



Appeal Decision

Site Visit made on 3 August 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 18th August 2021

Appeal Ref: APP/M2325/D/21/3272917

Brying Fern Nurseries, Bryning Fern Lane, Kirkham, Preston PR4 2BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Oliver Proniewicz against the decision of Fylde Borough Council.
 - The application Ref 20/0839, dated 18 November 2020, was refused by notice dated 19 January 2021.
 - The development proposed is Conversion of existing detached garage to a Hydrotherapy Suite, including raising of the existing roof and plant room extension to the rear.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The revised National Planning Policy Framework (the Framework) was published in July 2021. Consequently, I have had regard to it in my determination of the appeal.

Main Issues

3. The main issues are the effects of the proposal on:
 - i) The character and appearance of the area; and
 - ii) The living conditions of neighbouring residential occupiers, with particular regard to noise.

Reasons

Character and appearance

4. The appeal property is a substantial detached dwelling set back from the street in a large plot. It is a modern 2 to 3 storey dwelling with an imposing mock Georgian frontage and dormer roof extensions, finished in painted render with stone detailing. The detached garage, which would be converted, is to the rear of the property and it is finished in matching materials. It is in a primarily residential area characterised by detached dwellings in a range of styles, sizes and ages. It is separated from the rear of a traditional residential terrace that fronts Ribby Road by the pedestrian and vehicular access to The Willows, a social club with car park, which is to the rear of the appeal property.
5. The proposal would be a 2 storey building beneath a shallow pitched roof, and with an irregularly shaped single storey flat roof extension wrapping around it

- to the rear. The side elevation facing the garden would have ground and first floor windows and a door. The side and gable ends immediately facing the boundaries would be blank. Unlike the existing situation of garage doors, the gable end facing the road would be blank except for a small first floor window.
6. There would be no increase in the height of the ridgeline but the increased eaves height and the uncharacteristic shallow pitched roof would create a noticeably larger and bulkier building than the existing garage. Irrespective that it would be finished to match its host, the absence of vehicular doors and the predominantly blank and tall outward-facing elevations would set it apart from domestic garages and outbuildings elsewhere in the area. While it would clearly not be a garage, its function and its relationship to the dwelling would not be readily understood. Its large scale and unusual appearance would be conspicuous and discordant.
 7. Although to the rear of the plot, by virtue of the wide driveway to the side of the property and its siting close to the boundary, the proposal would be in a relatively open and prominent location. Consequently, the proposal would be visually obtrusive when viewed from the front of the property, and above the side boundary fence when viewed from locations in and around the access to The Willows and from the rear of the adjacent terrace. It would not make a positive contribution to sense of place or local distinctiveness and it would not add to the overall quality of the area. It would not contribute to the aims of the Framework including in relation to the creation of high quality, beautiful and sustainable buildings and places.
 8. My attention has been drawn to a planning permission (ref 06/0117) elsewhere in the street for the replacement of a domestic garage with a double garage with first floor annex accommodation. At the time of my visit, I observed that scheme is located, and it is clearly visible, to the side and rear of the host property in that case. It is undoubtedly a very large building but, unlike the proposal, it has a more readily relatable ancillary domestic function. Moreover, its matching materials, features and details, including windows, respond to the surrounding townscape group of dwellings. I am not aware of the particular circumstances of that case. However, it is a very different building to the appeal proposal, in a different visual context, and it was considered in an earlier planning policy context. It does not appear to provide a justification for the appeal scheme, which I have considered on its own merits.
 9. Therefore, the proposal would harm the character and appearance of the area. It would conflict with Policy GD7 of the Fylde Local Plan to 2032 Adopted October 2018 (the LP). This requires, among other things, that development should relate and respond well to its surrounding context, including in terms of massing, scale, design and proportion, taking opportunities to contribute positively to local character and distinctiveness. It would conflict with the design and visual amenity aims of the Framework.

Living conditions

10. There would be a heating and ventilation system and an internal plant room to the rear of the garage close to the boundary. Fresh air and exhaust would pass through external walls via weather louvres. The proposal would result in the generation of noise, at least during the times that the hydrotherapy pool was in use. I note the suggestion that there would be only a moderate level of noise within 6m of the proposal and therefore no adverse effects on neighbouring

residential occupiers. However, no substantive evidence or noise assessment has been submitted to demonstrate that the proposal would not contribute to unacceptable levels of noise pollution.

11. I am aware that planning permission (ref 21/0082) has subsequently been granted for extensions to the existing garage and alterations including the installation of external vents to enable conversion to hydrotherapy suite and associated plant room. Based on the description alone and in the absence of details, I cannot be certain that it is directly comparable to the appeal scheme including in terms of its ventilation arrangements. Nevertheless, the fact that the later scheme was approved appears to suggest that the Council's concerns in relation to noise could be overcome. On this basis and taking account of the scale and nature of the proposal, the distance to neighbouring dwellings, the surrounding context including social club and car park, and being mindful of the recommendations of the Council's Environmental Protection Officer, I consider this matter could be dealt with by condition.
12. The first floor windows in the side elevation would serve a full height room proposed for storage. Although the windows would be relatively well separated from the neighbouring property and its garden, nevertheless they would allow for greater overlooking than has previously been the case. However, harm through overlooking and loss of privacy could be avoided by obscure glazing to the first floor windows. This is a matter that could be dealt with by condition.
13. Therefore, subject to conditions, the proposal would not result in significant harm to the living conditions of neighbouring residential occupiers. It would not conflict with LP Policy GD7 which requires, among other things, that amenity will not be adversely affected by existing and proposed neighbouring uses. There would be no conflict with the residential amenity aims of the Framework.

Other Matters

14. There is evidence before me in relation to the personal circumstances of the appellant and his son, including medical conditions. The appellant has also drawn my attention to the Children Act 1989, which appears to relate to consideration of children's welfare through the courts. Irrespective, Section 149 of the Equality Act 2010 sets out that the particular medical conditions in this case are a protected characteristic for the purposes of the Act. Consequently, it is necessary for me to have regard to the Public Sector Equality Duty (PSED) contained in the Equality Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.
15. The appeal scheme would be a significant benefit to the appellant's son including in terms of pain management, health and mobility. However, third party representations suggest that there is a mobile hydrotherapy pool at the property and there is a permanent hydrotherapy suite at the school that the appellant's son attends. It has not been demonstrated that the proposal would be a significantly greater benefit than these alternatives. Irrespective, planning permission (ref 21/0082) for a hydrotherapy suite, which appears to be a valid fallback position at this site, suggests that similar benefits can be delivered by alternative schemes. Therefore, while I am sympathetic, the appellant's

personal circumstances are a matter which must carry limited weight in my consideration of the proposal.

16. The proposal would make a minimal contribution to the local economy during construction and operation. Neither this, nor compliance with the requirements of other policies in the LP and the Framework, including in relation to parking provision, carry any more than negligible weight in favour of the scheme.

Conclusion

17. I have found that, subject to conditions, the proposal would not harm the living conditions of neighbouring residential occupiers. However, it would harm the character and appearance of the area. Therefore, the proposal would conflict with the development plan and there are no material considerations, including the appellant's personal circumstances, that would outweigh the conflict.

Sarah Manchester

INSPECTOR