
Appeal Decision

Site visit made on 29 November 2016

by Jacqueline Wilkinson Reg. Architect IHBC

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

Decision date: 16 December 2016

Appeal Ref: APP/Y3940/D/16/3157720

22 Grateley Road, Cholderton, Salisbury SP4 0DL

- 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 Andrew Minting against the decision of Wiltshire Council.
 - The application Ref 16/02778/FUL, dated 18 March 2016, was refused by notice dated 9 June 2016.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 22 Grateley Road, Cholderton, Salisbury SP4 0DL in accordance with the terms of the application, Ref 16/02778/FUL, dated 18 March 2016, 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: 813-20-01A (plans and elevations as proposed), 03A (location and block plan) and 04A (large scale details).
 - 3) No development shall commence until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Development) (England) Order or any order revoking or re-enacting or amending that Order with or without modification, no windows, doors or other form of openings other than those shown on the approved plans shall be inserted into the northern elevation (including the roof) of the development hereby permitted.

Application for costs

2. An application for costs was made by Mr Andrew Minting against Wiltshire Council. This application is the subject of a separate Decision.
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Main Issue

3. The Council's reason for refusal states that the proposed extension would have an adverse impact on the amenities of No 23/24 Cholderton in particular overshadowing. I note from the committee minutes that reference to the loss of light was removed from the reasons for refusal.
4. The **main issue** is therefore the effect of the proposed rear extension on the living conditions of the adjacent occupiers at 23/24 Cholderton (Staddlestone Cottage) in terms of sun light reaching the east kitchen window and the rear garden.

Reasons

Background and policy framework

5. This scheme is a re-submission of a previously refused scheme for a rear single storey extension¹, which was subsequently dismissed at appeal². The proposal is identical, but was supported by new information in the form of a Sun Study and a Building Research Establishment (BRE) compliance statement. The question has been raised as to whether the Council should have accepted the re-submission, but this is a matter for the Council and I am required to assess this appeal on the basis of the submissions before me.
6. Policy 57 (vii) of the Wiltshire Core Strategy 2015 states that development must "have regard to the compatibility of adjoining buildings and uses, the impact on the amenity of existing occupants". The National Planning Policy Framework *Core Planning Principles* has a more qualitative requirement that planning should always seek a good standard of amenity for all existing and future occupiers of land and buildings.
7. Policy 57 is not phrased in such a way as to prevent development which affects a neighbouring property, but it does require development to have regard to such matters. Similarly, the test of the Framework is that the existing occupiers would still have a good standard of amenity and not that their existing amenity is not affected at all.
8. Both parties make reference to *Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice* 2nd edition – BRE 2011. This is the accepted current best practice for assessing the effect of developments on the natural light reaching neighbouring buildings.

Assessment of effect on living conditions

9. The proposed extension would be set 865mm in from the fence, but due to the angle of the boundary it would be effectively on the line of the party wall when seen from the kitchen window at Staddlestone Cottage, but it would be at a distance of 3m away. The eaves would be the same height as the eaves of the outhouses and the roof slope would be 40° and so the roof would be recessive when seen from the kitchen window.
10. The appellant's Sun Study presents a 3D visualisation of how the sun path moves around the rear area of Staddlestone Cottage at the moment and how the proposed extension would change this. There has been some criticism of

¹ Ref 14/11591/FUL

² APP/Y3940/D/15/3081163 - 21 September 2015

the dates chosen, but it is accepted practice to assess the sun path at those four points in the year. The visualisations show that the amount of winter morning sun reaching the east kitchen window up to 10.00 am would be reduced between 21 September and 21 March, but thereafter it would not be affected.

