
Appeal Decision

Site visit made on 16 January 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 30 January 2017

Appeal Ref: APP/X0360/W/16/3161234

123 Loddon Bridge Road, Woodley RG5 4AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Sundeep Saxena against the decision of Wokingham Borough Council.
 - The application Ref 161723, dated 14 June 2016, was approved on 5 September 2016 and planning permission was granted subject to conditions.
 - The development permitted is proposed erection of a detached dwelling, following demolition of existing bungalow.
 - The condition in dispute is No 8 which states that: *'Notwithstanding the provisions of Classes A of Part 1 of the Second Schedule the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) enlargement or alterations permitted shall be carried out without the express permission in writing of the local planning authority.'*
 - The reason given for the condition is: *'To safeguard the character of the area and neighbouring amenities. Relevant policy: Core Strategy policies CP1 and CP3, and Managing Development Delivery Local Plan policy TB21.'*
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission for the replacement dwelling includes a condition which removed permitted development rights under Schedule 2, Part 1, Class A of the GPDO¹ relating to the new dwelling. The Government's Planning Practice Guidance (PPG)² states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances.
3. The reason for the condition and the Council's statement indicate that the condition is necessary to safeguard the character of the area and neighbouring amenities. The appellant objects to the condition as it removes permitted development rights in a location where other dwellings have not had such rights removed.
4. Having regard to the above, the main issues are whether the disputed condition is reasonable and necessary in the interests of:
 - the character and appearance of the site and the surrounding area; and,

¹ Town and Country Planning (General Permitted Development) (England) Order 2015

² Use of planning conditions, Paragraph: 017 Reference ID: 21a-017-20140306 Revision date: 06 03 2014

- the living conditions of the occupiers of neighbouring properties, with particular regard to No 125 Loddon Bridge Road and matters of outlook.

Reasons

Character and appearance

5. The appeal site consists of a rectangular plot of land of significant depth located at the corner of Loddon Bridge Road and Coniston Close. The land is enclosed by a mix of walls and fencing to the side and rear boundaries, together with supplementary trees and landscaping and a temporary fence and gates at the front. Based on the evidence before me, the land was formerly occupied by a bungalow, which at the time of my visit had been demolished.
6. The properties in the surrounding area consist of a mix of bungalows and chalet bungalows, including No 125 Loddon Bridge Road (No 125) to the northern side, and two storey dwellings, including No 119 located on the opposite corner of the junction with Coniston Close. The dwellings on the western side of Loddon Bridge Road are set back behind gardens and parking areas with some variety in front building lines, appearance and building heights.
7. A previous appeal decision³ has been brought to my attention which related to a preceding scheme for a two storey dwelling. The previous appeal was dismissed due to, amongst other things, the harmful effect upon the character and appearance of the area. The previous Inspector's concerns included the bulk and massing of the dwelling and two storey depth of built form on a prominent corner plot. The Council have indicated that the development subject to this appeal addressed the concerns of the previous Inspector, by reducing the width and depth of the dwelling. However, the planning permission is subject to the disputed condition which removed permitted development rights under Schedule 2, Part 1, Class A of the GPDO for extensions and alterations to the dwelling.
8. I give substantial weight to the earlier appeal decision and the concerns of the previous Inspector. However, the reduced depth and width of the dwelling as permitted, together with the fenestration on the side elevation facing Coniston Close, would ensure a more subservient form of development in a corner position. Consequently, when taking account of the variety of built form and building heights nearby, the dwelling as permitted would not significantly harm the character and appearance of the site and the surrounding area. However, these findings reflect a finely balanced judgement whereby the dwelling, although consisting of substantial depth, bulk and massing, would not appear out of proportion relative to its surroundings.
9. Having regard to the above, permitted development rights under Schedule 2, Part 1, Class A of the GPDO would allow further extensions and additions to the dwelling if the disputed condition were removed. The evidence before me indicates that such permitted development rights would allow two storey rear extensions to the dwelling of up to 3m in depth and single storey extensions of up to 4 metres in depth without the need for the prior approval of the local planning authority. The permitted development rights also include single storey side extensions, although I consider such additions would be less likely given the remaining space between the dwelling and side boundaries.

³ APP/X0360/W/15/3141071 - Dismissed - 6 May 2016

10. The cumulative depth of the dwelling and extensions permitted under Schedule 2, Part 1, Class A of the GPDO without the need for planning permission, could result in a much larger dwelling of more substantial depth, bulk and massing than the proposal subject to the earlier appeal decision. In such circumstances, an extended dwelling under permitted development rights, would result in a dominant, disproportionate and incongruous development which would harm the character and appearance of the site and the surrounding area.
11. With regard to the above, the harmful effect of an extended dwelling utilising permitted development rights would not be mitigated by the presence of existing boundary treatments and landscaping. Consequently, the disputed condition is reasonable and necessary to prevent significant harm to the character and appearance of the site and surrounding area. Having regard to the PPG, I consider that the particular circumstances of the proposal are exceptional and therefore, justify the use of the disputed condition to remove permitted development rights.
12. The wording of the condition is suitably precise in so far as it removes only permitted development rights under Schedule 2, Part 1, Class A of the GPDO. Other extensions and alterations to the dwelling permitted under Classes B - H including to the roof, porches and outbuildings, would not result in the potential harm identified.
13. I conclude that the disputed condition is reasonable and necessary in order to prevent significant harm to the character and appearance of the site and the surrounding area, taking account of the advice set out in the PPG and the National Planning Policy Framework (the Framework) regarding the appropriate use of planning conditions. As such the removal or variation of the condition would conflict with Policies CP1 and CP3 of the Wokingham Borough Local Development Framework Core Strategy (CS), adopted January 2010. When taken together these policies seek to ensure that proposals form part of a high quality environment with an appropriate scale, mass, layout and form, and that they integrate with their surroundings. The policies are consistent with the Framework.

Living conditions

14. Policy CP3 of the CS, amongst other things, also seeks that the scale, mass, layout and built form does not have a detrimental effect on the amenities of adjoining land users, including occupiers and their quality of life. The previous Inspector, amongst other things, found that the rear projection of the preceding appeal proposal beyond the main rear elevation of No 125 and its consequent height, depth and massing would have a significant and harmful effect in terms of overbearing and overshadowing.
15. The dwelling as currently permitted incorporates a reduced rear projection at first floor level adjacent to the boundary with No 125. The significant reduction in the depth of two storey built form adjacent to the boundary, when compared with the earlier appeal proposal, would prevent an unacceptable impact in terms of overbearing and overshadowing upon No 125, including to its daylight and sunlight. The dwelling as currently permitted, therefore, overcomes the concerns of the previous Inspector in that respect.

16. Notwithstanding the above, as stated within my reasoning relating to the other main issue, the cumulative depth of the dwelling and extensions permitted under Schedule 2, Part 1, Class A of the GPDO could result in a much larger dwelling. This could include an extended dwelling, without the need for planning permission, of more substantial depth, bulk and massing adjacent to the boundary with No 125 than the proposal subject to the earlier appeal decision.
17. In such circumstances, the potential depth, bulk and massing of an extended dwelling utilising permitted development rights, would result in a harmful overbearing and overshadowing effect upon No 125. This would include a loss of daylight and sunlight to rear windows and habitable space at the rear of No 125. The resultant effect would cause significant harm to the existing living conditions of occupiers of No 125 and would not be mitigated by boundary treatments or the addition of landscaping.
18. Similarly to my previous conclusion relating to the other main issue, the particular circumstances of the proposal justify the use of the condition to remove permitted development rights. The wording of the condition is suitably precise in so far as it removes only permitted development rights under Schedule 2, Part 1, Class A of the GPDO. Other extensions and alterations to the dwelling permitted under Classes B - H including to the roof, porches and outbuildings, would not replicate the potential harm identified.
19. In reaching the above findings, I have taken into account that other concerns of the previous Inspector relating to the living conditions of occupiers of No 125 in terms of privacy and overlooking are suitably overcome by other conditions of the planning permission which are not in dispute. Furthermore, neighbouring properties other than No 125 are further away from appeal site and therefore, due to the greater separation distances involved would not be adversely affected by the dwelling as permitted or potentially extended under the GPDO, if the disputed condition were removed. Nevertheless, the absence of concern in those respects does not justify the potential harm to No 125 otherwise identified.
20. I conclude that the disputed condition is reasonable and necessary in order to protect the living conditions of occupiers of No 125 Loddon Bridge Road in terms of outlook, taking account of the advice set out in the PPG and the Framework regarding the appropriate use of planning conditions. Without the condition, an extended dwelling utilising permitted development rights under Schedule 2, Part 1, Class A of the GPDO would have the potential to cause significant harm to the outlook from No 125 through an overbearing and overshadowing effect, including a loss of sunlight and daylight. As such the removal or variation of the condition would conflict with Policy CP3 of the CS and the Framework.

Other Matters

21. Policy TB21 of the Wokingham Borough Development Plan Managing Development Delivery Local Plan, adopted February 2014, was also identified by the Council's reason for condition. I find no specific conflict with that policy, as the harm arising from the proposal although significant in terms of the site and its surroundings would not have an adverse effect on the wider landscape. However, the absence of conflict with Policy TB21 does not justify the harm otherwise identified relating to the main issues.

22. The appellant has referred to other dwellings in the local area not being subject to a similar condition to remove permitted development rights. However, based on the evidence before me and observations during my visit, even if properties in the surrounding area were to utilise permitted development rights they would not replicate the potential depth, bulk and massing of an extended dwelling at No 123. The status of permitted development rights relating to surrounding dwellings, therefore, does not justify the potential harm if the disputed condition were to be removed.
23. I have considered the other conditions attached to the planning permission but there is no evidence before me that leads me to conclude that it is necessary to vary any of those. The appellant has expressed concern relating to delays in the planning process. However, I can offer little weight to such matters in the determination of this appeal. The development as previously granted planning permission by the Council would be capable of being implemented subject to the conditions imposed, notwithstanding the outcome of this appeal.

Conclusion

24. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR