
Appeal Decision

Site visit made on 16 July 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2019

Appeal Ref: APP/A1910/W/19/3228930

Greymantle, Hempstead Road, Bovingdon, HP3 0HF

- 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 Ben Sterling against the decision of Dacorum Borough Council.
 - The application Ref 4/00519/19/FUL, dated 6 March 2019, was refused by notice dated 1 May 2019.
 - The development proposed is demolition of existing garage and rear/side extensions addition of new rear/side extension and conversion from one dwelling to two.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Ben Sterling (Kedgling Development) against Dacorum Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupants of the property known as Ivydene, with particular regard to privacy.

Reasons

4. Along with the proposed extensions and associated works, the development would involve the division of the existing dwelling into two separate dwellings. The submitted 'existing' plans show that two of the first-floor side windows which face the adjacent lying property, 'Ivydene', serve a bathroom and a bedroom. One of the existing windows would be removed and as a result of internal alterations the remaining side facing window ('the window') would serve a bedroom.
5. The window to be retained overlooks Ivydene. Due to the scale, position and clear glazing of the window, it would offer clear and elevated views of the dining room window and rear patio area associated with Ivydene. It would represent a significant intrusion, unacceptably diminishing the privacy for the occupants of this property, to the detriment of their living conditions.

6. I have been provided with a copy of a previous appeal decision for a similar proposal which was recently dismissed by the appeal Inspector¹. My findings concerning the impact on the living conditions of neighbouring occupants do not deviate from the previous appeal decision. Like the previous Inspector, I find that as the proposal involves a window which would serve a bedroom, which comprises a habitable room, it would be materially different and more harmful to adjacent living conditions than the existing use of the room as a bathroom, where overlooking of Ivydene through the window would not be as prevalent.
7. As part of this appeal, the appellant has included evidence to support a 'fall-back' position, which would entail changing the use of the room served by the window to a bedroom, to be used as part of a House in Multiple Occupation (HMO). To my mind, if the first-floor room closest to Ivydene was to be used as a bedroom in connection with an HMO, then it too would lead to an unacceptable loss of privacy for the occupants of Ivydene for the reasons I have already given.
8. The appellant states that it is their intention to instigate the fall-back option should this appeal fail. I observed on my site visit that some limited internal works had taken place within the appeal building, but there was no evidence to suggest that it was being used as an HMO, nor that the existing bathroom had been converted into a bedroom. Nevertheless, whilst there is no Lawful Development Certificate² concerning the HMO use, the Council do not dispute that it would not require planning permission. I also understand that a separate HMO license may be required for such an HMO use, but the appellant has submitted uncontested evidence detailing over 90 HMO licenses granted by the Council since 2016, with none having been refused.
9. The Council have referred me to a recent and extant planning permission³ on the appeal site. Whilst I do not know the full details of the case, it appears that the permission involves the provision of an obscure glazed window in order to address the concerns relating to the living conditions of adjacent occupants. Therefore, even if I was to assume that the use of the building as an HMO could be implemented, the extant planning permission signals an intent to carry out a different development which casts some uncertainty over the appellant's contention that the appeal building would be used as an HMO. As a result of all the evidence I have before me, I have applied modest weight in connection with the fall-back position, but it does not outweigh the harm I have identified.
10. In conclusion, the development would unacceptably harm the living conditions of the occupants of the adjacent property, Ivydene, with particular regard to privacy. The development would conflict with Policy CS12 of the Dacorum Local Development Framework Core Strategy 2013 which requires, amongst other matters, to ensure development avoids loss of privacy to surrounding properties.

¹ Appeal reference – APP/A1910/W/18/3211726

² Section 191 and Section 192 of the Town and Country Planning Act 1990

³ Dacorum Borough Council planning permission reference 4/00525/19/FUL

Other Matters

11. Third parties have raised concerns relating to a range of matters including highways and parking, design and appearance, and lack of amenity space for future occupants of the proposed development. The Council did not raise any specific concerns in respect of these matters. In any event, I am dismissing the appeal for the reasons given so I have had no reason to pursue these concerns further.
12. It has been put to me by the appellant that the proposed bedroom closest to Ivydene could be part of a single-family unit and may be used as a child's room or spare room which would limit the frequency of its use. However, there would be no restriction concerning the demographic or frequency of use of the proposed bedroom and, therefore, it is a matter to which I attach only limited weight and it does not outweigh the harm I have identified.
13. At some time in the past it appears that the window was obscure glazed. I do not know the lawful status of the current window. However, this has had no bearing on my decision which I have made based on the submitted plans which show that the window would be clear glazed as part of the proposal.

Conclusion

14. For the reasons given above, the appeal is dismissed.

Matthew Woodward

INSPECTOR