11. The Council's own specialist report³ points out that the BRE Guidelines require a different approach, through a hierarchy of tests. This report concludes that Test 1 would be passed. I also estimate that test 2 would be likely to be passed. However, given the background to this appeal it is useful to prove the point by using Test 4 (the hardest).
12. This test introduces the concept of an Annual Probable Sunlight Hours. To pass this test the centre point of the window would need to receive more than one quarter of its annual sunlight hours, including at least 5% in the winter months (between 21 September and 21 March). The Council's consultant states that the proposal would satisfy the test.
13. Given that the Sun Study shows that the window in question would only be affected in the winter, the window would receive at least 50% of its Annual Probable Sunlight Hours and more if the fact that the window would still receive winter sun from 10.00am is taken into account. Winter sun would be affected, but using a worst case scenario, approximately half of the time the amount of sun reaching the window would be unaffected (i.e. between the hours of 10.00am and 12.00). The proposal would therefore exceed the BRE recommendations by a good margin.
14. All that said, I appreciate that numerical analysis does not take into account human feelings, although the BRE Guidance does aim to quantify when changes to living conditions become "noticeable". Sun first thing on a cold winter's day can be uplifting and all the more precious for its rarity. However, having seen the kitchen for myself, which is well lit from two windows and which receives afternoon sun, I conclude that the living conditions in this room would still be good.
15. Reference has been made to the loss of ambient light. The light reaching a room comes from two sources – sun light directly entering the room and light coming from the sky (called day light). There are accurate ways to calculate the levels of light reaching a room, but a simple test called the 45° line is used as a first step. The proposal passes this test and I conclude that the day light reaching the kitchen through this window would not be affected.
16. The previous Inspector states even if the BRE Guidance were met, her concerns in relation to part of the adjacent garden being unduly overshadowed would not be overcome.
17. The garden to the rear of Staddlestone Cottage is wide (reflecting its past life as two cottages) and is in two distinct parts. The closest part has the character of a large courtyard, with the historic outhouses enclosing it to the east. There is access through an arch to a much larger garden beyond, laid to lawn. The conservatory lies well to the north of the proposed extension and the amount of sunlight reaching this would not be affected. The assessment of the impact on the rear courtyard is assisted by the Sun Study, which confirms that there

³ Herrington Consulting Ltd, 17 May 2016.

would be no discernable overshadowing of the garden above the existing situation. Given this additional technical information to assist me, I conclude that the amenity of the rear courtyard would be still be as good as it is at present.

Other matters

18. Listed Building Consent for the proposed works was granted on 23 May 2016⁴ and I note that external materials were the subject of a condition. Matters relating to the effect on the Cholderton Conservation Area and the setting of listed buildings were dealt with by the previous Inspector. The question of overdevelopment is part of this assessment. Having seen the appeal building and the area I also conclude that the proposal would satisfy the requirements of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
19. Matters relating to drainage are a matter for other legislation, in this case the Building Regulations.

Conclusions

20. The appellant's Sun Study has identified that there would be some loss of sunlight reaching the east facing kitchen window of Staddlestone Cottage during the winter months between the hours of 8.00am and 10.00am. Notwithstanding the previous Inspector's concerns, the Council's own independent report confirms that the proposal would comply with the BRE Guidance. I have also concluded that the proposal would have no effect on the day light reaching this room and that the occupiers of Staddlestone Cottage would have a good quality of external amenity within their courtyard.
21. In the light of the new evidence before me I have therefore conclude that the living conditions of the occupiers of Staddlestone Cottage would not be significantly harmed. The proposal would satisfy the requirements of policy 57 and the National Planning Policy Framework, paragraph 17.
22. For the reasons given above I conclude that the appeal should be allowed.

Conditions

23. I have assessed the conditions proposed by the Council against the tests set out in paragraph 206 of the Framework and the guidance set out in the Planning Practice Guidance.
24. I have attached the standard condition to require the development to commence within 3 years as required by the Act and I have attached the standard condition to require that the development to comply with the submitted plans. This is in order to provide certainty.
25. I have attached the suggested condition 2 (withdrawal of permitted development rights⁵) in order to protect the privacy of the adjacent occupiers. Although the extension is attached to, therefore part of, a listed building and any alteration would need listed building consent, the Council could not refuse listed building consent on amenity grounds.

⁴ Ref 16/02995/LBC

⁵ Town and Country Planning (General Permitted Development) (England) Order 2015.

26. I have attached the same condition relating to external materials as has been attached to the listed building consent, so that the Council can be satisfied that the special interest of the building and the character and appearance of the area are preserved.

Jacqueline Wilkinson

INSPECTOR