
Appeal Decision

Site visit made on 14 November 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2024

Appeal Ref: APP/M2840/W/24/3341143

49 Greening Road, Rothwell, North Northamptonshire NN14 6JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Gurdeep Bhamra against North Northamptonshire Council.
 - The application Ref is NK/2023/0783.
 - The development proposed was originally described as, an outbuilding to be converted into a habitable use for the family, which is located in the back of the rear garden. The outbuilding is of brick construction with a timber duo-pitch roof which has falls to the flank sides.
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Decision

1. The appeal is allowed and planning permission is granted to convert outbuilding to habitable accommodation at 49 Greening Road, Rothwell, North Northamptonshire NN14 6JB in accordance with the terms of the application, Ref NK/2023/0783, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Gurdeep Bhamra against the Council. This is subject to a separate decision.

Procedural Matters

3. The description of development in the banner has been taken from the original application form, excluding the property address and location from the description, as this does not describe the proposed development. Also, as the proposal relates to the change of use of the existing building and no external alterations are proposed to it, the existing appearance of the building is not necessary within the description. Therefore, I have simplified the description of development in my decision. No party would be prejudiced by such changes.
4. As asserted by the appellant, the appeal building was constructed in 2008 and, planning permission was granted for its retention under application ref NK/2021/0777, subject to conditions. The conditions include that the outbuilding should remain incidental to the enjoyment of the main dwelling, that the kitchen be removed within three months of the grant of planning permission and, removal of permitted development rights for any further outbuildings within the application site. Therefore, I have determined the appeal proposal on the basis the outbuilding itself has already been granted planning permission.
5. While the proposed internal floor plans, drawing no. 211008-P-0002 RO1 indicate that the outbuilding would be used as a gym and have a shower and WC, the appellant also indicates that the outbuilding would be used for habitable

accommodation for their family. I have had regard to this in reaching my decision.

6. At the time of my site visit the outbuilding was being used mostly for storage purposes, although, there was also a kitchen in one corner of the building, which includes a sink, laundry facilities and fridges in situ, which appeared to be in current use. Even though the kitchen is not shown on the proposed internal floor plans, the appellant is applying to use the outbuilding as primary living accommodation, and so could contain a kitchen and other facilities related to such use. Therefore, the internal layout of the outbuilding is superfluous to the overall change of use applied for.
7. Also, during my visit, I observed that a further timber outbuilding has been built in front of the appeal building. As asserted by the Council, this building is unauthorised. However, this building does not form part of the appeal proposal and so, falls outside the scope of this appeal.

Main Issues

8. While the Council had not determined the planning application prior to the submission of the appeal, it has subsequently set out that had it determined the application, it would have refused planning permission. The Council sets out that the proposed development would result in an additional unit for habitable accommodation in a rear garden location, uncharacteristic of the locality and intensify the use of the site, resulting in harm to amenity through more comings and goings in the rear garden. For such reasons, the Council considers the proposed development would be inappropriate and harmful to the surrounding area, in conflict with parts D and E (i) of Policy 8 of the North Northamptonshire Joint Core Strategy (July 2016) (JCS).
9. In view of the above, the main issues in this appeal are the effect of the proposed change of use of the outbuilding on the character and appearance of the surrounding area and the living conditions of occupants of neighbouring residential properties, with particular regard to the prevailing character of the area, the intensification of use and noise and disturbance caused by additional movements.

Reasons

10. The appeal site is within a predominately residential area, with the appeal outbuilding surrounded in all directions by neighbouring residential gardens. This provides a generally quiet and tranquil feel to the appeal site and surrounding area. While the appeal proposal does not propose any changes to the external appearance of the outbuilding, the scale and appearance of it is in keeping with the general character and appearance of other outbuildings typically found within the surrounding residential area. Therefore, visually, the outbuilding does not appear at odds with the prevailing character and appearance of the surrounding area.
11. Planning permission is not sought to create a separate independent dwelling, nor to sub-divide the planning unit, rather the appeal outbuilding is to be used as primary living accommodation ancillary to the use of the host dwelling. Furthermore, the appellant asserts that the outbuilding would be converted to a habitable room, to free up living accommodation, which cannot be reasonably accommodated within the main dwellinghouse for their family of five, which

would be used as secondary accommodation and not as primary living accommodation. Also, as the appeal outbuilding is existing, there would be no change to the form and layout of development within the appeal site. Therefore, on this basis, the proposal would not create a new separate dwellinghouse in the form of residential back land development.

