



Appeal Decision

Site visit made on 20 February 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 12.03.2024

Appeal Ref: APP/A2525/D/23/3334715

75 Bourne Road, Spalding, Lincolnshire PE11 1JR

- 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 D Roberts against the decision of South Holland District Council.
 - The application Ref H16-0727-23, dated 10 August 2023, was refused by notice dated 10 October 2023.
 - The development proposed is described as 'Removal of existing conservatory and replace with one and half storey extension (renewal of H16-1143-07) and proposed carport (retrospective).'
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Decision

1. The appeal is dismissed insofar as it relates to the carport.
2. The appeal is allowed insofar as it relates to the removal of existing conservatory and replace with one and half storey extension; and planning permission is granted for the Removal of existing conservatory and replace with one and half storey extension at 75 Bourne Road, Spalding, Lincolnshire PE11 1JR in accordance with the terms of the application, Ref H16-0727-23, dated 10 August 2023, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The one and a half storey extension hereby permitted shall be maintained in accordance with the approved plans, unless further planning consent is obtained from the Local Planning Authority:
 - 'Proposed Visuals,' Drg No, 3289-07, Undated, Drawn by Remway Design Ltd;
 - 'Proposed Floor Layout,' Drg No, 3289-06, Undated, Drawn by Remway Design Ltd;
 - 'Proposed Elevations,' Drg No, 3289-05, Undated, Drawn by Remway Design Ltd;
 - 'Proposed Block Plan,' Drg No, 3289-04, Undated, Drawn by Remway Design Ltd;

Preliminary Matters

3. The demolition of the existing conservatory and the erection of one and a half storey extension was seen to be appropriate and in accordance with the Development Plan as seen within the Planning Officer's Report. I note that the one and a half storey extension also does not feature within the Council's reasons for refusal, and that the only concern between both parties concerns

the erection of the carport. I have no reason to dispute the Council's opinion on the one and a half storey extension, and as such agree that the one and a half storey extension is in accordance with the policies of the Development Plan. As such, I will not deal with this development any further, but focus on the matter in contention concerning the car port.

4. Upon visiting the site, the carport frame had been erected and as such is retrospective. As such, I have made my decision on this basis. It is also noted that Reasons for Refusal No.2 and 3 relate to the same issue regarding design, character and appearance. Consequently, I will deal with both reasons for refusal together under the same matter.

Main Issues

5. Taking the above into account, the main issues are the effect of the carport upon:
 - The existing building and the character and appearance of the greater locality; and
 - The living conditions of No.73C/D Bourne Road, with particular consideration to access to light.

Reasons

Character and Appearance

6. The appeal site lies to the south of Bourne Road which contains a number of different periods of dwellings, with evidence of semi-detached Victorian dwellings located close to the footpath, and later infill development during the twentieth and twenty-first century which tends to have a greater setback from the footpath. There is some evidence of vegetation to front gardens and from glimpses between properties to vegetation in rear gardens, unfortunately much of this side of the road is dominated by hard paving and vehicular parking which presents a poor appearance to the street. The opposite side of road is somewhat the opposite, with dwellings having a larger setback and where vegetation is allowed to dominate giving a much more leafy feel to the street scene. This leads further along the road which contains a hedgerow to the road edge with mature trees behind which adds positively to the local distinctiveness, character and appearance of the locality.
7. The appeal site is experienced as part of the greater collection of infill buildings and spaces within the street scene and contains a one and a half storey dwelling of brown brick and gable fronting the street. The appeal dwelling has a relatively large setback from the footpath at the front boundary, with the front garden being completely hardstanding which compared to dwellings with large setbacks opposite, presents a poor appearance to the character and appearance of the street scene. This appearance is accentuated by the parking of vehicles to the front garden area which adds further clutter and negative aspects to the character, local distinctiveness and appearance of the area.
8. When considering development, the South East Lincolnshire Local Plan (LP) Policies 2 and 3 are design led policies which seek that proposals consider size, scale layout, relationship with other land uses; creating a sense of place, massing of neighbouring buildings and the surrounding area, amongst others.

Additionally the National Planning Policy Framework (the Framework) paragraph 135 seeks that applications adopt a design led approach and that developments are sympathetic to local character, including the surrounding environment.

9. Typically a car parking building such as a garage or carport would be a smaller subservient component to the main dwelling and as shown in the surrounding area where garages are small and subservient structures, and which are typically located to the side and rear of the dwelling, with the main frontage of the building, despite the setback, being the dominant form within the street scene.
10. The carport as constructed is very large and takes up much of the front garden area and would be unlike anything in the surrounding area. The carport would be unusual in its size, location, and dominance within the street scene which accentuates the poor appearance and clutter already experienced as a result of the hard standing and vehicular parking area. Whilst I agree that the use of timber is an appropriate material for such a carport, this does not overcome the dominant form and appearance of the car port which does not reinforce the positive character, appearance and local distinctiveness of the area.
11. Taking the above into account, and in conclusion of this matter, the carport would be harmful to the local distinctiveness, character and appearance of the area, and be contrary to LP policies 2 and 3 and additionally the Framework Paragraph 135.

Living Conditions

12. No.73 C/D is an apartment that is set forward within the plot compared to the appeal site. Unusually, the main and only window to the Kitchen/diner of the neighbouring property is within the front garden area of the appeal site and requires this third party land for its access to natural light. The carport, although having open sides, the roof does cause a significant amount of overshadowing and loss of light to this window of the neighbouring property, which is its only window.
13. I can appreciate the appellant's comments that there is already a deal of harm caused to the living conditions of this window as a result of cars parking right in front of it which likely cause, noise, fumes and blockage of some light. The appellant has presented a fallback position that they could erect a wall under the GPDO along the boundary of their site which would in-effect block out all light to the neighbouring window. Additionally, it has been put forward by the appellant that they are willing to accept the removal of permitted development rights for the erection of a wall should I allow this appeal and which the Appellant seeks me to consider as a material consideration to this scheme. There is no evidence that the Appellant would construct such a wall which would not serve any other purpose except to annoy the neighbour, and whilst I agree this scenario would be more detrimental than the current proposal in terms of overshadowing, and that the removal of permitted development rights would remove the threat of the appellant constructing a wall, it does not provide sufficient justification to depart from the policies of the Development Plan. Furthermore, the issue of living conditions is not the only matter which the development is contrary to when considered against the Development Plan, and hence this potential fallback position has little weight in my determination. Whilst I also appreciate that there already exists an amount of harm caused to

this neighbouring window by the parking of vehicles by the appellant, this does not provide justification that the existing harm is acceptable, or that it is appropriate to cause further harm.

14. Taking the above into account and in conclusion of this matter, the proposal would be detrimental to the living conditions of the neighbouring resident from a significant loss of light. The scheme is therefore contrary to LP Policy 2 and 3 which seeks that development not cause harm to the amenity of existing and neighbouring occupiers.

Conclusion and Conditions

15. For the reasons given above, I conclude that the appeal should succeed in relation to one and half storey extension. However, in relation to the carport, the appeal should be dismissed. As the car port is both physically and functionally severable, I consider a split decision would be a logical outcome.
16. In respect of the appeal being allowed, the Council has issued a list of recommended conditions which I have considered against the Framework and the National Planning Practice Guidance which advises that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
17. Suggested condition 1 is an approved plans condition, which is a standard condition which is necessary and for the avoidance of doubt as this provides certainty to the scheme which has been approved. A time limit condition in this respect is not required due to the development being retrospective.

J Somers

INSPECTOR