

Appeal Decisions

Site visit made on 21 March 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 2 May 2017

Appeal A: APP/Q1255/W/16/3165969 45 Brixey Road, Poole, Dorset BH12 3EZ

- 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 Mrs Vicky Wallis & Mr Tony Phillips against the decision of Poole Council.
 - The application Ref APP/16/01525/F, dated 27 September 2016, was refused by notice dated 10 November 2016.
 - The development proposed is described as "erection of double garage (Garage B)".
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Appeal B: APP/Q1255/W/16/3165890 45 Brixey Road, Poole, Dorset BH12 3EZ

- 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 Mrs Vicky Wallis & Mr Tony Phillips against the decision of Poole Council.
 - The application Ref APP/16/01513/F, dated 27 September 2016, was refused by notice dated 10 November 2016.
 - The development proposed is described as "erection of double garage (Garage A)".
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above there are two appeals which relate to what is currently the rear garden of No 45 Brixey Road. They are similar in design, are made by the same appellants and the Council has given similar reasons for its refusal of the schemes. I have considered each proposal on its own individual merits. However, to avoid duplication, I have dealt with them in a single decision.
4. It was evident from my site inspection that works to erect the garages are substantially complete and I was able to view them from a number of vantage points. Accordingly, I have dealt with the appeals on a retrospective basis.

Background and Main Issues

5. Planning consent was granted¹ on 2 September 2014 for the erection of a double garage ("the First Consent") located on the part of the site currently occupied by Garage B and accessed from alongside No 32 Highview Gardens.

¹ ref APP/14/0850/F

That consent contains a condition which ties the double garage to a use incidental to the occupation of No 45 Brixey Road.

6. A further consent was granted² on 29 July 2015 for the erection of a double garage located on that part of the site currently occupied by Garage A ("the Second Consent"). This consent does not contain a condition which ties the garage to a use incidental to the occupation of No 45.
7. A third consent was granted³ on 22 December 2015 ("the Third Consent") for a garage with altered dimensions to that of the Second Consent and which moved the position away from the boundary with neighbouring No 47. As with the First Consent, the Third Consent is subject to a condition which requires the garage to be used for a purpose incidental to the occupation of No 45.
8. In Appeal A, Garage B differs to that permitted under the First Consent in a number of ways including an increased ridge height, a larger footprint, the addition of a first floor and its severance from the plot occupied by No 45. The Council is concerned that, in view of its increased height and bulk, it would appear prominent from Highview Gardens and would impact negatively on the character and appearance of the surrounding area. It also raises concerns regarding its effect on the living conditions of the occupants of No 45 Brixey Road with regard to outdoor amenity space and of No 32 Highview Gardens with particular regard to noise and disturbance.
9. In Appeal B, the Council accepts that Garage A would be similar in appearance to that permitted under the Third Consent, albeit with internal alterations including the addition of a first floor. However, it raises concerns regarding the impact of the garage on the living conditions of the occupants of No 45 with regard to outdoor space and general disturbance.
10. Accordingly, the main issues in Appeal A are:
 - (i) the effect of Garage B on the character and appearance of the surrounding area; and
 - (ii) its effect on the living conditions of the occupiers of No 45 Brixey Road with regard to outdoor amenity space and those of No 32 Highview Gardens with particular regard to noise and disturbance.
11. With regard to Appeal B, the main issue is the effect of Garage A on the living conditions of occupiers of No 45 Brixey Road with particular regard to outdoor amenity space, noise and disturbance.

Reasons

Appeal A

Character and appearance

12. The appeal site is located in a residential area characterised by a mixture of dwelling types, some of which contain garages and other outbuildings to the rear. The site itself contains a residential dwelling (No 45) which has, at some time in the past, been converted into two self-contained flats. It benefits from

² ref APP/15/00801/F

³ ref APP/15/01564/F

- a large rear garden, part of which has been separated by a close boarded fence and set aside for use by the occupiers of that dwelling.
13. Both Garage A and Garage B ("the Garages") are located in what is essentially the rear garden of No 45. However, while Garage A is accessible from alongside the main frontage of No 45, access to Garage B is alongside No 32 Highview Gardens, a red brick detached property set within a residential cul-de-sac characterised by dwellings of a similar appearance and style.
 14. Garage B is a large and significant addition to the rear garden of No 45. Its bulk and ridge height are particularly prominent in views from Highview Gardens and it appears out of place with the more modest outbuildings and extensions located to the rear of the neighbouring properties. Furthermore, the combination of its rendered walls, timber doors and UPVC windows, has resulted in a building that appears more akin to a residential dwelling than an ancillary outbuilding or garage.
 15. While I acknowledge that the doors and windows will not be visible from a distance, this only provides partial mitigation. When taken with the height and bulk of the structure, the result is a building that fails to integrate well with either the surrounding dwellings or the neighbouring outbuildings and it appears in stark contrast to the prevailing pattern of development. As such, it fails to respect the character and setting of its surroundings and impacts negatively on the character and appearance of the surrounding area.
 16. Likewise, by removing the requirement for its use to remain ancillary to that of the main dwelling, the effect would be to introduce a non-domestic building into the rear garden of an existing residential dwelling. This would be out of keeping with the prevailing residential character of the surrounding area, exacerbating the harm identified above.
 17. The appellant has suggested that the Council has accepted that a gabled structure is in character with the surroundings by its granting of the First Consent which is currently extant. However, while I note the similarities between the First Consent and Garage B, it is clear from the evidence submitted that the garage permitted under the First Consent is materially smaller and intended for a use ancillary to the occupation of No 45. It does not, in itself, justify the increased height and bulk that would result from Garage B as currently built nor its severance from the main dwelling.
 18. Consequently, I find that Garage B, as a result of its height, bulk and non-domestic use, appears out of keeping with, and fails to respect, the character of the surrounding area. As such, I find it contrary to Policy PCS23 of the Poole Core Strategy 2009 (CS) which seeks to ensure that new development exhibits a high standard of design which respects the character and setting of the surrounding area in terms of, amongst other things, its function, scale and height.

Appeals A and B

Living conditions

19. Turning then to the effect that severing the use of the Garages from the occupation of the main dwelling would have on neighbouring occupiers, while I accept that there would be no privacy concerns, access to Garage B would nevertheless involve passing along the driveway of No 32 Highview Gardens,

close to its western elevation. The appellant has indicated that the building will be used for the storage of goods and equipment associated with their business. There is, in my view, every likelihood that such a use would result in higher levels of noise and disturbance compared to that which could be expected from a domestic garage. Without detailed information which would demonstrate that noise levels would remain within acceptable levels, I cannot be satisfied that the living conditions of the occupiers of No 32 Highview Gardens would not be materially compromised.

20. Similarly, by removing the requirement for the Garage A to remain ancillary to the occupation of No 45, it would introduce a non-domestic building into the rear garden of an existing residential dwelling. This can, in many cases, result in considerable disturbance to the occupiers of neighbouring properties and I consider Appeal B to be no exception in this respect. While I note that the appellant has indicated that its intended use is for the storage of business related items, there is little information as to what this would entail, how often it would be used or by whom. As with Garage B above, without further information, I am not persuaded that levels of disturbance would remain within acceptable levels.
21. The Council has also raised concerns regarding the impact of the Garages on the outdoor amenity space available to the occupiers of No 45 Brixey Road. In view of the fact that the Third Consent permits a garage of similar size to that of Garage A, it is clear that any additional impact resulting solely from Garage A would be limited. I do not therefore consider that Garage A would, in itself, have any material impact on that area.
22. However, the same cannot be said for Garage B. The combination of its height, bulk and the newly erected fence along the boundary results in significant levels of shading in this area which is exacerbated by the presence of Garage A. Together, the Garages result in a significant amount of overshadowing which would materially affect a user's enjoyment of this space.
23. Consequently, although I have found above that Garage A would not be detrimental to the living conditions of the occupiers of No 45 with regard to outdoor amenity space, I have nevertheless found that it would result in unacceptable levels of noise and disturbance to the occupiers of that dwelling. Likewise, I have found that Garage B would result in unacceptable levels of noise and disturbance to the occupiers of No 32 Highview Gardens and would impact negatively on the outdoor amenity area available to the occupants of No 45. As such, I find, both Garage A and Garage B contrary to Policy DM1 of the Poole Site Specific Allocations and Development Management Policies 2012 (SSADMP) which, amongst other things, seeks to ensure that new development does not adversely affect the living conditions of occupiers of neighbouring properties.

Other Matters

24. The appellants have suggested that the garden of No 45 has been significantly underused in the past by the occupiers of that dwelling and has referred me to Paragraph 17 of the National Planning Policy Framework ("the Framework") which encourages the use of previously developed land. However, the Framework⁴, specifically excludes land in built up areas such as private

⁴ At Appendix 2

residential gardens from the definition of previously developed land and as such, I find that the Paragraph 17 of the Framework provides little support for the schemes proposed.

25. While I note the appellants' assertion that the occupiers of No 45 do not need a double garage accessed from Highview Gardens, a lack of need does not, in my view, weight positively in favour of the proposal. Similarly, while I note that at present an ownership connection would remain between the garage and no 45, this does not provide sufficient reason to grant planning permission for the development proposed.

Conclusion

26. I have found above that Garage B is harmful to the character and appearance of the surrounding area and detrimental to the living conditions of the occupiers of neighbouring properties. As such, I find it contrary to CS Policy PCS23 and SSADMP Policy DM1.
27. Similarly, although I do not consider Garage A impacts negatively on the outdoor amenity space available for the occupiers of No 45, I have nevertheless found that its severance from the main dwelling would be likely to result in unacceptable levels of noise and disturbance to the occupiers of No 45. As such, it would be contrary to SSADMP Policy DM.
28. Accordingly, for the reasons set out above, I conclude that the both Appeal A and Appeal B should be dismissed.

Rory Cridland

INSPECTOR