



Appeal Decision

Site visit made on 3 April 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024.

Appeal Ref: APP/W3710/W/23/3330209

206 Camp Hill Road, Nuneaton, Warwickshire CV10 0JL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made on behalf of Camp Hill Dental Practice against the decision of Nuneaton and Bedworth Borough Council.
- The application Ref is 039610.
- The application sought planning permission for single storey extensions to the front, side and rear without complying with a condition attached to planning permission Ref 038940, dated 24 March 2022.
- The condition in dispute is No 7 which states that: *"Before any of the extensions hereby approved are first brought into use, the two sheds at the rear of the property shall be removed in their entirety from the site."*

Decision

1. The appeal is allowed, and planning permission is granted for single storey extensions to front, side and rear at 206 Camp Hill Road, Nuneaton CV10 0JL, in accordance with the terms of the application, Ref 039610, and the plans submitted with it, without compliance with condition number 7 previously imposed, and subject to the conditions in the attached schedule.

Application for Costs

2. An application for an award of costs was made by Camp Hill Dental Practice against the decision of Nuneaton and Bedworth Borough Council. This application will be the subject of a separate decision.

Preliminary Matters

3. Whilst the appellant has only applied to vary one condition, I note that the Council, in the list of suggested conditions, also propose amendments to the plans referred to in condition 2 and condition 5.
4. Condition 2 lists the approved plans and would, therefore, need to include reference to the plan submitted with the appeal. Condition 5 refers to waste storage arrangements. Although the waste storage arrangements are not proposed to be altered through the appeal before me, I note that the plan in the recommended condition is an updated version. I have been sent copies of the relevant plans referred to in the recommended conditions and neither main party would be prejudiced by me considering the plans.
5. Policy BE3 of the Nuneaton & Bedworth Borough Plan 2011-2031 (the Borough Plan) was not referred to in the reason for refusal. However, it is clear from the Council Officer Report, and page 2 of the decision notice, that the Council

considered the proposal against this policy. Policy BE3 is relevant to the appeal before me as it is an overarching policy against which all development should be assessed and includes the requirement to consider residential amenity. The appellant has been provided with an opportunity to comment on the relevance of Policy BE3 of the Borough Plan. I have, therefore, assessed the appeal against this policy.

6. A revised National Planning Policy Framework (the Framework) came into force on 19 December 2023 with a further change published on 20 December 2023. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Background and Main Issue

7. Planning permission was allowed on appeal¹ for a single-storey extension to the front, side, and rear of the existing property. The permission included a condition requiring the removal of two sheds at the rear of the property.
8. I saw at the time of my visit that the shed outlined in green on the submitted plan has been removed from the site. However, the shed outlined in blue remains on site and, from the evidence before me and my own observations, the approved extensions have been commenced.
9. The appellant asserts that the shed is required to provide storage space and, therefore, seeks to remove the condition and replace it with a condition requiring the removal of the shed outlined in green and allowing the retention of the shed outlined in blue.
10. Taking the above into account the main issue is whether the condition is reasonable and necessary in the interests of the effect that retaining the shed would have on the living conditions of the occupiers of adjacent residential properties, specifically No. 4 and 6 Hillside Drive, with particular regard to whether or not the proposal would result in an oppressive sense of enclosure and overdevelopment of the site.

Reasons

11. 206 Camp Hill Road is a two-storey detached property which has been extended and altered and is in use as a dental practice. The surrounding area is residential with a mix of detached, semi-detached and terrace properties.
12. The area to the rear of the property is hard surfaced and enclosed in fences and brick walls with fencing above. It steps down from the rear elevation of the dental practice and also sits above the level of the houses to the rear, 4 and 6 Hillside Drive (No. 4 and No. 6).
13. Both main parties agree that there were previously two sheds on the site. The Council Officer report includes a photograph which appears to show both sheds retained on the site, with the shed outlined in green on the submitted plan placed to the side of the shed outlined in blue.
14. However, at the time of my visit the second shed had been removed and only the shed outlined in blue remained on site. The appearance, height and

¹ Appeal reference APP/W3710/W/21/3285261

footprint of this shed is the same as the smaller shed shown within the Council's photographs. There is no substantive evidence of an increase in ridge height or depth along the boundary.

