

Appeal Decision

Site visit made on 15 May 2017

by Jonathan Manning BSc (Hons) MA MRTPI

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

Decision date: 30 May 2017

Appeal Ref: APP/Z1775/D/16/3164348

26 Nettlecombe Avenue, Southsea, PO4 0QW

- 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 S & B Gladston against the decision of Portsmouth City Council.
 - The application Ref 16/01445/HOU, dated 26 August 2016, was refused by notice dated 7 November 2016.
 - The development proposed is construction of a single storey outbuilding using existing unauthorised structure walls with a pitch and hipped roof (Amended Scheme to 16/01006/HOU).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are whether the proposal would preserve or enhance the character or appearance of the Craneswater and Eastern Parade Conservation Area and the effect of the proposal on the living conditions of the occupants of No 28 Nettlecombe Avenue.

Reasons

Character and appearance

3. The appeal site is located on Nettlecombe Avenue and lies on the corner of Nettlecombe Avenue and Bembridge Crescent. The appeal site falls within the Craneswater and Eastern Parade Conservation Area and includes an attractive large detached house. The proposed outbuilding would be located in the rear garden of the host dwelling, facing onto Bembridge Crescent and would occupy the same footprint as the existing unauthorised outbuilding that is currently located at the site. Directly to the north of the appeal site is the detached garage of the neighbouring property, No 52 Bembridge Crescent. The Portsmouth City Council Guidelines for Conservation 'Craneswater & Eastern Parade, Southsea Conservation Area No.29' (2005, updated 2010) sets out that the host dwelling is a distinctive and interesting corner property. The wider area is largely residential and includes a mix of attractive Edwardian dwellings.
 4. I observed that due to the siting of the host dwelling, on a prominent corner position, that its rear garden, which would accommodate the proposal, adds an element of spaciousness to the street scene along Bembridge Crescent. It is from Bembridge Crescent that the proposal would be principally viewed.
-

Overall, it is clear that the host dwelling and its curtilage make a positive contribution to the character and appearance of the Craneswater and Eastern Parade Conservation Area.

5. The appeal site has a substantial planning history. Most recently this includes the grant of planning permission (Council Ref: 16/01006/HOU) for a flat roofed outbuilding that would utilise the walls and footprint of the existing unauthorised outbuilding. This followed on from the approval of a Lawful Development Certificate for an identical structure. In granting permission for the above scheme, the Council set out that it did not consider a flat roofed outbuilding would be in keeping with the character and appearance of the area, but given that the structure could be built under permitted development rights it was not considered that a design objection could be sustained. The appellant has set out that should this appeal fail then the permitted flat roofed scheme (Council Ref: 16/01006/HOU) will be implemented and I see no reason to doubt this view. Consequently, the previously permitted scheme offers a legitimate fall-back position that I afford significant weight.
6. This appeal scheme would also utilise the existing walls and footprint of the existing structure. The key difference to this appeal scheme and the fall-back scheme would be that this scheme would be greater in height and would include a pitched roof, that would be hipped on its western elevation on the boundary with the neighbouring property No 28 Nettlecombe Avenue. I agree with both parties that the permitted flat roof scheme would not sit particularly well against the architectural style of the host dwelling and the other properties in the immediate area. In terms of architectural style, I accept that this appeal scheme with its pitched roof and gable end facing onto Bembridge Crescent, would be of high quality and more in keeping with the character and appearance of the area.
7. However, the fall-back scheme would only be 2.5 metres in height, which when viewed from the street scene would not be dominant and would allow a good level of visibility over the top of the outbuilding, which would help to maintain the positive contribution that the appeal site makes to the area, in terms of its rare spaciousness. In contrast, this appeal scheme would be a significant structure and very noticeable within the street scene. I accept that the fall-back position establishes the footprint of the outbuilding, in terms of its spatial relationship with the host dwelling and the neighbouring garage. However, I consider that the fall-back position in its own right would appear cramped and awkwardly squeezed into the space between the host dwelling and the neighbouring garage. This appeal scheme with its greater height would draw much more attention to itself and would create a much lesser sense of spaciousness within the street scene than the fall-back scheme. I am not of the view that this is overcome by the improvement that the appeal scheme would have over the fall-back scheme in terms of architectural style. For these reasons and on balance, I agree with the Council that the permitted fall-back flat roofed scheme would be less harmful to the character and appearance of the area than this appeal scheme, which due to its height, siting and design would not preserve or enhance the character or appearance of the Craneswater and Eastern Parade Conservation Area.
8. I consider that the harm caused to the Craneswater and Eastern Parade Conservation Area would be less than substantial. However, there are no public benefits that outweigh the identified harm.

9. The appellant has drawn heavily on the findings of previous appeal decisions¹ in relation to an enforcement notice. In that case, the Inspector when considering an outbuilding of lower height than the existing unauthorised structure (ground (a) proposal), stated that *'The lower roof has reduced the bulk of the building and would make it less dominant between the house and the neighbour at No 52. However, the fundamental problem identified by both previous Inspectors remains. Because of the corner site the rear garden also acts as a side garden and runs along the Bembridge Crescent frontage. This open space is an important part of the character of the Conservation Area, particularly because it is relatively rare. By using the same footprint the proposed garage would still be right up against the neighbour's garage at No 52 and would still dominate the space between that garage and the single storey extension at the rear of No 26. It would also look cramped because of its poor relationship to the existing garage at No 52'* (Paragraph 21).
10. The appellant is of the view that the Inspector did not have any concerns with regards to the height of the proposed outbuilding in that case and was more concerned with the spatial relationship with the host dwelling and the neighbouring garage, which has now been overcome by the fall-back scheme. It is clear that the Inspector felt that the proposal in that case would be less dominant than the existing structure on the site. However, he does not come to a conclusive view on the height of the scheme or state that its height was acceptable in isolation of the other matters. I think it is reasonable to consider that the height of the outbuilding was a contributing factor towards the Inspector's conclusion that the scheme in that case would still dominate the space. In any event, I am mindful that each proposal should be considered on its own merits. Given the above, I consider that this matter does not affect my own findings.
11. The appellant has also suggested that the permitted flat roofed outbuilding could be increased in footprint to be closer to the road, under permitted development rights. Whilst this may or may not be the case, I do not have a detailed scheme before me to consider and therefore I afford this suggestion little weight.
12. In conclusion on this matter, the scheme would not preserve or enhance the character or appearance of the Craneswater and Eastern Parade Conservation Area² and therefore it runs contrary to Policy PCS23 'Design and Conservation' of the Portsmouth Plan (Core Strategy) (2012).

Living conditions

13. The proposed outbuilding would be located very close to the boundary with the neighbouring property No 28 Nettlecombe Avenue. I observed that the scheme would result in built development along nearly the entire eastern garden boundary of No 28. Having visited No 28 as part of my site visit, I agree with the Council that the flat roofed fall-back scheme even at 2.5 metres in height would still create a sense of enclosure within the garden of No 28 and would affect the outlook from the garden, due to the extent and proximity of development on the boundary.

¹ APP/Z1775/C/14/3000260, APP/Z1775/C/14/3000284 & APP/Z1775/X/14/3000265, dated 29 October 2015.

² Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

14. This appeal scheme, whilst having a hipped roof and slightly lower eaves height directly on the boundary at 2.2 metres, would rise to an overall height of approximately 4.5 metres. The proposed outbuilding would therefore be noticeably larger than the fall-back scheme and despite the efforts to reduce the bulk of the building on the boundary with No 28, it would still have a solid appearance. Whilst I do not consider that the structure would appear particularly overbearing, the extent of the built development on the boundary and the height of the proposed outbuilding would nonetheless create a strong sense of enclosure and unacceptably affect the outlook of the garden of No 28. I consider that this would significantly affect the living conditions of the occupants of No 28. The appellant suggests that due to the boundary treatment the outlook on the eastern garden boundary of No 28 is only of the sky. Having stood in the rear garden of No 28, it was clear to me that this is not the case and views of Bembridge Crescent over the boundary wall are available.
15. The appellant has also referred to the previous enforcement appeal decisions³, in relation to this matter. When considering the ground (a) proposal, which was for a structure greater in height, but with a stepped down flat roofed element to the building on the immediate boundary with No 28, the Inspector stated '*The flat roofed element would certainly reduce the impact of the proposal on the garden at the rear of No 28 but would introduce a very awkward design element into the site*' (Paragraph 22). Again, it is clear that the Inspector considers that the proposal in that case would have had a lesser impact than the existing structure on the living conditions of the occupants of No 28. However, he does not come to a conclusive view on whether the scheme in that case was acceptable in relation to such matters.
16. Notwithstanding this, I consider that the previous ground (a) scheme and this appeal proposal are demonstrably different. This is because this proposal has a hipped roof and the previous ground (a) scheme had a flat roof section immediately adjacent to the boundary. The appellant has provided a diagram as part of the useful chronological order of the planning history of the site. This provides an overlay of this scheme, the previous ground (a) appeal and the current structure on the appeal site. This illustrates that whilst this appeal scheme would be lower in overall height than the previous ground (a) appeal, there would nonetheless be a greater level of development at a greater height close to the boundary with No 28, due to the proposed hipped roof rather than the flat roofed section of the previous ground (a) scheme. As a result, I consider that this appeal scheme would result in a greater level of harm to the living conditions of the occupants of No 28, in terms of sense of enclosure and loss of outlook.
17. The appellant has set out that where the highest elements of the proposed roof are, there will be approximately 4 – 4.2 metres in height at a distance of more than 2 metres from the common boundary with No 28 and that the General Permitted Development Order tolerances under Class E consider outbuildings of 4 metres at a distance of 2 metres from a boundary acceptable because they do not result in harm to amenities. However, this ignores the fact that there would be a sloping hipped roof, increasing in height within 2 metres of the boundary. This comparison is therefore flawed and does not affect my findings.

³ APP/Z1775/C/14/3000260, APP/Z1775/C/14/3000284 & APP/Z1775/X/14/3000265, dated 29 October 2015.

18. Given all of the above, I consider that the proposal would cause harm to the living conditions of the occupants of No 28, by virtue of an increased sense of enclosure and loss of outlook. The scheme therefore conflicts with Policy PCS23 of the Portsmouth Plan, in this regard. Further and for the avoidance of doubt, I consider that this proposal would result in a greater level of harm to the living conditions of the occupants of No 28 than the fall-back scheme, by virtue of its greater height.

Other matters

19. Interested parties have raised several other concerns. However, I am dismissing the appeal on other grounds and therefore such matters do not affect my overall conclusion. Consequently, such other matters have not had a significant bearing on my decision.

Conclusion

20. For the reasons set out above and having regard to all other matters raised, the proposal conflicts with the development plan when taken as a whole. There are no material considerations that outweigh the identified harm and the associated development plan conflict. The appeal is therefore dismissed.

Jonathan Manning

INSPECTOR