



PETER GEORGE TOWN PLANNING

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Planning Inspectorate
Temple Quay House
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Dear Sir/Madam,

Final Comments

Appeal by Mr Sajjad Fozi

Appeal Ref: 6007281: 17 Bedford Road, Ickleford, Hitchin, SG5 3XH

The appellant has reviewed the Council's Statement of Case and wishes to make the following final comments.

The Council's Statement of Case

The appellant notes that the Council's Statement of Case advances a considerably more detailed justification for refusing the Certificate than was contained within the delegated report.

The delegated report principally relied upon the scale of the proposed outbuilding, concluding that because its footprint exceeded that of the host dwelling it could not be regarded as incidental. The Statement of Case now seeks to rely upon a number of additional matters including:

- the relationship of the building with the highway;
- the internal floor area being capable of accommodating a two-bedroom dwelling;
- the parking arrangements;



- the degree of visual separation from the dwelling;
- the existence of an earlier outbuilding; and
- the absence of any justification for an additional outbuilding.

Whilst the Council is entitled to defend its decision, the appellant respectfully submits that these matters either did not feature within the delegated report or are developed significantly beyond the reasoning relied upon when the application was determined.

The appeal should therefore be determined upon the planning merits rather than by reference to reasoning developed after the decision had already been made.

Description of the Proposal

The Council accepts that the delegated report incorrectly described the proposal as an “*art studio and maintenance workshop*”, explaining that this was simply an administrative error.

The appellant accepts that administrative errors can occur. However, the issue is not merely that an error existed. The error appears within the section of the report describing the proposal itself and therefore goes directly to the factual basis upon which the application was assessed.

The delegated report remains the contemporaneous record of the Council's reasoning. The Council has produced no evidence to demonstrate that this error had no bearing upon the assessment, merely asserting that the correct plans were considered.

Given that the central issue is whether the proposed building would be incidental to the enjoyment of the dwellinghouse, an accurate understanding of the proposed use of the building was plainly fundamental to that assessment.

The Proposed Driveway Extension

The application sought a Certificate of Lawfulness for two separate operations: a) the erection of a detached outbuilding; and b) the extension of the existing driveway.

The appellant maintains that the delegated report contains no meaningful assessment of the proposed driveway extension and the decision notice reaches no separate conclusion in respect of that element of the proposal.



The Council now states, for the first time, that no split decision was issued because the two elements were considered not to be physically and functionally severable. That explanation appears nowhere within either the delegated report or the decision notice.

The appellant respectfully submits that this explanation represents a retrospective justification advanced during the appeal rather than the reasoning upon which the application was determined.

Conclusion

For the reasons set out within the appellant's Statement of Case, together with these final comments, the appellant respectfully submits that the Council's decision should not be upheld.

Furthermore, the matters identified above also reinforce the appellant's separate application for an award of costs. In particular:

- the failure properly to assess all elements of the application submitted;
- the factual error within the delegated report describing the proposal;
- the absence of any explanation within the original decision for the alleged lack of severability; and
- the substantial expansion of the Council's reasoning during the appeal process.

Taken together, these matters demonstrate that the appeal has been required, at least in part, because of deficiencies in the Council's decision-making process rather than simply because of a legitimate difference of planning judgement. The appellant therefore respectfully maintains that the application for an award of costs should also succeed.

Yours sincerely,

Tom Donovan BA (Hons) MA MRTPI, Director

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