

Appeal Decision

Site visit made on 5 April 2017

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 26th April 2017

Appeal Ref: APP/G2245/D/17/3167968

15 Westerham Road, Bessels Green, TN13 2PX.

- 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 Katherine Davies against the decision of Sevenoaks District Council.
 - The application Ref SE/16/02066/HOUSE dated 7 February 2016 was refused by notice dated 10 January 2017.
 - The development proposed is described as a two storey side extension, a single storey rear extension and a new front porch.
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Preliminary matter

1. The above description for the development makes no reference to the proposed additional accommodation within the resultant roof space. Accordingly, in the interests of precision, I propose to describe the scheme as the erection of a two storey side extension and extension to existing rooms in the roof, a single storey rear extension and a new front porch. This is consistent with the Council's description of the development.

Decision

2. The appeal is dismissed.

Main Issues

3. The first main issue is the effect of the scheme on the character and appearance of the host dwelling and the street scene. The second main issue is the personal circumstances of the Appellants and their family.

Reasons

Character and appearance

4. Westerham Road is characterised by large detached and semi-detached villas closely spaced along the street. The dwellings include a range of strong gable features, large bay windows, small attic windows and chimneys. Typically the dwellings have similar front building lines and are set behind mature landscaped front gardens, which are enclosed by walls and hedges.
 5. The Appeal dwelling occupies a particularly wide plot and is sited in an elevated position, within a row of substantial dwellings with projecting single front gable
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features. This is typical of the area, although there are examples of double/split gables in the locality. As with the Appeal dwelling a number of the dwellings also have gabled dormer windows of various sizes and most dwellings are partially screened from the street scene by mature trees and shrubs.

6. Together the National Planning Policy Framework (NPPF) and policy EN1 of the Sevenoaks District Council Allocations and Development Management Plan (DMP), seek high quality in the design of all development. It should respond to local character and history, respect the character of the site and its surroundings and add to the quality of the area.
7. Whilst the width and fenestration of the proposed two storey front/side extension would respect the proportions, character and appearance of the host dwelling, its large crown gable roof would be uncharacteristic of the locality. It would disrupt the row of front facing gables along this stretch of Westerham Road and its elevated position and high eaves height would materially add to the actual and perceived mass and width of the proposed extension. It would lack the articulation, strong vertical lines and character of the existing front gable and those of the adjacent dwellings.
8. As a result of this factor the proposed front/side extension would seriously detract from and undermine the character and appearance of the host dwelling and the street scene.
9. The proposed single storey rear extension would be modest in height and would balance appropriately with the rear projecting wing on the west side of the dwelling. Accordingly, subject to the use of matching materials, which could be secured through the imposition of a condition and despite its size the rear extension would blend in appropriately with the host dwelling. At the same time, having regard to the generous size of the Appeal site, the resultant dwelling would not appear cramped or overdeveloped on the site. Notwithstanding this, as the proposed single storey extension is physically attached and would be an integral part of the overall scheme it is not a matter that could be dealt with separately.
10. For these reasons I conclude on the main issue that the proposal would unacceptably harm the character and appearance of the host dwelling and the street scene. It would therefore conflict with policy EN1 of the DMP and the NPPF.

Personal circumstances

11. The Appellants have submitted evidence relating to the specific accommodation requirements of two of their children and the implications for those children and their siblings if the accommodation is not provided.
12. Article 8 of the European Convention on Human Rights (ECHR) relates to the qualified right to respect for private and family life. In relation to children this should be viewed in accordance with Article 3(1) of the United Nations Convention on the rights of the child.
13. The Public Sector Equality Duty (PSED) is set out in the Equality Act 2010. Amongst other things Section 149 of the Equality Act sets out the need to

advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This includes persons with physical or mental impairments that have a substantial and long term adverse effect on a person's ability to carry out normal day to day activities.

14. Two of the Appellants children have Autism Spectrum Disorder (ASD) and so have a protected characteristic for the purposes of PSED. Accordingly, I have paid due regard to the need to:
 - Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
15. The accommodation requirements of the Appellants children with ASD are fully recognised. They include a supervised living environment for one of the Appellants older children and an individual bedroom and bathroom at first floor level for one the Appellants younger children. These facilities would be fully catered for on the ground and first floors of the proposed extension.
16. Having regard to the findings on the first main issue, the only concern relating to character and appearance is the mass and design of the roof of the proposed front/side extension. It would appear that the main reason for the mass and design of this roof is to provide a large double bedroom within the front part of the roof space at second floor level. The other rooms proposed within the roof space and those at first floor level would not be reliant on this design.
17. The bulk and design of the roof of the proposed side/front extension is clearly not necessary to meet the accommodation requirements of the Appellants children with ASD. At the same time little evidence has been submitted to demonstrate that the bulk and design of the roof of the side/front extension could not be modified, so that the objectives of the proposed development could be met in a less obtrusive way.
18. In favour of the Appeal, I attach significant weight to the accommodation needs of the Appellants children with ASD. However, there is insufficient evidence to justify the mass and design of the roof of the proposed side/front extension. The redesign of the roof of the front/side extension is not a matter that could be adequately dealt with by condition.
19. Overall, when assessed in accordance with policy EN1 of the DMP and the NPPF, I find that the personal considerations advanced in favour of the proposed development do not outweigh the harm that the proposed scheme would result in. The interference of the Appellants and their family's rights under Article 8 of the ECHR would be both proportionate and justified.

Other matters

20. Whilst it is noted that the Ordnance Survey location plan does not show the existing attached garages which serve the Appeal site and 213 Westerham Road (No.13), the garages are shown on the submitted survey and elevations drawings. As such its omission from the location plan has not affected my ability to determine this Appeal. The proposed demolition of part of this attached garage is a private legal matter and falls outside the scope of this Appeal.
21. It is not unusual for dwellings to be sited close to side boundaries and in this instance the flank wall would be brick built and there would be no guttering above ground floor level along this side of the dwelling. As such, whilst the space to the side of the resultant dwelling would be constrained, there are no physical reasons why the flank wall of the resultant extension could not be adequately maintained.
22. It is noted that there are a number of windows in the resultant flank elevation. The windows at ground floor level would be screened from No.13 by the boundary wall. The windows above ground floor level are either secondary windows or serve bathrooms. As such they could all be obscure glazed and have restricted opening to ensure they did not result in a material loss of privacy for the occupiers of No.13. This is a matter that can be dealt with by condition.
23. It is noted that the Appellant has indicated that there would be no disruption to any existing hedges. However, having regard to the juxtaposition between the side boundary hedge and the proposed extension, it is likely that a small section of this low hedge could be affected. The protection of, or replanting of this small section of hedge, is a matter that could be readily secured through the imposition of a condition.
24. Finally, the use of the proposed single storey annex as a totally separate dwelling would amount to a material change of use which would require planning permission.

Conclusion

25. Whilst I have found in favour of the Appellant on some matters the conclusion on the first main issue amounts to a compelling reason for dismissing this Appeal.

Elizabeth Lawrence

INSPECTOR