
Appeal Decision

Site visit made on 21 January 2025

by N Kempton BAHons PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2025

Appeal Ref: APP/C2741/W/24/3350353

Land to the Rear of 34 Westpit Lane, York YO32 5RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Hare against the decision of City of York Council.
 - The application Ref is 23/01079/FUL.
 - The development proposed is described as 'the retention of the existing agricultural timber shed outside of the lawful residential rear curtilage of 34 Westpit Lane'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development was described as set in the above banner heading. However, retention is not an act of development and on my site visit I saw the shed in situ. I have therefore determined the appeal on the basis that retrospective permission is sought for the erection of a shed.
3. The Draft City of York Local Plan 2018 (LP) was submitted for examination on 25th May 2018. The most recent consultation on the Proposed Main Modifications took place between February and March 2023. The examination is still ongoing but only in respect of Gypsy and Traveller policies. Draft policies relevant to the determination of this appeal are not subject to further hearings. The Inspectors' final report is awaited. The Draft Plan is at an advanced stage having been through consultation and examination, and as such the policies can be afforded weight in accordance with paragraph 49 of the National Planning Policy Framework (the Framework).
4. The Strensall and Towthorpe Neighbourhood Plan was adopted in May 2023 and forms part of the statutory development plan for the City of York.
5. Since the determination of this application, the Government published a revised National Planning Policy Framework in December 2024. As a result, both parties were given the opportunity to comment on the amended Framework, and I have taken into account representations received.

Main Issues

6. The main issues are relevant to this appeal are:
 - the effect of the shed on the character and appearance of an area designated as Local Green Space;

- the suitability of the site for a shed having regard to flood risk.

Reasons

Character and appearance

7. Prior to the erection of the shed the appeal site was an open, undeveloped area of land beyond the rear garden of No.34 Westpit Lane, which was part of a larger area characterised as open meadow. The siting of the timber shed appears to extend the domestic curtilage into the open landscape and has eroded the undeveloped character and appearance of the land. This harm is exacerbated by the removal of the boundary delineating the extent of residential curtilage.
8. The introduction of hedging and fences has further domesticated the appearance of the land, eroding the distinction between domestic gardens along Westpit Lane and the open green space of the Foss Regional Green Corridor, diminishing the community value of this land.
9. Neither the existing vegetation, or the natural timber finish of the shed mitigate the harm arising from its bulk, siting and visibility. Changing the colour of the shed would not diminish the harm arising from its location. Offers to limit grass cutting, plant hedging and wildflowers would not offset the harm arising from the domestication of the plot. Whilst the plot of No.34 is small, and therefore the space available for a shed is limited, that is not a justification for placing it elsewhere beyond the boundary.
10. I have found that the development is harmful to landscape character and erodes community value through the loss of openness and the domestication of the land, which is designated as Local Green Space. There are no public benefits that outweigh the harms identified.
11. For these reasons, the development contravenes the objectives of emerging Policies D1, DP3, GI1, GI3 and GI5 in the Draft LP, which amongst other things, require development to respect its context and enhance and protect the city's green spaces in the interests of the community. I have found that the development also conflicts with policies CF2 and DH1 of the NP, which seek to protect Local Green Space.
12. Emerging Policy GI2 of the Draft LP is less relevant as it primarily relates to protected habitats. I have referenced only the Draft LP Policies that I consider to be most directly relevant to this appeal.

Flood risk

13. The appeal site is in Flood Zone 3, so there's a high probability of flooding, notwithstanding the appellant's assertion that there has never been a flood.
14. New development of any kind should not be put in Flood Zone 3. To do so would conflict with emerging Policy ENV4 of the Draft LP, which states that new development shall not be subject to unacceptable flood risk. It would also be contrary to the Framework's aim of directing development away from areas at highest risk of flooding.

Other Matters

15. I acknowledge the letter of support for the development. However, this support does not in itself lead me to a different conclusion on the main issues. The Council's handling of the application is not a matter for me to address in the context of this appeal, which is confined to consideration of its planning merits.
16. I understand that permission has been granted for some nearby sheds, but I am also aware that the local planning authority is taking action in respect of other unauthorised development in the area. However, I have determined the appeal on its individual merits.

Conclusion

17. I have found the shed to be harmful to the character and appearance of an area designated as Local Green Space. It is also unacceptable due to its location in an area at high risk of flooding.
18. The siting and appearance of the shed therefore conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
19. For the reasons given above, the appeal is dismissed.

N Kempton

INSPECTOR