



Appeal Decision

Site visit made on 3 October 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 04 December 2019

Appeal Ref: APP/H2835/D/19/3232564 34 Nest Lane, Wellingborough NN8 4AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Csaba Gudea against the decision of Wellingborough Borough Council.
 - The application Ref WP/19/00097/VAR dated 14 February 2019 was refused by notice dated 11 April 2019.
 - The application sought planning permission for Rear extension and basement. Proposed front porch. Railings added above existing boundary wall and gates (to west elevation) without complying with a condition attached to planning permission WP/18/00453/FUL dated 4 October 2018.
 - The condition in dispute is No 2 which states that: 'The development shall not be carried out other than in accordance with the following details: Proposed ground floor plan NP-PL-18-04 received on 30 July 2018; Proposed basement floor plan NP-PL-18-B1 received on 30 July 2018; Proposed rear elevation NP-PL-18-12-PR received on 30 July 2018; Proposed side elevation NP-PL-18-21 received on 30 July 2018; Proposed east (rear) elevation NP-PL-18-23 received on 30 July 2018.'
 - The reason given for the condition is: 'To ensure that the development is carried out in accordance with the approved plans.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I observed on my site visit that works were ongoing and the rear extension and basement have been largely constructed. However, the current appeal arises from the variation application that was determined by the Council on the basis of the following plans NL-PL-18-12, NP-PL-18-12PRB, NL-PL-18-21B and NP-PL-18-04A and I am therefore considering these plans in determining the appeal.

Background and Main Issue

3. Planning permission Ref WP/18/00453/FUL was granted on the 4 October 2018 for "Rear extension and basement. Proposed front porch. Railings added above existing boundary walls and gates (to west elevation)-works have commenced". The planning permission largely related to a single storey rear extension and a basement area broadly in line with the above ground extension.

4. Work has been carried out although not completed. The appellant applied to vary the plan condition attached to the original planning permission and has produced amended plans. Although originally recommended for approval, the application to vary was subsequently refused by the Council on the grounds of poor design, character and appearance, overlooking, overdevelopment and encroachment on garden space. The principle of both the single storey rear extension and a basement have however already been established under the original planning permission.
5. The main issues are (i) the effect of the appeal proposal on the character and appearance of the area and (ii) whether the appeal proposal would result in overlooking and loss of privacy for nearby residents.

Reasons

Character and Appearance

6. The appeal site is a detached bungalow on the corner of Nest Lane and Nursery Drive. The bungalow fronts onto Nest Lane and has access gates and parking to the front as well as a rear garden. There is a wooden panel fence along part of the side of the appeal dwelling on Nursery Drive.
7. The original planning permission provided for a flat roof to the extension. The changes proposed include a shallow mono pitch roof with a ridge height of 500mm greater than the approved plan. The roof now overhangs the rear wall of the extension. The basement now extends out into the garden. Other changes include the addition of windows on both side elevations and windows at basement level.
8. The amended plans indicate that the amended roof pitch would be 7 degrees. At my site visit, the roof as constructed does not however match the proposed plan as the edge of the northern elevation of the appeal dwelling has been removed although the roof works may not yet be finished. The difference between the original flat roof and the shallow pitch roof shown on the plans would be minimal. Whilst the roof to the extension would be visible from the side of Nursery Drive, I do not consider that the change from a flat roof to the proposed pitch as identified on the amended plan would harm the character and appearance to the area. A condition could have ensured that roof materials matched the appeal dwelling roof to maintain the visual quality of the area.
9. The amended plans other than plan No NP-PL-18-04 A do show an additional window to each side of the extension at ground level. The proposed windows are of a similar style to the existing windows on the appeal dwelling on the north elevation and the window on the opposite side would be of a similar design. The appellant's statement indicates that the bathroom window would be opaque although that is not shown as opaque on any plan and could be addressed as a condition. Two windows of a simple style are proposed at basement level on the northern elevation. Due to their location and style, the windows would be in keeping with the appeal dwelling.
10. The Council refers to the proposed changes to the basement have a larger footprint and extending out 1.5 metres into the rear garden. The approved plan NP-PL-18-04 shows the basement with a red line as not extending beyond the flat roof that was proposed above it. The flat roof was an oblong shape slightly larger than the basement. The replacement plan NP-PL-18-04-A shows