15. The dental practice has carried out numerous extensions over the years. The most recently approved extension to the rear of the building, in part, replaced the footprint of the shed which has been removed. However, it also resulted in a gap between the extension and the shed now proposed to be retained and resulted in an increase in the amount of space available to the rear of the building, even with the retention of the single shed.
16. Paragraph 11.2 of the Nuneaton and Bedworth Borough Council, Sustainable Design & Construction Supplementary Planning Document 2020 (SPD) advises that the way buildings relate to each other – their orientation and separation distance - must provide and protect acceptable levels of amenity for both existing and future residents. I consider paragraph 11.2 is relevant to the appeal proposal as the scheme is for the retention of a shed within a garden. Such a development would be considered in a similar manner to an extension to an existing dwelling. Paragraph 11.2 refers to standards of amenity which are set out later in section 11 of the SPD, under 11.4 to 11.8 inclusive.
17. The removal of the second shed from the site has reduced the effect on the living conditions of No. 6. The shed that is retained on site would not have any greater effect than it previously had. Moreover, even though the shed is on higher ground than the gardens of the neighbouring properties, the shed would not extend the full width of the gardens of either of the neighbouring properties. There would be parts of both gardens where the shed is not intruding on the garden and views beyond and around the shed would be available.
18. Even if I were to accept the Council's measurements that the shed is approximately 13 metres from the rear elevation of No. 6, and therefore the separation distance falls short of the minimum recommended in paragraph 11.8 of the SPD, paragraph 11.8 advises that the distances may be relaxed where the affected window is not significantly enclosed by the extension. The shed proposed to be retained would not significantly enclose the windows in the rear of either of the neighbouring properties due to not extending the full width of the garden. Consequently, the aspect and light for both neighbouring properties would be protected, as required by the SPD and it would, therefore, not result in an oppressive sense of enclosure.
19. Whilst I acknowledge the Inspector's decision in the previous appeal recommended the removal of both sheds from the site, to ensure that the site was not overdeveloped with built form and structures, this was on the basis that the proposal, at that time, included the removal of both sheds. In assessing whether retaining one shed results in overdevelopment of the site I have considered the position and size of the previous sheds and the position and size of the approved extensions.
20. When viewed from either Camp Hill Road or Hillside Drive the retention of the shed as proposed, and the extensions as built would, not appear substantially different to what was on site prior to the construction of the extensions. Consequently, the retention of the single shed, as outlined in blue on the plan, in addition to the approved extensions would not result in the site appearing overdeveloped.

21. For the above reasons, the condition requiring the removal of both sheds is not reasonable or necessary in the interests of the living conditions of the occupiers of adjacent residential properties, specifically No 4 and 6 Hillside Drive, with particular regard to the sense of enclosure and overdevelopment of the site. Consequently, there is no conflict with Policy BE3 of the Borough Plan which, amongst other matters, requires developers to consider residential amenity and seeks to ensure that development is designed to a high standard.
22. For the same reasons, the proposal would comply with the guidance in the SPD, including paragraph 11.2, which seeks to provide and protect acceptable levels of amenity for both existing and future residents and requires good design.
23. The proposal would also be appropriate when considered against the Framework which seeks to promote health and well-being with a high standard of amenity for existing and future users.

Other Matters

24. The Council contend that there is already sufficient storage following the approval for the previous extensions, which included two storerooms. However, the appellant seeks to argue that the shed is still required for storage. From my own observations there was evidence that the shed remained in use for storage and there were also items being stored in the staff kitchen. Notwithstanding whether there is a need for the shed to provide storage, for the above reasons, I have found that the retention of the shed would not result in adverse living conditions for the occupiers of neighbouring properties. The need for the shed is, therefore, not determinative in my decision.
25. I note the concerns of the adjacent occupiers regarding access to the rear of the property, however, I saw at my visit that access is available through the dental practice and that bins are now stored and accessible from the side. The appeal before me would not have any highway safety or traffic implications and the effect of the extensions on these matters was considered under the previous appeal.
26. An interested party has also referred to an earlier appeal decision, dated 18 September 2007. However, I have not been given the full details of that appeal. Moreover, whether the appeal site could have sustained further expansion since 2007 has been superseded by the later appeal decision. Whilst other appeal decisions are material considerations, all appeals must be determined on the evidence before the Inspector at that time. I have determined the appeal on the basis of the evidence before me and on my own observations.

Conditions

27. The guidance in the PPG makes it clear that decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original permission unless they have already been discharged.
28. Whilst I acknowledge that the approved extensions have been commenced, I have not been provided with any substantive evidence that the conditions were discharged, or that the development has been completed or carried out in accordance with the conditions as imposed.

29. The commencement condition is no longer required as the development has commenced. However, with the exception of the condition subject of this appeal, and the minor changes to conditions 2 and 5 as noted in the preliminary matters, I have reimposed all of the conditions as originally worded on the previous decision.

Conclusion

30. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission, without the disputed condition and replace it with one that requires the removal of the shed outlined in green on the submitted plan and permits the retention of the shed outlined in blue, and restating those undisputed conditions that are still subsisting and capable of taking effect.

K Townend

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the approved plans: Location and Site Plan 4B, and Existing and Proposed Plans and Elevations Drawing No.1 Rev J.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or doors other than those expressly authorised by this permission shall be constructed in any of the elevations of the extensions hereby approved.
- 4) Before any of the extensions hereby approved are first brought into use, the refuse bin storage area shall be provided and laid out as per the approved drawing No.1 Rev J. The area and its use for refuse bin storage shall be retained for this purpose so long as the use continues.
- 5) No external plant (including extraction units) relocated plant or new internal plant requiring external ventilation shall be installed until details of their location, maintenance schedule, details of expected noise output from the plant and details of any noise acoustic attenuation is first submitted to and approved in writing by the Council. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 6) The shed identified in green on Drawing No. 4B shall be removed in its entirety from the site. The shed identified in blue on Drawing No. 4B shall only be used for storage purposes ancillary to the use of 206 Camp Hill Road as a dental practice.

*** END OF CONDITIONS ***