

DELEGATED

AGENDA NO

PLANNING COMMITTEE

8th June 2022

**REPORT OF DIRECTOR OF FINANCE,
DEVELOPMENT AND BUSINESS SERVICES**

22/0541/RET

**Retrospective application for the erection of ancillary building to rear garden.
8 Fox Covert Close, Wynyard, Billingham**

SUMMARY

The application site relates to a two-storey detached property situated on Fox Covert Close in Wynyard. To the east is 7 Fox Covert Close, to the south is 4 and 5 Fox Covert Close and to the west is 9 Fox Covert Close.

The retrospective application is for the erection of an ancillary outbuilding to the rear garden. The outbuilding measures approximately 7.36m x 6.36m with a height of approximately 2.56m (measured from the highest point of the garden adjacent to the building). At the southern elevation, the height is approximately 2.66m due to the slope of the garden. The outbuilding includes a raised decking area to the front which includes a hot tub. Internally there is a gym, play area, bar and seating area.

Two objections have been received, along with one letter of support and these are summarised within the main body of the report below.

The application is required to be determined by the Committee in accordance with the scheme of delegation as the occupier of the application site is related to a member of staff within the planning department.

The main considerations are the character and appearance of the area and amenity of neighbouring occupiers. The development is situated within the rear garden of a modern development and would not be highly visible from the street scene. The outbuilding is a modern design, and this type of development has become increasingly popular in residential properties. Whilst not strictly in line with the SPD in terms of its design, in the context of this modern housing estate and a similar outbuilding in a neighbouring garden, the outbuilding does not have a detrimental impact on the character and appearance of the area.

In terms of amenity, it is not considered that there would be a significant impact in terms of overshadowing or overbearing impact, and whilst there would be some loss of privacy to neighbouring properties and potential noise disturbance, this is not considered significantly detrimental to warrant refusal of the application in this instance.

The application is recommended for approval subject to conditions as set out below.

RECOMMENDATION

Planning application 22/0541/RET be approved subject to the following conditions and informatives:

Approved plans

01 The development hereby approved shall be in accordance with the following approved plans;

Plan Reference Number	Date Received
SBC0001	28 February 2022
2021/09/01A	28 February 2022
2021/09/02D	21 April 2022
2021/09/03C	28 February 2022
2021/09/04B	28 February 2022

Reason: To define the consent.

Use of the building

02. Notwithstanding any description contained within the application, the hereby approved development shall be solely used for purposes connected to the enjoyment of the occupants of the residential dwelling at 8 Fox Covert Close, Wynyard, Billingham, TS22 5TT and for no other purpose and shall remain part of a single planning unit.

Reason: To enable the Local Planning Authority to retain control over the development.

INFORMATIVES

Informative: Working Practices

The Local Planning Authority found the submitted details satisfactory subject to the imposition of appropriate planning conditions and has worked in a positive and proactive manner in dealing with the planning application.

Informative; Smoke Control

Although the property is not within a smoke control area we would informally request that the occupant complies with the following information in order to minimise the likelihood of complaints regarding smoke emissions:

- Burn authorised fuels- a list of these can be found on the following link <http://smokecontrol.defra.gov.uk/fuels.php?country=e>
- Install a DEFRA approved appliance; a list of these can be found on the following link <http://smokecontrol.defra.gov.uk/appliances.php?country=e>
- The appliance is to be installed by an approved contractor and certificates of the work to be submitted to the Local Authority.

BACKGROUND

1. A complaint was received from a member of the public regarding the outbuilding. A site visit was carried out by planning officers and it was observed that the outbuilding was nearly completed, and the applicant was advised that it would need planning permission and invited the occupier to submit an application.
2. The application is required to be determined by the Committee as in accordance with the scheme of delegation; applications to be determined by the Planning Committee include those cases which involve development on land owned, or in which an interest is held, by a Council Member (or their spouse/partner) or by any member of the Council staff (or their spouse/partner). In this case, a member of staff within the planning department is related to an occupier of the application site.

SITE AND SURROUNDINGS

3. The application site relates to a two storey detached property situated on Fox Covert Close in Wynyard. To the east is 7 Fox Covert Close, to the south is 4 and 5 Fox Covert Close and to the west is 9 Fox Covert Close.