the proposed roof as being a different shape at both ends with the roof on the southern end of the roof extending beyond the basement to be in line with the end of the outdoor stairs. An extended roof to the southern side of the appeal dwelling which extends up to the end of the steps would unbalance the appeal proposal. Proposed Plan Number NL-PL-18-21B does not show the pitched roof extending to the external stairs. The appellant indicates that the sizes on the original basement plan were correct but has now submitted a plan which appears to show a larger roof and larger basement. The Council refers to the extended basement requiring ground levels to be altered but limited information is provided on the proposed plans with regard to changes to ground levels as a result of the enlarged basement.

11. External stairs are shown on the proposed plan NL-PL-18-21B but no details of the finish of the external stairs are provided and are required to assess any impact upon character and appearance. This is particularly important when the proposed plans show that the extension is to have a brick finish. There is however a separate condition which is not being varied requiring the extension to match the walls of the existing building but from my site visit the existing building now has a grey render. From the title of Plan NL-PL-18-12 it is not clear if it is intended to be existing or proposed as it shows elements of both with the additional windows and pitched roof but not the external stairs. Supports at the ends of the pitched roof are shown on some plans but not on others. There are discrepancies with regard to the submitted plans.
12. The nature of the submitted plans means that I cannot be satisfied that the appeal proposal would be in compliance with Paragraph 130 of the National Planning Policy Framework or Policies 8 d) i and ii of the North Northamptonshire Joint Core Strategy 2011-2031 Adopted July 2016 (the Core Strategy). Paragraph 130 refers to taking opportunities to improve the character and quality of an area and that local planning authorities should ensuring that the quality of approved development is not materially diminished between permission and completion. Policies 8 d) i and ii of the Core Strategy refer amongst other things, to responding to the site's wider context and local topography.

Overlooking and loss of privacy

13. Although the Council's reason for refusal refers to overlooking and loss of privacy, limited details are provided. The objections refer to the rear facing windows of the extension overlooking the bungalow to the rear of the appeal site but those windows were approved under the original planning permission and do not form part of the changes that I am considering. Although overlooking is alleged, the position of the appeal dwelling in relation to other dwellings means that the changes before me namely the addition of windows to the sides and at basement level are not likely to result in harm from overlooking and loss of privacy.
14. I therefore do not find that the appeal proposal would harm the living conditions of nearby residents due to overlooking or loss of privacy. It would therefore not be contrary to Policy 8 e) i. of the Core Strategy which, amongst other things, refers to protecting amenity by not resulting in an unacceptable impact on amenities for neighbouring properties by reason of overlooking.

Other Matters

15. Local residents have objected to the appeal proposal. A number of issues raised relate to the principle of development and the use of the appeal proposal. However, the principle of development was established under the original planning permission and no change of use is being sought.
16. Although a change to commercial use is alleged, the Council indicates that, to date, there is no evidence of commercial activity taking place which requires planning permission. Allegations of the appeal site being used for multiple occupancy would also be a matter of investigation and the Council states that Environmental Health and Housing Officers are investigating complaints. Works or the parking of commercial vehicles on Nursery Drive are outside the remit of this appeal and would need to be resolved between the various owners.
17. Matters such as ground conditions and the structural safety of the appeal proposal would be addressed under different legislation. Although residents have referred to noise and disturbance during the construction period, the appeal proposal has now largely been constructed. The Council has indicated that an hours of operation condition was not imposed upon the original planning permission due to the scale of the works proposed.

Conclusion

18. I have found that the appeal proposal would not cause harm to nearby occupiers with regard to overlooking or privacy. I have found that the appeal proposal with regard to the proposed additional windows and addition of a shallow pitch roof would not harm the character and appearance of the area. However, I have been unable to conclude that the appeal proposal as a whole would not harm the character and appearance of the area due to the absence of plans which clearly show the proposed changes.
19. For the reasons given, the appeal is therefore dismissed.

E. Griffin

INSPECTOR