12. The outbuilding is not unduly large and is of subservient scale to the main dwellinghouse, and access thereto would remain through the main host property and its garden area. If the outbuilding were to be subsequently used independently of the main host dwelling, then planning permission would be required for such, as it would no longer be an ancillary use.
13. The existing use of the outbuilding, associated with and incidental to the residential use of No 49, could include various activities that would generate a considerable level of movement associated with it, including, but not limited to, a home office, leisure, and hobby activities. Such activities could involve several daily trips to/from the outbuilding and, for example, could include the provision of a sink and toilet or other facilities associated with such uses. Therefore, using the outbuilding as part of the primary living accommodation for No 49 would unlikely significantly increase the level of comings and goings to the outbuilding compared to other incidental uses that could already be undertaken within it.
14. On the basis of the proposed ancillary use, the scale, form, and appearance of the outbuilding, and likely movements associated with the proposed use compared to its existing permitted use, the proposal would not be significantly different to that which already exists, so as to warrant refusal with regard to noise and general disturbance caused.
15. In view of the above, the proposed change of use of the outbuilding would not have a harmful effect on the character and appearance of the surrounding area or the living conditions of occupants of neighbouring residential properties, with particular regard to the prevailing character of the area, the intensification of use and noise and disturbance caused by additional movements. Therefore, I find no conflict with Policy 8 of the JCS, which, amongst other matters, requires development to respond to the site's immediate and wider context and local character, and to protect amenity by not resulting in an unacceptable impact on the amenities of neighbouring properties or the wider area by reason of noise, vibration, smell, light or other pollution, loss of light or overlooking.

Other Matters

16. While I acknowledge that the development undertaken within the appeal site has caused distress for the occupiers of neighbouring property, particularly as a result of the retrospective nature of development undertaken at the appeal site previously and, there are concerns raised that the proposal may impact property values. However, these matters relate to purely private interests and so, are not considerations I have given any weight to.
17. Concerns have been raised about the effect of the appeal building on daylight, that it lacks sustainable drainage and, that it covers a large proportion of the rear garden of the host property. Although, the appeal outbuilding is an existing building with a shower and toilet, with the benefit of planning permission and no external alterations are proposed thereto. Therefore, my decision on this appeal to change the use of the outbuilding would not alter or affect such aforementioned matters.

18. That No 49 may use the attic of the property and contain more than 3 bedrooms, contrary to that asserted by the appellant, does not alter my findings on the main issue, that the use of the outbuilding for ancillary purposes would not be harmful.

Conditions

19. The Council has suggested conditions, should I be minded to allow the appeal, which I have considered, making minor changes, where necessary, to ensure compliance with the tests contained within the Planning Practice Guidance (PPG) and the National Planning Policy Framework (the Framework). In addition to the standard implementation clause, it would be necessary in the interests of certainty to define the plans with which the scheme should accord.
20. To ensure the development is appropriate and carried out as applied for and to protect the living conditions of neighbouring occupiers, a condition is reasonable and necessary that the outbuilding is occupied wholly ancillary to the host dwelling. Additionally, in view of the relatively small garden area of the host property and, to protect the living conditions of occupants of the appeal outbuilding and neighbouring properties from undue loss of outlook, it would be appropriate and reasonable to remove permitted development rights for further buildings or enclosures incidental to the enjoyment of the dwellinghouse.

Conclusion

21. For the reasons given above, I conclude the appeal should be allowed and planning permission is granted.

C Billings

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the drawings and documents submitted with it, including Location Plan Planning Portal Reference PP-126776724v1, Block Plan, and Proposed Ground Floor Plan Ref 221008-P-0002 R01.
3. The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 49 Greening Road.
4. 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 development permitted by virtue of Class E of Part 1 of Schedule 2 of the Order shall be undertaken.

End of Schedule