



Appeal Decision

Site visit made on 20 October 2023

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30.10.2023

Appeal Ref: APP/N1920/D/23/3323916

3 Westwood Close, Potters Bar, Hertfordshire EN6 1LH

- 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 Clifford Abrahams against the decision of Hertsmere Borough Council.
 - The application Ref 23/0419/HSE, dated 17 March 2023, was refused by notice dated 12 May 2023.
 - The development proposed is described as 'retrospective planning permission for the erection of a pitched roof, detached outbuilding'.
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Decision

1. The appeal is allowed and planning permission is granted for a pitched roof, detached outbuilding at 3 Westwood Close, Potters Bar, Hertfordshire EN6 1LH in accordance with the terms of the application, Ref 23/0419/HSE, dated 17 March 2023, and the site location plan at 1:1250 scale and drawing no. ABR 01P Revision A, and subject to the following conditions:
 - 1) The outbuilding hereby permitted shall not be occupied at any time other than for purposes incidental to the enjoyment of the main dwelling known as 3 Westwood Close.
 - 2) The first floor window in the north-western elevation of the outbuilding (annotated as the 'south east elevation' on drawing ABR 01P Revision A), shall be kept obscurely glazed and fixed shut at all times.

Background and Procedural Matters

2. A previous outbuilding on the site, as depicted on drawing nos. ABR 02P and ABR 03P, was demolished and replaced by the existing outbuilding. Planning permission was retrospectively given for that outbuilding (Ref: 22/1486/HSE) ('approved scheme'). A condition attached to the approved scheme required that external alterations be made to it, involving the removal of a dormer window on its north-eastern elevation, the removal of kitchen facilities and changes to its fenestration. The scheme before me is for the retention of the outbuilding, including the dormer and side windows.
3. The approved scheme included a condition permitting the outbuilding's use as sleeping accommodation for 6 months whilst building works were carried out to the main house. No such request for a temporary use has been suggested in the appellant's evidence, and I have therefore dealt with this scheme based on the outbuilding's use as a home office/garden room and games room/gym, incidental to the enjoyment of the main house, and as set out on the drawing.

4. Whilst concerns have been expressed about the outbuilding's potential future use as a separate residential unit, that would require an application for planning permission, and I have dealt with the scheme before me on its planning merits.

Main Issues

5. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of adjacent occupiers, with particular regard to actual and perceived overlooking of 2 and 4 Westwood Close ('No 2' and 'No 4').

Reasons

Character and appearance

6. The host, in common with most nearby properties on Westwood Close and Mountway, is a detached house which sits on a spacious plot with a long rear garden. As a result of trees and landscaping, it, and many nearby properties, have a fairly secluded character.
7. The Council maintains that the dormer window gives the outbuilding the appearance of a two storey structure which, it states, is incongruous in a residential garden setting, and is inconsistent with single storey outbuildings in the area. However, whilst the outbuilding includes a first floor space, the dormer occupies a small proportion of just one roofslope, and the eaves line is at ground floor level. Consequently, in my view, its scale and form are broadly typical of a domestic outbuilding, and its size is proportionate to the main house and the large garden.
8. The outbuilding can be seen from nearby houses, particularly from the rear elevations of No 2 and No 4 and their gardens. However, given its fairly limited size and height, and that it is set in from the boundaries of the plot, with trees and fences partially obscuring it in some views, and that it is discretely finished with dark stained timber, it has not harmed the character and appearance of the area.
9. Amongst other things, and in general terms, Policies SP1 and CS22 of the Hertsmere Core Strategy 2013 ('HCS'), and Policy SADM30 of the Hertsmere Site Allocations and Development Management Policies Plan 2016 ('HDMP'), require high quality design, which complements local character and context, having regard to matters such as scale, mass, bulk, height and urban form. For the above reasons, the scheme does not conflict with those policies.
10. I have not been directed to any particular sections of the Hertsmere Planning and Design Guide Supplementary Planning Document Parts D and E ('SPD'), but the scheme does not conflict with its general stance that new development should respond to its surroundings, ensuring attractive and high quality neighbourhoods; nor does it conflict with the National Planning Policy Framework ('Framework') requirement for good design which is sympathetic to local character and the surrounding environment.
11. Finally, although the appeal site borders the Mountway Conservation Area, given my findings regarding its landscaped setting, and the outbuilding's siting,

scale, and finish, the scheme preserves the character and appearance of that designated heritage asset.

Living conditions

12. Amongst its objectives, the SPD sets out that the Council wishes to ensure that existing and future residents enjoy reasonable privacy in their homes and in their private amenity space.
13. Notwithstanding the slightly angled siting of the outbuilding relative to the plot's boundaries, and having regard to land levels, the outlook from the dormer is principally back up the host property's own garden, with the garden of No 2 off-set to the side. A degree of overlooking is commonplace in built up areas such as this, and views from the dormer to the rear elevation of No 2 are fairly distant and partially interrupted by trees and other vegetation.
14. The window high up in the outbuilding's south-eastern flank (incorrectly annotated on the drawing as the 'north-west elevation') is small, and from it there are only angled views to the very end of No 2's garden, and to the end of the long rear gardens on Mountway. Consequently, I am satisfied that it has not caused a harmful degree of overlooking, nor a significant perception of overlooking, of those properties.
15. The window in the outbuilding's north-western flank (labelled as the 'south east elevation') is tall and narrow, and roughly faces No 4's rear garden. However, it is obscurely glazed and non-opening, and provided it is retained as such, it would not result in any overlooking or a significant loss of privacy for those occupiers.
16. Finally, typical incidental use of the outbuilding as a home office/garden room, with a games room/gym above, would not give rise to significant noise disturbance to nearby residents.
17. Relevant parts of HCS Policy CS22 and HDMP Policy SADM30 require usable places, and development which has a limited impact on the amenity of its neighbours, having regard to matters including outlook, privacy and nuisance. For the above reasons, the scheme does not conflict with that approach, nor with the stance in the SPD, or with the Framework's requirement for a high standard of amenity.

Other matters

18. Whilst concerns have been expressed regarding the retrospective nature of the proposal, I have dealt with the appeal on its planning merits. Compliance, or otherwise, with Building Regulations is a separate matter, and not relevant to this planning appeal. Finally, as planning is concerned with land use in the public interest, any effect on property values is not a material consideration.

Conditions and Conclusion

19. In the event that the appeal is allowed, the Council has suggested three conditions, which I have assessed against the Framework's tests. The first of these, states that the development shall be carried out in accordance with the approved plans. However, as the development is already in place, that is not appropriate.

20. In order to clarify the terms of the permission, and in the interests of protecting the living conditions of neighbouring occupiers, a condition is necessary requiring that the outbuilding be used only for purposes incidental to the main house.
21. Given the size of the window in the outbuilding's north-western flank, and the potential view from it, a condition is necessary, in the interests of protecting the living conditions at No 4, requiring that it be kept obscurely glazed and fixed shut. However, having regard to the size of the window in its south-eastern flank, and the limited view from it, no such condition relating to that window is necessary.
22. Subject to those conditions, the scheme has not impacted adjacent occupiers' living conditions to a harmful degree; and it has not harmed the character and appearance of the area. Consequently, and having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR