

Appeal Decision Notice

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Decision by Karen Black, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2149
- Site address: 18 Woodlands Way, Westhill, Inverness, IV2 5DN
- Appeal by Alexander Beattie against the decision by The Highland Council
- Application for planning permission 15/04092/FUL dated 31 October 2015 refused by notice dated 18 December 2015
- The development proposed: erection of summerhouse (retrospective)
- Application drawings: 000001 and 00002
- Date of site visit by Reporter: 16 May 2016

Date of appeal decision 31 May 2016

Decision

I allow the appeal and grant planning permission subject to the following condition:

1. The existing clear glass on the side elevation window of the summerhouse shall be replaced with obscure/opaque glass, all within two months of the date of this consent.

Reason: In the interests of protecting the amenity of neighbouring properties.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan the main issues in this appeal are the impact on residential amenity of adjoining properties; in particular matters relating to (a) the height and massing of the building, (b) the impact on sunlight and overshadowing of neighbouring gardens and (c) overlooking and impact on privacy from the side window of the summerhouse.
3. The statutory development plan is the adopted Highland-wide Local Development Plan 2012 and policy 28 is relevant to my consideration of the proposal. Bullet points seven and ten in particular, make reference to the need to assess the extent to which development proposals impact on individual and community residential amenity and demonstrate sensitive siting and high quality design.



Height and massing

4. It was apparent from my site inspection that the summerhouse has already been erected in the rear garden of this 2 storey detached property. I noted the steeply sloping nature of the housing development as a whole, and that most, if not all the gardens on Woodlands Way sit at a considerably higher level than those on Woodlands Grove to the rear. The summerhouse is positioned 0.8 metres from the 1.8 metre high fence on the rear boundary with properties at 11 and 15 Woodlands Grove. The height of the summerhouse on the rear boundary at 3.7 metres is 0.8 metres higher than the front of the building due to underbuilding to support the structure on the sloping part of the garden.

5. In assessing the impact the height and massing of the summerhouse has on neighbouring properties, I viewed the summerhouse from the rear garden and patio areas of both 11 and 15 Woodlands Grove. The summerhouse is visible above the existing rear boundary fencing, which itself is constructed above an existing retaining wall on the rear boundary of these properties. It is constructed in a lighter coloured timber to that of the fencing and protrudes above the fencing at a similar height to the fencing itself.

6. I accept that the summerhouse being close to the boundary is quite dominant when viewed from within the neighbouring gardens. I have also considered the height of the building when viewed along the skyline from the gardens of numbers 11 and 15 Woodlands Grove. Comparing the height of the summerhouse against the skyline and the top of the roof of the appellant's house on Woodlands Way it appeared to me that there is no discernible difference between the two. I was also able to view the summerhouse from the public footpath running to the east of number 11 Woodlands Grove, and although visible above the existing garden fences, again the summerhouse appeared no higher than the existing houses on Woodlands Way against the skyline.

7. I have also taken account of the council's reference to 'permitted development' rights, in particular points raised that had the building had been located more than one metre away from the boundary the summerhouse would have benefitted from permitted development rights under planning legislation. However, I must consider the proposals as submitted. I would conclude that overall, the height and massing of the summerhouse are not so substantial as to warrant refusal of the application.

Sunlight and overshadowing

8. In assessing the effects of the summerhouse on sunlight and overshadowing of gardens in Woodlands Grove it was evident from my site inspection, which took place on a reasonably bright early summer afternoon, that there was no adverse impact on sunlight or overshadowing into the rear gardens. I have considered this issue in the context of when residents are more likely to be using gardens and patio areas in the summer months. I am satisfied therefore that there is no adverse impact in this respect.

Privacy

9. At my site visit I was also able to view the neighbouring properties from the upstairs room in the appellant's property and also from inside the summerhouse itself. From the

upstairs bedroom, I could see the upper floor windows of the properties at 11 and 15 Woodlands Grove but was not able to view any of the garden ground of either property.

10. From inside the summerhouse my view of the garden area of number 15 Woodlands Grove from the window of the summerhouse was obscured to a certain extent by the rear boundary fencing. The proximity of the window to the boundary with number 15 Woodlands Grove did however afford an opportunity to view some of the garden area over, and through the fencing. Views into the garden of the property to the west at Hillside Drive were also possible. No views were available into the garden of number 11 Woodlands Grove.

11. Taking all this into account, I would agree that the window on the west elevation of the summerhouse increases the potential for overlooking into neighbouring properties and has an unacceptable impact on the privacy and residential amenity of these properties. I agree with the council however, that this issue can be addressed by the installation of opaque/obscure glazing to the side window of the summerhouse to prevent overlooking and to protect the privacy of neighbouring properties. I propose therefore to include that requirement as a condition to granting planning permission.

Other matters

12. Whilst I understand the concerns of neighbours that the works have taken place in advance of planning permission being granted, for the purposes of the appeal I must assess the proposal in the same way as if the summerhouse had not been already erected. In such circumstances it is open to the council to serve an enforcement notice to require the removal of the building. I have no information before me to suggest that such action has been taken by the council.

13. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Karen Black

Reporter