



Appeal Decision

Site visit made on 17 September 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/V3120/W/19/3230536

Winterbourne, 57 Wootton Village, Boars Hill, Oxford, Oxfordshire OX1 5HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Dr David Towle against the decision of Vale of White Horse District Council.
- The application Ref P18/V2959/HH, dated 30 November 2018, was approved on 11 March 2019 and planning permission was granted subject to conditions.
- The development permitted is the retrospective application for variation of condition 2 (approved plans) and 7 (windows) of application P16/V0880/HH for change of position of garage and changes to gable window. Erection of a detached double garage.
- The conditions in dispute are Nos 3 and 4 which state that:

3) Within three months of the issue of this notice the new first-floor window on the north elevation shall be glazed with obscured glass and shall be fixed and incapable of being opened in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.

Thereafter, the window shall remain obscure glazed and fixed shut.

Notwithstanding the provisions of Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no additional first-floor window(s) shall be inserted in the north elevation of the garage without the prior grant of planning permission.

4) Within three months of the issue of this notice the new first-floor window on the south elevation shall be glazed with obscured glass and shall remain closed with restrictors that would only allow the window to be opened in the case of an emergency, in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the window shall remain obscure glazed with restricted opening for emergency use only. Notwithstanding the provisions of Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no additional first-floor window(s) shall be inserted in the south elevation of the dwelling without the prior grant of planning permission.

- The reasons given for the conditions are:

3) To protect the privacy of adjacent dwellings (Policy DC9 of the adopted Local Plan).

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Decision

1. The appeal is allowed and the planning permission Ref P18/V2959/HH for retrospective application for variation of condition 2 (approved plans) and 7 (windows) of application P16/V0880/HH for change of position of garage and changes to gable window. Erection of a detached double garage at Winterbourne, 57 Wootton Village, Boars Hill, Oxford, Oxfordshire OX1 5HP granted on 11 March 2019 by Vale of White Horse District Council, is varied by deleting condition 3.

Procedural Matter

2. Since the refusal of the application the Council has adopted the Vale of White Horse Local Plan 2031 Part 2 (Detailed Policies and Additional Sites), I have been provided with copies of the relevant policies, as has the appellant. I have therefore had regard to these policies when making my decision.

Main Issue

3. The main issue is whether the conditions are reasonable and necessary having regard to the living conditions of the occupiers of neighbouring properties.

Reasons

Condition 3

4. Condition 3 requires that the north elevation window be obscurely glazed and fixed shut in accordance with details that are to be agreed with the local planning authority.
5. The first-floor north elevation window overlooks the garden area associated with the immediately neighbouring property. Nonetheless, this garden area is enclosed only by a low stone wall and as a consequence there are clear views into the site from the adjacent road and footway. Thus, this garden space provides little privacy to users. Any overlooking that may take place from the north elevation window would not materially reduce the existing level of privacy and therefore would not result in an unacceptable effect on neighbouring residents in terms of impact on, or reduction of, privacy.
6. I am also conscious that the window would potentially allow for views towards the front elevation of the neighbouring building to the north. However, given the separation distance, that any views would be at an oblique angle, as well as that the window is located partially over the staircase within the garage, with little useable floorspace adjacent to the window, any such views would be limited and would not result in an unacceptable degree of overlooking.
7. Therefore, in my view, the presence of the window to the north elevation would not result in an unacceptable effect on the living conditions of the neighbouring occupiers. Thus, condition 3 is not reasonable or necessary in the interests of living conditions.
8. Accordingly, the scheme in the absence of this condition would not conflict with Policy DC9 of the Vale of White Horse Local Plan 2031 Part 1 (Strategic Sites and Policies)¹ and Policy DP23 of the Vale of White Horse Local Plan 2031 Part

¹ The Local Plan – Part 1

2 (Detailed Policies and Additional Sites)². Together, and amongst other things, these policies seek to ensure development does not unacceptably harm, or result in significant adverse impacts on, the amenity of neighbouring properties or uses.

Condition 4

9. Condition 4 requires that the south elevation window be obscurely glazed and openable only with restrictors in the case of an emergency, in accordance with details that are to be agreed with the local planning authority.
10. There is a first-floor side elevation window to the neighbouring property of 55 Wootton Village (No 55), which serves a bedroom. I observed that there were clear views of this window from within the first floor of the garage. The separation distance between the two windows is insufficient to prevent unacceptable overlooking into No 55 and as a consequence I consider that it is both reasonable and necessary that the window be fitted with obscured glazing. Furthermore, I also consider it necessary that the window only be openable in the case of an emergency.
11. I note that the appellant contends that the use of film to obscure the window would be acceptable, however I note that the film has a guarantee of only 5 years. This does not provide sufficient certainty that the living conditions of the occupiers of No 55 would be maintained in the future.
12. As such, I find that condition 4 is reasonable and necessary in order to safeguard the living conditions of neighbouring occupiers and in order that the development accords with Policy DC9 of the Local Plan – Part 1 and Policy DP23 of the Local Plan – Part 2, the relevant aims of which I have outlined above.

Other Matters

13. I have had regard to the example cited by the appellant in respect of planning permission that was granted for the upward extension of a bungalow. From the limited details that have been provided it is clear that the circumstances of that case are different from that which is before me. I have therefore assessed the appeal scheme on its own merits.
14. There is reference to previous advice provided to the appellant by the Council. Whilst, this matter is noted, it is not something that adds to my reasoning in consideration of the merits of the appeal scheme.
15. I note that some reference is made to the acceptability of the garage in principle, however the appeal has been made in respect of only two conditions, subject to which planning permission has been granted.
16. There is reference to changes being made to the permitted garage without planning permission. However, the planning system does allow for planning permission to be sought retrospectively. Such schemes should be considered on the basis of their planning merits irrespective of the unauthorised background. Therefore, while local concerns about this aspect of the proposal are noted, they have very little bearing on the outcome of the appeal.

² The Local Plan – Part 2

Conclusion

17. As I have found that condition 3 is not reasonable or necessary, I shall delete this condition. However, I have also found that condition 4 is reasonable and necessary in order to safeguard the living conditions of neighbouring occupiers and as such this condition shall remain.
18. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed, and the planning permission should be varied as set out above.

Martin Allen

INSPECTOR