



Appeal Decision

Site visit made on 8 May 2019

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18th July 2019

Appeal Ref: APP/F2415/D/19/3220319

54 St Mary's Road, Market Harborough LE16 7DU

- 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 Kevin Jones against the decision of Harborough District Council.
 - The application Ref 18/01180/FUL, dated 9 July 2018, was refused by notice dated 3 December 2018.
 - The development proposed is erection of 1st and 2nd storey extension over driveway to create a self-contained residential flat.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal started off under the householder appeal process but was transferred to the written representations appeal process. This is because the proposal involves the creation of a self-contained residential flat and not just first and second floor extensions. The description of development used in the banner heading above has been amended accordingly, in consultation with the main parties.
3. Amended elevational drawings were submitted during the course of the application process, although these were not accompanied by amended floorplans. Following my request, the Council confirmed that no public consultation took place on the amended drawings. There are material differences between the original and revised elevational plans in terms of windows and balconies, which could prejudice interested parties including neighbouring residents. Therefore, I have considered this appeal against the original drawings, which show two rooflights and two windows at the front and two first floor Juliette balconies and a second floor balcony at the rear. For the same reason, I have not accepted any amended floorplans from the appellant during the appeal process. While I note the appellant's frustration, this is to ensure the process is fair to all participants.
4. The Harborough Local Plan 2011-2031 (HLP) was adopted in April 2019 and supersedes all policies in the Harborough District Core Strategy 2006-2028. The appellant has been afforded the opportunity to comment on relevant policies provided by the Council following my request.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of occupants of Birch House with particular regard to outlook.

Reasons

6. The appeal property at 54 St Mary's Road is a two storey building plus roof space and lower ground floor. The properties either side of No 54 along this side of St Mary's Road are of similar heights. The land falls to the rear to the River Welland. Birch House is a four storey apartment building situated to the rear of Nos 52 and 54 and accessed via a large gap between Nos 54 and 58.
7. The front elevation of Birch House contains a number of windows, with Juliette balconies indicating that at least some of these windows serve habitable rooms. These windows currently look at the rear elevations of Nos 52 and 54. Due to the level changes of around 2.5m, the outlook from Birch House is already quite enclosed by the height and bulk of the existing rear elevations, but the gap between Nos 52 and 54 provides relief in terms of built form.
8. The proposed development would extend across the gap with living space at first and second floors. It would significantly increase the amount of enclosure to Birch House, particularly for those apartments that face directly towards the existing gap. The distance between windows at Birch House and the proposed development would be around 9m more than the Council's minimum 21m separation distance. However, the height and massing of the extension and the effect of the level changes would exacerbate the degree of enclosure and result in an overbearing effect in terms of outlook. Birch House may impact on views from Nos 52 and 54 looking towards the river, but this is an existing effect and does not justify the negative effect looking in the other direction.
9. The distance between the proposed development and the front elevation of Birch House would be sufficient to avoid any negative effects on light and privacy to occupants of Birch House, but this does not overcome the negative effects on outlook. It may be that the scale and design of the proposed development would generally complement the street scene along St Mary's Road and avoid harm to Market Harborough Conservation Area, but there would still be harm to living conditions. While the impact on the occupants of Birch House does not appear to have been raised at site meetings, this does not negate the harm that has been identified.
10. I note that a proposal for a similar side extension was granted planning permission in 2004 (ref 04/00122/FUL). However, this was not implemented. Moreover, the 2004 permission would not have enclosed the entire gap to No 58 and would have had a half hipped roof rather than a gable end. Planning permission was granted in 2005 for Birch House (ref 05/00381/FUL) which appears to have included a similar side extension to No 54. However, the evidence before me is not conclusive that the extension is still implementable under any commencement rules. Furthermore, Birch House has been built and occupied for several years, requiring consideration of any potential effects on its occupants. Finally, the policy context for both the 2004 and 2005 permissions has changed, replaced by the Core Strategy which itself has now been replaced by the HLP. Therefore, I give little weight to the 2004 and 2005 permissions as justification for the proposed development.
11. In conclusion, the proposed development would have a significant negative effect on the living conditions of occupants of Birch House with regard to outlook. Therefore, it would not accord with HLP Policy GD8 which, amongst other things, requires development not to have a significant adverse effect on the living conditions of existing residents through overbearing impacts. It

would also not accord with paragraph 127(f) of the National Planning Policy Framework which seeks a high standard of amenity for existing and future users of places.

Conclusion

12. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR