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# Appeal Decision

Site visit made on 18 January 2022

**by G Robbie BA(Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 January 2022**

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**Appeal Ref: APP/H4505/W/21/3285578**

**Hayfield House, 4 Whaggs Lane, Whickham, NE16 4PF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Philip McGuire against Gateshead Metropolitan Borough Council.
  - The application Ref DC/21/00019/HHA, is dated 11 January 2021.
  - The development proposed is the alteration and extension of the existing dwelling at ground and first floor level, construction of outbuilding, associated drainage and external works.
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## Decision

1. The appeal is allowed and planning permission is granted for the alteration and extension of the existing dwelling at ground and first floor level, construction of outbuilding, associated drainage and external works. at Hayfield House, 4 Whaggs Lane, Whickham, NE16 4PF in accordance with the terms of the application, Ref DC/21/00019/HHA, dated 11 January 2021, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Drwg No: 1010 Rev P02; Existing rear garden Drwg No: 1020 Rev P01; Proposed Drwg No: 1110 P10 and Proposed outbuilding Drwg No: 1160 Rev P05.
  - 3) The development hereby permitted shall be constructed entirely of the materials detailed and shown on the approved plans and which shall, in the case of the alterations and extensions to the existing house, be a match for those of the existing property.
  - 4) The development hereby permitted shall be carried out in complete accordance with the details set out in the 'Arboricultural Impact Assessment' (Dendra Consulting Ltd) dated 22 July 2021 (Ref: McGuire\_HayfieldHouse\_AIA1.1).

## Preliminary Matters

2. Although I have not been supplied with copies of the development plan policies referred to by the Council in their officer report, I am familiar with their content by virtue of other cases within the borough that I am dealing with. I have also amended the development description slightly but in doing so I am satisfied

that no party would be disadvantaged. I have determined the appeal accordingly.

### **Background and Main Issues**

3. This appeal derives from the Council's failure to give notice of a decision within the prescribed period. Had the Council determined the application they would have approved it subject to conditions. Thus, the officer report identifies character and appearance, highways matters and living conditions as the main issues in the consideration of the application, before concluding that there would be no harm arising in these respects. As a consequence, there are no contested matters between the main parties.
4. Nevertheless, an interested party has raised objections to the proposal, and in particular the outbuilding, on a number of grounds. I therefore consider the main issues in the determination of this appeal to be the effect of the proposed outbuilding, upon:
  - The living conditions of occupiers of neighbouring properties, with particular regard to privacy and noise and disturbance;
  - Trees and hedges; and
  - Drainage.

### **Reasons**

#### *Living conditions*

5. The design of the outbuilding was revised during the course of the Council's consideration of the planning application and prior to the submission of this appeal. It is not a particularly large building with a footprint roughly the size of a double garage. However, in addition to the building's footprint, its roof would also provide a covered area over a decking area at the side and front of the garden room.
6. It would be located some way from the rear Hayfield House but, by virtue of the layout of surrounding properties, closer to the neighbouring properties on Hayfield Lane and Cornmoor Road than to the appeal property itself. However, the outbuilding would effectively turn its back on the closest of the Cornmoor Road properties. With a blank rear elevation and extended rear wall to the covered decking area, I am satisfied therefore that there would be no adverse impact in terms of privacy or overlooking to the closest Cornmoor Road property to the rear.
7. With regard to properties on Hayfield Lane, the glazed side elevation would face towards the hedge and shrubs separating the appeal property from those on Hayfield Lane. The existing hedge, although dense and substantial for most of its length along the garden plot's southern boundary, does become patchy towards the rear. However, the garden room building itself would be a reasonable distance from the southern garden boundary, whilst a combination of the hedge and a timber fence would mitigate concerns regarding privacy and overlooking, and activity carried on within and around the garden room.
8. I have carefully considered the concerns of a neighbouring resident regarding the potential for noise and disturbance to arise from the use of the garden room, and particularly its use as a social and entertaining space. However, I

am satisfied that the measures and circumstances noted above would not be excessively felt or out of keeping within a residential setting and context.

9. For these reasons therefore, I am satisfied that the proposal would not result in negative impacts upon the residential amenity and living conditions of occupiers of neighbouring properties, with particular regard to noise, disturbance and privacy. There would be no conflict with Core Strategy<sup>1</sup> (CSUCP) policy CS14 or policies MSGP17 or MSGP24 of the 'Making Spaces for Growing Places' Site Allocations and Development Management Policies (DMP) as a consequence.

#### *Trees and hedges*

10. A small group of trees and shrubs, including laurel and holly, would be removed to facilitate the construction of the building and covered decking area. Whilst this group has some value in providing screening between the appeal property and the adjacent garden area, I agree with the conclusions of the appellant's 'Arboricultural Impact Assessment'<sup>2</sup> (AIA) that it has low arboricultural value and is not a significant contributory presence to the otherwise verdant sylvan rear garden setting of this and other properties.
11. The AIA considers the position of trees, shrubs and hedges relative to the proposed garden room and sets out mitigation measures appropriate and proportionate to a modest domestic outbuilding and area of decking. The removal of the group of vegetation referred to in the AIA would not compromise the prevailing character of pleasant and well-stocked garden areas where there is otherwise strong tree, hedge and shrub cover, particularly along and close to boundaries between properties. There would be no conflict with CSUCP policies CS14 or CS15, or with DMP policies MSGP17 or MSGP24 as a consequence.

#### *Drainage*

12. The proposed outbuilding would, it has been suggested by a neighbouring resident, be sited in an area prone to flooding. The area towards the rear of the existing garden is lower than other areas of the garden which are closer to Hayfield House and there appears to be a low-lying area former pond or ditch to the west of the proposed outbuilding's intended location.
13. However, the building itself would be modestly scaled and proportionate to the nature, scale and character and of its domestic setting. The appellant has clarified intentions in terms of a soakaway and water-butt interception of rainwater run-off from the roof. I find the measures to be appropriately proportionate to this element of the proposal and, as such, there would be no conflict with CSUCP policy CS15 or with DMP policies MSGP17 or MSGP24.

#### **Other Matters**

14. The proposal also sets out a range of works of alteration and extension to the main house, to which there is no dispute between the appellant and the Council. Nor are any objections raised to these elements of the proposal by the interested party. Having carefully considered these other elements of the

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<sup>1</sup> Core Strategy and Urban Core Plan for Gateshead and Newcastle (CSUCP)

<sup>2</sup> Arboricultural Impact Assessment' dated 22 July 2021: Dendra Consulting Ltd (Ref: McGuire\_HayfieldHouse\_AIA1.1)

proposal I agree, and there would be no harm arising in terms of character and appearance, highways matters and living conditions and no conflict with CSUCP policies CS13, CS14 or CS15 or DMP policies MSGP15, MSGP17 or MSGP24.

### **Conditions**

15. The Council seek to rely upon the suggested conditions attached to their delegated officer report. I have considered these conditions in light of the Framework and Planning Practice Guidance.
16. I agree that time limit and plans conditions are necessary and reasonable, and I have imposed these conditions in the interests of good planning and to provide certainty. A materials condition requiring the use of the materials specified on the plans and to match the main house, where applicable, is also reasonable and necessary albeit with slight revision to the wording of the suggested condition as set out in my decision, above.
17. The suggested condition regarding foundation details lacks precision, clarity and an 'implementation clause' for the required works and details. However, I have attached, with amendments, a condition to ensure compliance with the submitted AIA and the mitigation measures set out therein. As this sets out the arrangement for foundation construction within its mitigation measures and details, I am satisfied that in so doing, neither the Council nor the appellant would be disadvantaged. The condition is necessary and reasonable in order to ensure the appropriate protection of trees in the vicinity of the proposed outbuilding.

### **Conclusion**

18. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

*G Robbie*

INSPECTOR