the footprint being akin to the replacement of concrete slabs to assist the proposal in any way.

10. I note the appellant's reference to an application at Sylvia Dale on Penniment Lane (V/2016/0559 which granted planning permission for 3 dwellings). The appellant has submitted the approval notice for the reserved matters application as well as the delegated report, however, no further information or plans have been submitted as part of this appeal. Most notably, the principle of development was established following approval of outline planning permission under reference V/2014/0047, so I have no further information as to the Council's assessment of the principle or the site context to enable me to take this into account as part of the appeal before me.
11. The proposal would be contrary to LP Policy EV2 which requires that extension of existing buildings be in keeping with the building in terms of resultant form and bulk. The proposal would also be contrary to the SPD guidance which confirms, as previously outlined, that extensions should not be disproportionate to the host dwelling. Even if I had not found the proposal to be a disproportionate addition, cumulatively, to the host dwelling the appeal would still have failed as a result of the second main issue below.

Neighbouring Residential Amenity

12. The proposal would be located around 1 metre from the boundary, which is shared with 1 Penniment Lane (no. 1), and denoted by a timber fence stated to be around 2 metres in height. No. 1 is a dormer bungalow with a conservatory and flat roof extension to the rear. The flat roof extension does not appear to be shown on the submitted plans, however, I noted it at the time of my site visit and indeed, it is noted within the Council's delegated report. At the time of my site visit, I went up the steps on the existing garage/workshop building within the appeal site and noted that flat roofed extension to the rear appears to be utilised as a non-habitable room. At the time of my site visit it was utilised for dogs and indeed there was a pen set up (covered by a gazebo) immediately to the rear of the neighbouring property for this purpose.
13. The proposal would be 12 metres long, start almost level with the original rear elevation of no. 1 and would result in development, with an overall ridge height of 4 metres, being present along almost the entire length of the shared boundary at a distance, from the fence, of around 1 metre. The combination of the proposal, with the existing garage, would result in an almost continuous section of built form being located along the boundary. The boundary fence is stated to be around 2 metres in height, and that the proposed eave height would be in the region of 2.25 metres with the proposed roof would sloping away from the site boundary to the ridge. I do not find that the presence of the boundary fence, and a set in of a metre, would sufficiently alleviate the overall 4 metre structure for a length of 12 metres on the shared boundary.
14. Whilst the neighbouring garden is acknowledged to be large, it is often the case that most social activity and day to day use takes place in the amenity space immediately to the rear of a dwelling and day to day activity is on the ground floor within a bungalow property. As a result of its size, height, and position, I find that the proposed outbuilding would, as a result of overall length and height, regardless of roof form, have an unacceptable impact on the neighbouring property as a result of overbearing and overshadowing impact.

15. I note that it is contended that other garden rooms in the vicinity are more intrusive and overbearing than the proposal, however, each case should be considered on its own merits and whilst photographs of adjacent development such as that of 167 Beck Lane are provided, I have no information before me, for example, copies of a planning permission or certificate of lawfulness relating to this proposal nor do I find that development to result in comparable impacts. Even so, claimed negative impacts arising from other examples of development cannot be utilised to justify further negative impacts within new proposals. I note the appellant discusses planning permission having been granted at 12 Linley Avenue (V/2021/0197) for a garden room where reference is made to a 2-metre fence acting as a screen to the development.
16. Whilst the appellant's commentary is noted no plans relating to this proposal have been submitted (only the decision notice and delegated have been submitted). The plans would be important in considering the application of the comments highlighted as, for example, the proposal at 12 Linley Avenue is stated to have been adjoined to the back of an existing garage. I have no information before me as to the overall size of the proposal, site context in relation to neighbours such as 10 Linley Avenue or existing development in the area in order to understand the context within which a decision was made by the Council on that proposal.
17. The proposal would be contrary to LP Policy ST1 which requires that proposals will not adversely affect amenity, LP Policy HG7, which confirms that extension or alterations will not be permitted if they adversely affect the residential amenity of neighbouring properties and paragraph 130 of The National Planning Policy Framework 2021 which seeks to ensure that developments maintain a high standard of amenity for existing and future users.

Whether The Proposal Would be for Purposes Incidental to the Main Dwelling

18. It is stated, within the Council's refusal reason, that the appellant has not demonstrated sufficient evidence that the building would be used for purposes incidental to the main dwelling and would be required in this countryside location. There are concerns that the proposal would be used for other purposes outside the nature of this proposal and to the detriment of the amenity of nearby residents and the character of the wider area. Proposals should be considered as they are submitted and I find that the Council's concerns regarding the usage of the building are unfounded and without merit given that the proposal is designed to be, and submitted as, a garden room.
19. Whilst, as outlined above, I do find the proposal would be overly large when considered cumulatively with other additions to the main dwelling, future use of the building could have been controlled via condition to restrict business use and occupancy as was the condition placed upon the previous approval for the existing garage/workshop under application reference V/2019/0732.
20. Use of such conditions is common practice and I note that the appellant has provided examples of other conditions being applied to similar development, for example at 19 Common side (V/2020/0526). Appropriate conditions could have been applied to overcome this third refusal reason had the proposal been acceptable in other regards.

Other Matters

21. I note the appellant's comments regarding the planning application process; however, this is outside the scope of this appeal. The appeal is not accompanied by an application for costs. I note that there is concern that the planning process has felt somewhat rushed and not been given appropriate consideration, however, the proposal before me has been considered on its own merits against the Local Plan policies taking into account material considerations as required.
22. I note reference to a nearby application at 157A Beck Lane (V/2020/0695) and indeed I note the appellant has submitted documents from this application as part of their appeal. Principle aside, from the information submitted (decision notice and delegated report) it would appear that the building in question in application V/2020/0695 was for an outbuilding which equated to approximately 30% of the dwelling at the site which is acceptable against the SPD guidance. This was not the case for the proposal before me.
23. I acknowledge, from Appendix 2, that Ashfield District Council Emerging Local Plan designates four substantial land zones on Beck Lane which would potentially see residential development in close proximity to the appeal site. I attribute limited weight to this information due to the fact that within the appeal submissions before me I have not evidence as to the progress of the emerging Local Plan to ascertain the weight that should be given to any allocations, so to attribute weight to these allocations, within the consideration of this appeal, could potentially be premature.
24. I note an objection to the proposal from a resident, which raises matters relating to size and scale and these are matters which I have dealt with in the main issues above. Further comments regarding the location, impacts on light and overshadowing, impact on a garden pond, the build resulting in fires, road and infestations or adherence to working times are not a material planning consideration and would be appropriately managed through the Council's Environmental Health and Anti-Social Behaviour Teams.
25. Within the Council's reason for refusal, relating to residential amenity, it is specific in its application to 1 Penniment Lane due to overbearing and overshadowing impact. The Council do not raise a refusal reason based upon impact to any other nearby dwellings and based upon the information before me, and my site visit, I have no reason to conclude differently on this element and cannot conclude that there would be impact on light, overshadowing or garden features in other nearby properties.

Conclusion

26. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR