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## Appeal Decision

Site visit made on 14 September 2024

**by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**  
an Inspector appointed by the Secretary of State

**Decision date: 11 October 2024**

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**Appeal Ref: APP/L2440/W/24/3344909**  
**2 Weymouth Close Wigston LE18 2RU**

- 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 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr and Mrs Rowell against the decision of Oadby and Wigston Borough Council.
  - The application Ref is 24/00028/VAC.
  - The application sought planning permission for a replacement domestic garage without complying with a condition attached to planning permission Ref 21/00146/FUL, dated 23 August 2021.
  - The condition in dispute is No. 5 which states that: Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below:
    - Application Form provided by The Drawing Room, received by the Local Planning Authority on 23rd March 2021;
    - Existing & Proposed Drawings, Drawing No. 3602-01 Rev D, provided by The Drawing Room, received by the Local Planning Authority on 9th June 2021;.
  - The reason given for the condition is: avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The appellant seeks permission to retain a building which does not fully accord with approved plans by a variation to the 'plans' condition. Although the Council's refusal reason relates to the building as a whole, the differences between what was approved ( Ref 21/00146/FUL, dated 23 August 2021) and what has been built are readily identified. Noting the wording of the original condition, it offends natural justice that the appellant might be placed in a worse position should this appeal not succeed than if they had sought to agree changes to the building to address the harm. For that reason I consider the starting point for this appeal to be the impact of the variations from what was approved.

## Main Issue

3. The main issue is the effect of divergence from approved plan(s) upon the character and appearance of the area and upon living conditions for neighbouring users.

## Reasons

1. This appeal concerns a domestic garage which has been built to dimensions which differ from those on plans previously approved. The appeal site, 2 Weymouth Close (No.2) is a semi-detached bungalow within a suburban housing estate dating from the latter decades of the twentieth-century. Located at the corner with Durnford Road, which both No.2 and its paired property 54 Durnford Road (No.54) face, the garage is located within the fully enclosed rear amenity space of No.2 abutting the shared boundary with No.54 and also the property at the rear of No.2<sup>1</sup>, a two-storey house with attached garage (no.4). This is consistent with the placing (but not size) of the original structure which was replaced under permission 21/00146/FUL in broad alignment with the front wall of the garage attached to No. 4. Noting materials are consistent with surrounding development and the flat-roof form visually acceptable in the set-back location, what is built is not obtrusive in the street scene, with limited impact upon the character and appearance of the area.
2. Turning to the impact upon living conditions, firstly I am not convinced that the images appearing on 4 of the appeal statement accurately demonstrate the scope of change. According to dimensions provided elsewhere the variation from what was approved is two-fold; an increased width (when viewed from Weymouth Close) such that the building is closer to the rear elevations (and to the conservatory of No.54) of the bungalow pair by some 1.1m, and also in height which is 3.1m, some 340mm higher than approved. This latter dimension is not reasonably described as 'marginal'. The original domestic garage was significantly smaller extending little more than 2.7m along the boundary and, according to drawings supplied, around 2.5m high. On that basis there has been a significant change in what is built when viewed from No.54; walling and facia are up to 600mm higher and extend along the majority of the shared garden boundary.
3. The introduction of a garage structure such as that which is the subject of this appeal in gardens with a north-easterly aspect will tend to reduce access to sunlight at certain times of day or year when the sun is low in the morning sky. In addition, the constrained eaves height of the bungalows where the roof structure sits directly above window head, accentuates the additional bulk of the garage which presents with several additional courses of brickwork and a deep facia board that visually dominates the adjacent garden.
4. Although the appellant suggests that the additional height is not material and that the approved scheme would have been visible above the garden fence, even small changes in height in a sensitive location can have significant impacts, and such are matters for judgement by decision-takers. The Town and Country Planning (General Permitted Development) (England) Order (GPDO) has calibrated parameters (including height) within which buildings for use incidental to the occupation of a dwelling such as a garage, are considered unlikely to have unacceptable impacts such that express planning permission is not required<sup>2</sup>.

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<sup>1</sup> No.4 Weymouth Close

<sup>2</sup> But granted by Order - the GPDO

Schedule 2, Part 1, Class E of the GPDO limits the height of such buildings that fall within 2m of a boundary, as is the case here, to a height of 2.5m<sup>3</sup> above ground level. This is equivalent to a single storey domestic building with minimum headroom provision and a nominal depth of roof structure. However, as built, the garage is some 0.6m higher than this and 0.34m higher than that which has express consent. Whereas I consider the additional width of the building is not of itself harmful, I consider this additional height to be cumulatively impactful in unacceptably dominating the adjacent private amenity space of No.54.

5. Whilst I have concluded that the impact of the works upon the character and appearance of the area is limited this cannot outweigh my overall conclusion which is that the variation in respect of the height of the garage from that approved under Ref 21/00146/FUL unacceptably harms living conditions of No.54 Durnford Road in conflict with Policy 6 of the Oadby and Wigston Local Plan 2019 (OWLP) which seeks high architectural quality and with guidance in the Oadby and Wigston Residential Development Supplementary Planning Document 2019 which seeks to avoid overbearing impact from development along side boundaries. Consequently, for the reasons set out and taking all matters raised into account, the appeal cannot succeed.

*Andrew Boughton*

INSPECTOR

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<sup>3</sup> Meaning the entire building if part of it falls within that distance