PROPOSAL

4. The proposal is for retrospective planning permission for a detached outbuilding in the rear garden of 8 Fox Covert Close.
5. The outbuilding measures approximately 7.36m x 6.36m. The height of the building measures approximately 2.56m (measured from the highest point of the garden adjacent to the building). At the southern elevation, the height is approximately 2.66m due to the slope of the garden.
6. The building is constructed in cedar cladding with a flat roof, and fenestration to the side elevation including door, bi-fold door and window, and to north elevation there are two windows.
7. The outbuilding includes a raised decking area to the front which includes a hot tub. Internally there is a gym, play area, bar and seating area.
8. A revised site plan was sought from the application as the originally submitted plan did not accurately reflect the decked area or the proximity to the neighbouring boundary.

CONSULTATIONS

9. The following Consultations were notified and any comments received are set out below (in summary):-

Highways Transport & Design Manager – No comments

PUBLICITY

10. Local residents have been individually notified of the application.

Letters of objection were received from the following addresses and a summary of the comments received are set out below. 2 objections were received in total.

4 Fox Covert Close Wynyard
5 Fox Covert Close Wynyard

11. The main concerns raised were: -
 - Loss of privacy
 - Overbearing
 - Drainage
 - Encroachment
 - Overshadowing
 - Devaluation of property
 - Quality of building materials
 - Breach of restrictive covenants
12. Comments have also been received from The Friends of Wynyard who have requested that the letter of support is struck from the records due to the fact that a similar building has been erected to the rear of 9 Fox Covert Close and have also requested that enforcement action is taken against 9 Fox Covert Close on account of the erection of a building without planning

consent. Furthermore, they have requested that the extent of neighbours consulted on the application be enhanced as they state the building has a visual impact across a much wider area and not just adjoining properties and that a number of households are impacted by noise from the building.

13. One letter of support was received from the following addresses and a summary of the comments received are set out below.

9 Fox Covert Close Wynyard

14. The main reasons for support were: -
- In keeping with the area
 - No impact with regard to loss of light
 - Add to property values

PLANNING POLICY

15. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Borough Council Local Plan 2019.
16. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

National Planning Policy Framework

17. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
18. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
- approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
19. **Paragraph 130.** Planning policies and decisions should ensure that developments:
- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

(e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

(f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users ⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Local Planning Policy

20. The following planning policies are considered to be relevant to the consideration of this application

Strategic Development Strategy Policy 3 (SD3) - Housing Strategy

7. Proposals for all domestic extensions will be supported where they are in keeping with the property and the street scene in terms of style, proportion and materials, and avoid significant loss of privacy and amenity for the residents of neighbouring properties.

Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

- a) The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:
- i) Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
 - ii) Landscape character of the area, including the contribution made by existing trees and landscaping;
 - iii) Need to protect and enhance ecological and green infrastructure networks and assets;
 - iv) Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
 - v) Privacy and amenity of all existing and future occupants of land and buildings;
 - vi) Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;
 - vii) Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
 - viii) Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.
- b) New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.

- c) All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.
- d) New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.

MATERIAL PLANNING CONSIDERATIONS

21. The main planning considerations of this application are impacts on the character and appearance of the area and amenity of neighbouring occupiers.

Character and appearance of the area

22. The NPPF seeks that planning decisions are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Furthermore, Policy SD8 of the local plan states that the Council will seek development proposals to be designed to the highest possible standard, taking into consideration the context of the surrounding area.

23. The householder extensions and alterations SPD states that 'proposals should be designed to complement and enhance the character of the street and the wider area as well as the property. Any extensions should be located and designed to minimise the impact upon neighbouring properties.' Furthermore, 'detached outbuildings and garages should be designed with a roof shape that fits in well with the main property and flat or mono-pitched roofs will rarely be considered appropriate.'

24. Objections have been received from two households. The objectors have concerns regarding the outbuilding in terms of its scale, design and materials being out of character with the host dwelling and the surrounding area and consider it as overdevelopment of the plot.

25. In considering the proposed visual impacts of the proposed development, whilst there are some views of the outbuilding from public areas, it is largely screened by other built development, views of the structure are therefore mostly from the neighbouring residents.

26. The proposed outbuilding is a modern flat roofed structure with cedar cladding and black trim/window detailed. The building provides additional covered ancillary spaces for the residents of the property and such structures are increasingly popular additions to residential properties at present.

27. In terms of the design and materials used, whilst these do not match the host dwelling, the use of timber within the garden outbuildings is not an uncommon materials. In this instance the cedar cladding and flat roof are not considered to be so harmful to the overall character of the area that it would result in an incongruous feature that would warrant a refusal of the application.

28. With regards to the flat roof of the building, whilst this design is not strictly in line with the guidance in the Design SPD, such flat roof structures are increasing becoming a modern feature within garden areas, largely as a result of permitted development rights. As with any development proposals, they must be considered within the context and setting of the surroundings. In this instance the property is located within a modern housing development and taking into account the similar outbuilding in the neighbouring garden (no9), that the flat roof design is not incongruous when taking into account the modern design of the building overall. It is therefore considered that on balance it does not detrimentally impact upon the character of the area or the host dwelling to an unacceptable degree.

29. This housing estate is characterised by relatively spacious plots, and the outbuilding although large, does not exceed 50% of the outside space. Given that the outbuilding provides a covered amenity space to be enjoyed by the residents and there is an external area remaining within the rear of the property, it is not considered that the outbuilding has led to an overdevelopment of the site.

Amenity

30. The outbuilding is positioned close to the boundary with 4 and 5 Fox Covert Close situated to the south. A site visit confirmed that it does not overhang the boundary and at its closest point the side elevation of the outbuilding is approximately 360mm off the boundary fence. Objections have been received from residents of both these properties for the following reasons: loss of privacy from decking and fenestration, overshadowing and overbearing impact, the use of the outbuilding causing noise disturbance and impact on air quality.
31. To clarify comments regarding the height of the building adjacent to 4 and 5 Fox Covert Close, for the purposes of the permitted development rights legislation, where the ground level is not even, the outbuilding is measured from the highest point of the ground adjacent to the building in question, and as the garden slopes down gently, the outbuilding is higher on the side adjacent to 4 and 5. At the highest part of the ground the outbuilding is approximately 100mm higher than what would be permitted under schedule 2, Part 1, class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.
32. In terms of its overbearing and overshadowing impact on no5, whilst the side elevation of the building at approximately 2.7m is higher than the boundary fence, it runs along the boundary with this property for approximately 5.6m and taking into consideration the overall plot size it is not considered that there is an overbearing impact on this property. The outbuilding is positioned to the north of this property, and therefore any impact of overshadowing would be limited and does not cause a significant loss of amenity to this property.
33. With regard to loss of privacy to no5, the fenestration does not face the rear amenity space or windows of this property and so there is no overlooking from inside the outbuilding. There are some views from a small area of the decking to this neighbouring property, however the majority of the decking does not face this property, and whilst there is some loss of privacy, on balance it is not considered to be a significant loss of amenity to this property and its residents.
34. With regard to the loss of privacy to no4, although partially screened by the boundary fence, it is acknowledged that there is some overlooking from the decking and from the fenestration of the outbuilding. However, the fenestration does not directly face windows to habitable rooms or the rear garden. Whilst there is some impact in terms of overlooking from the decking, a similar impact could be created from decking or another raised platform constructed in the garden independent of the outbuilding without the need to apply for planning permission. It is also the case that due to the slope of the garden towards the rear fence, the same or even greater height could be achieved, as the height is measured from the highest part of the ground adjacent to the decking. Such factors mean that overall, whilst there is some impact to the neighbouring property, it is not so significant that it would justify a refusal of the planning application.
35. In terms of its overshadowing and overbearing impact to no4, the outbuilding is positioned so that only a small length of the side elevation is adjacent to this boundary (approximately 800mm, whilst it is clearly noticeable from this property, given the size of the overall plot of this neighbouring property, it is not considered to cause an overbearing impact that causes a significant loss of amenity to this property. Taking into account the orientation of the

outbuilding to the north east of no4, any overshadowing impact is limited and does not cause a significant loss of amenity to this property.

36. In terms of the impact on other neighbouring properties, the outbuilding is close to the boundary with no7 to the east, however taking into account the position of this neighbour's garage, it largely screens the outbuilding from this neighbour's main rear amenity space and rear windows, and is therefore not considered to cause a significant loss of privacy or amenity to this property.
37. With regard to the impact on no9 to the west, this neighbour has recently built an outbuilding close to the boundary with the host property, taking this into account as well as the position of the detached garage, these buildings together mainly screen the outbuilding from the rear amenity space and dwelling, and therefore it does not cause a significant loss of privacy or amenity to this property.
38. With regard to the impact of noise and air quality on neighbouring properties. It is acknowledged that the outbuilding may lead to increased usage of the outside space and may increase noise as a result, particularly from the external decked area and outdoor hot tub. However, a similar impact could be created from the patio area and remainder of the garden, and a hot tub could be installed on its own without the need for planning permission. Whilst the outbuilding is closer to the properties to the rear than the patio area and patio doors of the main dwelling, it is not considered that the noise impact would be significantly worse as to warrant refusal of the application in this instance.
39. In terms of air quality, whilst no flue is detailed on the elevations, the floor plan shows a stove to be installed, and any flue would need to comply with permitted development limits otherwise planning permission would be required. Whilst this area is not in a smoke control area, the applicant is advised by the above informative to burn authorised fuels and install a DEFRA approved appliance.

Other matters

40. As advised by Natural England, householder extensions and outbuilding are considered not to increase population and are therefore outside of the scope for Nutrient Neutrality. No further consideration of this matter is therefore required.
41. With regard to the concerns raised by neighbours about drainage, the application site is not within flood zone 2 or 3 and considering this is a minor development, The applicant is not required to provide any further details regarding drainage as part of the planning process. Any additional connections to the drainage network would need any necessary approvals with the relevant authorities i.e. Northumbrian Water.
42. Letters of objection have raised the issue that the outbuilding may lower property values. The impact of a development on property values is not a material planning consideration and therefore cannot be taken into account when considering the application.
43. Letters of objection have mentioned restrictive covenants written into the deeds of the properties on this development, however this is a separate civil issue. Such matters may require independent legal advice but it is not the role of the Local Planning Authority to enforce any covenants.
44. Other matters raised in relation to building control are a separate regulatory process and cannot be considered as part of the planning process.

45. With regard to the comments from The Friends of Wynyard in respect of the letter of support received from 9 Fox Covert Close, this neighbouring property was notified as part of the consultation process as a neighbour and whether they have a similar structure or not, is not a reason exclude any comments received.
46. In terms of The Friends of Wynyard's comments on the extent of the consultation, it is a matter of course that those neighbouring properties directly affected by a proposal are consulted on the application, If it is deemed necessary, other neighbours may also be consulted. In this instance, following a site visit from the case officer, it was not considered necessary that any further consultation would need to be carried out. The levels of consultation is therefore considered to be appropriate and sufficient.
47. With regard to taking enforcement action against 9 Fox Covert Close, the Council has already investigated this building and at the time of the site visit were satisfied that the building complied with permitted development legislation. Consequently it falls outside of planning control; and no further action can be taken on the matter. Should the Council be made aware of any further alterations in terms of its structure or use, then further investigations would be carried out.

CONCLUSION

48. The application seeks retrospective planning permission for the erection of an outbuilding in the rear garden of 8 Fox Covert Close, Wynyard. The outbuilding is a modern design providing additional ancillary living space for the occupiers of the host dwelling. On balance, the style, proportion and materials are not considered to introduce an incongruous feature into this modern development. Taking into account the remaining amenity space, it is also not considered as overdevelopment of the site.
49. In respect of the impact on the amenity of neighbouring properties, the development causes some loss of privacy to neighbouring properties to the south, however this is not considered to be so significant, to warrant refusal of the application in this instance. It is also considered not cause a significant loss of amenity in terms of overbearing or overshadowing impact of neighbouring properties.
50. The outbuilding by virtue of its scale, proportions and design, is not considered to cause a detrimental impact to the character and appearance area. Furthermore, in respect of residential amenity, the outbuilding does not cause a significant loss of amenity or privacy to neighbouring properties.
51. In view of the above, it is therefore recommended that the application be approved subject to those conditions set out within the report.

Director of Finance, Development and Business Services
Contact Officer David Richards Telephone No 01642 526058

WARD AND WARD COUNCILLORS

Ward Northern Parishes
Ward Councillor John Gardner

IMPLICATIONS

Financial Implications: None

Environmental Implications: Matters relating to visual impacts and noise/disturbance have been considered in the report above, In this instance, there are not significant harmful implications.

Human Rights Implications: The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers

The Town and Country Planning Act 1990.
National Planning Policy Framework
Stockton-on-Tees Local Plan