

Appeal Decision

Site visit made on 22 November 2016

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1st December 2016

Appeal Ref: APP/B3030/D/16/3160059

34, Nottingham Road, Lowdham, NG14 7AP

- 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 and Mrs Bryan against the decision of Newark & Sherwood District Council.
 - The application Ref: 16/01017/FUL, dated 24 June 2016, was refused by notice dated 30 August 2016.
 - The development proposed is a loft conversion, creation of a new dormer and internal alterations.
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Decision

1. The appeal is allowed and planning permission is granted for a loft conversion, creation of a new dormer and internal alterations at 34, Nottingham Road, Lowdham, NG14 7AP in accordance with the terms of the application, Ref: 16/01017/FUL, dated 24 June 2016, subject to the conditions in the attached schedule.

Main Issue

2. The appeal building is situated in an area that is washed over by the Nottingham-Derby Green Belt. The construction of new buildings in the Green Belt is inappropriate development except in certain circumstances that are set out in Paragraph 89 of the National Planning Policy Framework. One of these exceptions is extensions or alterations to a building provided that it does not result in disproportionate additions over and above the size of the original building. The Council consider that the development is not inappropriate and have not raised harm to the Green Belt as an issue. From the evidence before me, I have no reason to conclude otherwise.
3. Therefore, the main issue in this appeal is the effect of the proposed development on the character and appearance of the existing house and the surrounding area.

Reasons

4. The appeal building is one half of a pair of, two storey, early Twentieth Century semi-detached houses. It is constructed of red brickwork with a projecting gable to the front and has a roof finished in natural slate. It is not Listed nor is it located within a conservation area. Adjacent to the appeal building and its adjoining neighbour are a pair of similarly designed semi-detached properties. Nottingham Road essentially comprises a ribbon of development extending into the countryside and primarily following the north-west side of the highway. The buildings are of a range of ages and designs with brickwork, or brickwork and
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render, finished walls but with a variety of roof forms and roofing materials. As a result there is no strong defining character to the area. The houses sit in large plots generally set well back from the highway.

5. The Council officer's report states that the internal alterations and the loft conversion would not, of themselves, require planning permission. Whilst this may be the case, I have to consider the proposal as a whole. However, the internal alterations to form an en-suite bathroom on the first floor and to insert a small window into the gable on the front elevation of the building are not inherently harmful to either the building itself, or to the character and appearance of the area.
6. The proposed dormer would not be wholly confined to the rear of the building but would also extend along the side roof slope. Nevertheless, it would be set back from the front of the roof and partially concealed by a substantial chimney stack. There would be some limited views of the proposed dormer from the highway outside the site from the south and south-west, although it would not be visible over a wide area. The more complex elements of the roof form to the rear of the house are not evident from the road and can only be seen from the rear garden of the house and the garden of the neighbouring house.
7. The proposed dormer would alter the appearance of the rear of the house, although this has previously been heavily altered at ground floor level with the addition of a flat roofed extension and a conservatory to an older range of single storey structures. Within this context, I do not consider that the alterations to the rear of the roof would be inconsistent with the other incremental additions at the back of the property and would add to the variety of built forms present to the rear of the house. Whilst the proposed dormer would alter the shape of the rear part of the roof, it would not fundamentally alter the character of the house. I also note that the Council do not consider that the proposed dormer would unbalance the appearance of the pair of semi-detached houses when viewed from the road.
8. Although the chimneys on the appeal building are an architectural feature, they are not so prominent as to be a defining characteristic of the house. All of the chimney stacks would remain in situ and, whilst the rearmost of the chimney stacks would be partially subsumed into the structure of the proposed dormer, sufficient of the structure would remain exposed that the design integrity of the house would not be compromised.
9. It is proposed that the vertical faces of the dormer would be clad with a fibre cement slate. Although these may have a different unit size to the natural slates used on the main roof, due to the height of the building, this will be less evident, particularly if a dark grey colour is used. I saw on my site visit that there are a variety of roofing materials in the area, including artificial slates. This material is, therefore, not alien to the area.
10. The appellant also suggests that due to the volume and position of the proposed dormer, a dormer of the same size and design could be constructed using the permitted development rights set out in Part 1, Class B of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) provided that the specified conditions are met. This would represent a fallback position. The appellant suggests that the only difference between the appeal proposal and a dormer which could be constructed using permitted development rights lies in the choice of materials.

11. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications and appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. The existence of a fallback position is a material consideration.
12. It is necessary to consider whether there is a realistic prospect of the fallback position being implemented. The dormer shown on the submitted drawings would meet the criteria set out in Paragraph B1 of the GPDO and there is no evidence to suggest that the appellant would not wish to proceed or that the operation of permitted development rights is in any way restricted or constrained at the property. I therefore consider that there is a realistic prospect of this fallback position being implemented.
13. In determining the weight that should be given to the fallback position, the principle question is whether the fallback scheme is less desirable than the appeal scheme. The appellant suggests that a dormer of the same size and design could be constructed and faced in white uPVC, as this material is used in the conservatory that has been erected at the rear of the house, and which would be significantly more visible. This is not strictly correct, as the principal materials of the house are brick and slate. However, it is pertinent that the conditions set out in Paragraph B2 of the GPDO in respect of additions or alterations to the roof of a dwelling house do not require the use of identical materials, only that they be of a similar appearance to those used in the construction of the exterior of the existing dwelling house. This would allow for the use of an artificial slate provided that an appropriate colour match was made and the unit size was similar to that of the slates on the main roof.
14. Therefore, whilst the fallback position would not be inherently less desirable than the appeal proposal it would, nevertheless, be extremely similar to the appeal proposal, and I give significant weight to this fact.
15. As an essentially similar dormer window could be constructed using permitted development rights; and having regard to the limited visibility of the proposal from the public domain and the fact that there are a variety of roofing materials including artificial slates in use in the area, I therefore conclude that the proposed development would not cause harm to the character and appearance of the existing house and the surrounding area. It would comply with the relevant requirements of Policies DM5 and DM6 of the Newark and Sherwood Local Development Framework, Allocations and Development Management Development Plan Document 2013 which seek to ensure that new development is of a high standard of design that respects the design of the existing building and the character of the surrounding area, and which reflects local distinctiveness.

Other matters

16. As there are windows in the side elevation of the proposed dormer there is some potential for overlooking of the rear garden of the neighbouring property at 36 Nottingham Road. However, this could be addressed through a planning condition requiring installation of opaque glazing in the relevant windows. As the windows would serve a dressing room and a bathroom, this would not result in any adverse effect on the living conditions of the occupiers of the appeal building.

17. I note that concern has been raised in respect of the joint between new flat roof of the dormer and the existing roof and possible implications for the adjoining property. This is a technical matter that would be addressed through the Building Regulations and the building control process. Of itself, this is not a matter that would justify withholding planning permission.

Conditions

18. I have had regard to the conditions that have been suggested by the Council. In order to provide certainty as to what has been granted planning permission I have attached a condition specifying the approved drawings. I have removed the reference to the three dimensional drawings as these are illustrative rather than technical specifications. The planning application does not specify the colour of the proposed fibre cement slates and, in order to ensure that the proposed extension is in keeping with the existing house, it is also necessary to attach a condition requiring that the materials used in the construction of the extension be submitted for approval. As there are windows in the side of the proposed extension that would present an opportunity for overlooking of the neighbouring property from a high level in order to preserve the living conditions of the occupiers of the neighbouring property it is necessary to attach a condition requiring that opaque glazing be installed in these windows. I have amended the wording of the condition suggested by the Council to more accurately describe the location of the windows in question.

Conclusion

19. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

John Dowsett

INSPECTOR

Schedule of 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: 2013/10 OS Location Plan; 2013/02 Existing Floor Plans; 2013/03 Existing Elevations; 2013/04 Proposed First Floor Plan; 2013/05 Proposed Loft Plan; 2013/06 Proposed Block Plan; Front elevation; Side elevation; and Rear elevation.
- 3) No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details/samples.
- 4) The window openings serving the proposed en suite and dressing room (on the South West and North West elevations) shall be opaque glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.