

Appeal Decision

Site visit made on 7 February 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/A1720/W/16/3161095

15 Samuel Mortimer Close, Fareham, Hampshire PO15 5NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Martin Roberts against the decision of Fareham Borough Council.
 - The application Ref P/16/0190/VC, dated 22 February 2016, was refused by notice dated 28 April 2016.
 - The application sought planning permission for Erection of a 50 Bed nursing home and 32 dwellings following demolition of the Hilton Hotel and ancillary buildings and the Limes Public House without complying with a condition attached to planning permission Ref P/12/0644/FP, dated 26 April 2013.
 - The condition in dispute is No 22 which states that: Notwithstanding the provisions of the schedule of the Town and Country Planning (General Permitted Development) (Amendment)(No.2)(England) Order 2008 (or any subsequent Order revoking and re-enacting that Order) at no time shall the car ports hereby permitted be enclosed or provided with doors unless otherwise agreed in writing by the local planning authority following the submission of a planning application.
 - The reason given for the condition is: In the interests of highway safety; to ensure adequate on-site car parking provision; in accordance with Policy CS17 of the adopted Fareham Borough Core Strategy.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of an automated sectional garage door to the side attached car port at 15 Samuel Mortimer Close, Fareham, Hampshire PO15 5NZ in accordance with the terms of the application, Ref P/16/0190/VC, dated 22 February 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: Location plan; site plan, conveyancing plan, front elevation (east), side elevation (south).
 - 3) The garage door hereby approved shall be an automated sectional door and match in colour that of the front door of the property.
 - 4) The garage shall be kept available for the parking of cars at all times.
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Procedural matter

2. The proposal seeks permission to install a garage door to the front of an existing 'car port'. The appellant has applied to vary a condition on the original permission (condition 22) which seeks to preclude such operations without first gaining the consent of the local planning authority through the submission of a planning application.
3. In effect the application sought planning permission for the proposed operation and the Council's decision notice refuses permission for 'an automated sectional garage door to plot 24 (15 Samuel Mortimer Close)'. I have dealt with the appeal therefore as an appeal against the refusal of planning permission for an automated sectional garage door rather than as an application for the variation of the original estate wide condition. In effect this is the proper interpretation of the condition which requires the approval of the local planning authority for such operations before they are undertaken.

Main Issues

4. The main issues in this appeal are the effect of the proposed development on; firstly, the character and appearance of the surrounding area, including the Titchfield Abbey Conservation Area; and secondly, highway safety and convenience.

Reasons

Character and appearance

5. The property the subject of this appeal is a detached two storey house located in a relatively new development. The property is located as one of a group arranged around a courtyard which is to the rear of the development and away from the main entrance. The property has an attached structure which has all the appearance of a garage but without a garage door.
6. The appeal property is discretely located within the development and not readily apparent outside the estate or even outside of the courtyard it fronts onto. The house is set back from the adjoining property No 23 which in effect reduces visibility into the courtyard. The garage door would be screened to most views outside and within the estate with the exception of the very localised area within the courtyard.
7. The appeal property has a modern appearance and is finished in white render with a grey front door. The appellant has suggested matching the front door colour to integrate the appearance with the original house and this, in my view, would be an effective and attractive approach given the visualisations provided. The other properties in the courtyard and estate are primarily of dark coloured brick and include undercroft parking with access through to the rear garden for access to parking spaces. The car spaces under the undercrofts are part of the integral design of the short blocks and assists in breaking up the bulk and mass of the elevations. This is not the case for the appeal property which has an individual design and layout in this part of the estate and has an attached structure which very much has the appearance of a garage. The enclosure of the opening with a garage door would not detract from the overall design or appearance of the property, its contribution to the street scene or the overall estate.

8. Given the location of the property the installation of the garage door would have no effect on the conservation area, the appearance of which would therefore be preserved.
9. I therefore conclude that the proposed development would not materially harm the character and appearance of the surrounding area, or the Titchfield Abbey Conservation Area, the appearance of which would be preserved. Consequently it would not conflict with policy CS17 of the Fareham Local Development Framework Core Strategy adopted 2011 or DSP5 of Fareham's Local Plan Part 2: Development Sites and Policies adopted 2015 which seek high quality design and to protect heritage assets.

Highway safety and convenience

10. The second leg of the Council's concern is identified as a concern that the proposals would lead to inconvenience to users of the roads serving the development. However this has not been well articulated or detailed as to the nature of the specific concern.
11. The Council contend that the estate was developed on the basis of car ports and barn structures to make parking provision and point out that their 'Residential Car Parking Standards Supplementary Planning Document' (Parking SPD) indicates that garages will not normally count towards overall parking provision. The Council contend that the proposal would therefore result in the loss of a parking space and the reduction in the level of parking provision below the 3 spaces required. The property currently has three spaces, one to the front of the house, one to the front of the car port and the car port. With the proposed door being an automated sectional door there would be no loss of space in front of the door to accommodate the opening of the door. On this basis a minimum of two spaces remain, that to the front of the car port and that to the front of the house, not counting the garage.
12. The Council's Parking SPD also notes that Garages will only count towards overall parking where developers can demonstrate that they represent the only means of parking a car and they meet specified dimensions. The SPD also notes that in such circumstances a condition will be imposed to retain the garages for use as parking spaces only.
13. The proposed courtyard arrangement, surfacing and general layout of the estate is such that there are limited opportunities for parking outside the dedicated areas. The road widths and general layout is tightly constrained and it is unlikely parking would occur without obstructing other users. It seems to me this falls squarely into the caveat that the garage would represent the only means of parking a car for this property to achieve the required standard. The appellant has already identified additional storage which does not preclude parking and accepts the need to retain the parking space. A suitably worded condition can be applied to ensure the garage is retained for parking. The property would therefore retain 3 parking spaces in accordance with the requirements in the Parking SPD.
14. On this basis there would be no overspill parking and I therefore conclude that there would be no harm that would arise in respect of highway safety or inconvenience for other road users.

Other matters

15. The Council are concerned that acceptance of this proposal would lead to a precedent however each proposal is considered on its own merits. This is an individually designed property with an attached garage style structure that is discreetly located within the development. I am satisfied that there are individual circumstances such that would not lead to other properties carrying out similar works and a cumulative impact arising across the whole estate. Condition 22 remains on the original permission and this would mean that any other such proposals would require the consent of the local planning authority which would therefore retain control.

Overall conclusions and conditions

16. I have considered the conditions suggested by the Council in the context of the advice in the Planning Practice Guidance. An approved plans condition is necessary to detail the proposals and a condition securing the use of the garage for parking is required for the reasons given above. I have added an additional condition requiring that the garage door match in colour the front door of the property and is to be an automated sectional door this is necessary to ensure that in opening it does not restrict the use of the parking space in front of it and in the interests of the appearance of the development.
17. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR