



Appeal Decision

Site visit made on 28 January 2025

by N Kempton BAHons PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2025

Appeal Ref: APP/X4725/W/24/3352405

Elm Lodge, Cluntergate, Horbury, Wakefield WF4 5DB

- 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 by Mrs Yasmin Ravat on behalf of Alhambra Care Limited against the decision of Wakefield Metropolitan District Council.
 - The application Ref is 20/02211/S7302.
 - The application sought planning permission for the 'variation of condition 2 (time period for temporary permission) pursuant to approved application 20/02211/FUL dated 26.04.2021 which granted permission for the erection of single room garden cabin/outbuilding in courtyard (retrospective) to increase the time period for the cabin to remain on site'.
 - The condition in dispute is No. 2 which states that: The garden cabin pod hereby permitted shall be removed on or before the 26th April 2022 and the land restored to its former condition in accordance with a scheme of work which has first been submitted to and approved in writing by the Local Planning Authority.
 - The reason given for the condition is: In the interests of visual amenity and to avoid substantial harm to the setting of Elm Lodge Care Home, a Building of Local Interest and to accord with policies D9 and D19 of the LDF and the National Planning Policy Framework.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in December 2024. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by this.
3. Notwithstanding the description of development taken from the application form, it is clear from the evidence and appeal statement that the appellant is seeking the permanent retention of the garden cabin and so effectively wants to remove condition No.2, which restricts the development to a temporary period. I have determined the appeal on this basis.

Background and Main Issue

4. The original planning permission has been implemented, and the garden cabin is on site. Previously, planning permission was sought to vary condition No. 2 pursuant to 20/02211/FUL, to extend the period for the removal of the cabin by 2 years, until April 2024. This application was refused but subsequently allowed at

appeal in November 2022 (APP/X4725/W/22/3301899). The appellant now wishes to vary condition No. 2 pursuant to 20/02211/FUL to allow the garden cabin to remain on site permanently.

5. The main issue is the effect that varying the condition would have on the character and appearance of the area, including the non-designated heritage asset; and whether the adverse impacts of approving the variation of condition would significantly and demonstrably outweigh the benefits.

Reasons

Character and appearance

6. The garden cabin is prominently sited at the entrance to a self-contained cul-de-sac, comprised of detached residential dwellings, which are laid out in a close-knit arrangement. The dwellings, which are two storeys in height, of gabled form and constructed with light yellow brickwork, form a cohesive group, consistent in character, appearance and design detailing.
7. Elm Lodge Care Home is the principal property in this building group. It predates the dwellings, which are of much more recent construction by comparison. Elm Lodge is a non-designated heritage asset and a Building of Local Interest. Sited at the entrance to the cul-de-sac in close proximity to the road, it assumes prominence in the street scene by reasons of its age, scale and architectural features, including the canted bay windows. Elm Lodge occupies a plot which exceeds the size of neighbouring plots, with a carpark to the frontage and a small courtyard to the side. The garden cabin occupies this courtyard and is sited close to the site boundary to the front and the shared boundary to the side.
8. The garden cabin is sited forward of Elm Lodge. Its atypical, curved form and the dark colour of the material finish, affords the cabin visual prominence in the street scene. The cabin is in marked contrast to the traditional bay fronted stone built Elm Lodge, and the light-yellow brickwork of the surrounding dwellings. As such, the cabin fails to assimilate into its environs, rather it is obtrusive and appears incongruous due to its siting, form and external appearance. For these reasons, the cabin is harmful to the setting and significance of the non-designated heritage asset and detrimental to the character and appearance of the area.
9. Therefore, the permanent siting of the cabin would result in moderate harm to the character and appearance of the area, including the non-designated heritage asset.
10. Permanent retention of the cabin on site would be contrary to the following policies of the Wakefield Local Plan (2036) (LP): Policy SP23 requires new development to, amongst other things, conserve and enhance the district's historic assets and their contribution to the local distinctiveness and character of the district; Policy LP56 sets out a list of requirements for development proposals, including to respect, and where appropriate enhance, the character, function and overall quality of the locality in terms of design, scale, massing, height, density, layout, materials and colour over the lifetime of the development; Policy LP63 states that the district's heritage assets will be conserved in a manner appropriate to their significance; and LP65 states that proposals which would directly or indirectly remove, harm or undermine the significance of a non-designated heritage asset or

its setting will be permitted only where public benefits are considered to outweigh the harm.

11. It would also conflict with the Framework, which amongst other things, requires development to be sympathetic to local character and for heritage assets to be conserved in a manner appropriate to their significance.

Planning Balance

12. The cabin was initially placed on the site during the Covid 19 pandemic, to address the issues arising from the isolation/social distancing guidelines, whilst enabling visitors to see their elderly relatives. The circumstances have changed, and normal life has resumed. Whilst the evidence before me demonstrates that the cabin is in beneficial use, I do not consider that the harm arising from the permanent retention of this cabin to the character and appearance of the area, including the non-designated heritage asset, is justified. As such, I attribute this matter limited weight.
13. The aforementioned appeal (APP/X4725/W/22/3301899) was allowed. However, in that case, the Inspector was considering an extension of time for the removal of the cabin, to enable safe family and friends visiting to continue, for a temporary period. At that time, the Inspector acknowledged that Covid 19 remained a notable threat. The current appeal, which seeks permanent retention of the cabin, is not therefore directly comparable. On this basis, I attribute only limited weight this matter.
14. I note the previous Inspector's comments regarding overshadowing and visibility in relation to the established hedgerow and tree on the shared boundary. Based on the evidence before me and my observations on site, I see no reason to disagree with that Inspector's conclusion on this point. This does not in itself, however, mitigate the harm I've identified, as such, I attribute this matter limited weight.
15. I note concerns regarding the potential impact on the wellbeing of the elderly residents arising from the removal of the cabin, though I consider such an impact is likely to be limited to the short term and would recede once residents adjust to the change. Furthermore, the impact of this change could be minimised if managed sensitively. As such, this matter does not lead me to a different conclusion on the main issue and the policy conflict identified. I attribute this matter minimal weight.
16. Therefore, the limited benefits of the cabin would not outweigh the harm I have identified.

Conclusion

17. For the reasons given above the appeal should be dismissed.

N Kempton

INSPECTOR