The Planning Inspectorate

Appeal Decision

Site visit made on 3 December 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2019

Appeal Ref: APP/K0235/D/19/3235609
55A Church Lane, Oakley, MK43 7RU

- 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 J Price against the decision of Bedford Borough Council.
- The application Ref: 19/01028/FUL dated 11 May 2019, was refused by notice dated 24 July 2019.
- The development proposed is first floor extension to existing detached garage.

Decision

1. The appeal is dismissed.

Procedural Matter

2. At my site visit there were two metal framed white concave conical structures at the front of the garage area in the approximate location of the proposed extension. Whilst I noted the presence of the structures, as they are not the proposal before me and I am not aware of their status, I have not regarded them as any form of 'fall-back' position for the appellant.

3. The reason for refusal in the Council's decision notice refers to the proposed development having an adverse effect upon neighbouring amenity. However, it makes no reference to properties or the types of amenities/living conditions that it considered merited refusing the proposed development.

4. The Council's report refers to the staircase providing a vantage point that would adversely impact on the privacy of neighbouring properties. From my site visit, based upon the height and likely visibility, I have taken these to be Nos. 55 and 57 Church Lane which adjoin either side of the appeal site (north west and south east). The Council's report refers to the development being overbearing when viewed from No. 100 Ruffs Furze and properties adjacent to the site, therefore, I have taken this to be Nos. 55 and 57 Church Lane. Accordingly, I have used the Council's report to inform the main issues below.

Main Issues

5. The main issues are the effect of the proposed development upon:

   - the character and appearance of the area;
   - the living conditions of the occupiers of Nos. 55 and 57 Church Lane, with particular regard to privacy; and,

- the living conditions of the occupiers of No. 100 Ruffs Furze and Nos. 55 and 57 Church Lane, with particular regard to being overbearing;

Reasons

Character and appearance

6. The appeal site comprises a detached single storey property with a generously sized rear garden, similar to other generous verdant plots either side of it fronting Church Lane. Adjoining these plots to the rear (north east) are dwellings on Ruffs Furze which have considerably shorter rear gardens of only around 8 metres (m) in depth. However, the plot layout in the area appears to be generally be characterised by dwellings addressing the highway, with verdant landscaped rear gardens and some modestly sized outbuildings.

7. The existing garage lies close to the rear end of the rear garden, a short distance from the adjoining properties. At approximately 12.3m its eaves span virtually the entire width of the rear garden, close to a close boarded fence and trellis, totalling approximately 2.5m in height. By extending the garage forward by approximately 7m and 1m in height, the new building would measure approximately 15m deep along its eaves, by 5.3m high, by 12.3m wide.

8. The appellant has as referred to existing planting outside the appeal site providing adequate screening, however, this not under the control of the appellant and its retention and permanence is not guaranteed. Furthermore, there is some visibility through the vegetation, particularly when some of the trees are not in leaf. The proximity of the pitched roof to the boundary would give little relief and not allow any planting above the eaves within the appeal site to the south east and north west. To the rear young rear trees are able to grow in the narrow gap, but without considerable further growth they have limited potential to soften the visual impact of the proposed development. Their retention and on-going maintenance, including to a specified height, has not been detailed or provided in a landscaping scheme for my consideration in the plans and details before me.

9. The proposed development would significantly visible from neighbouring properties and glimpsed between some dwellings from the street scene on Church Lane and Ruffs Furze. By reason of its height, width, depth and overall scale the proposed development would appear as a large building in the context of the appeal site. Combined with its appearance and proximity to the boundary, it would dominate the rear of the appeal site and appear cramped within its plot when viewed from the surrounding properties. As a consequence, it would be at odds with and significantly harmful to the character and appearance of the area. The top part of the staircase structure would be likely to be visible to the north west, as an unusual feature in this verdant residential setting and adds to the harm of the development.

10. I note that in considering previous appeal Ref: APP/K0235/D/16/3154190 for a garage building on this appeal site, the Inspector referred to existing vegetation. However, this was for a markedly smaller development than the proposal before me, and I am not aware of the exact evidence before that Inspector. Furthermore, based upon the decision letter it is not clear that the surrounding landscaping was an overriding factor in allowing that development.

11. I note the appellant's comments in respect of the concave conical structures at the front of the garage. However, the shape, scale, massing and appearance of these are significantly different from the development before me, and their presence is not a justification to allow the appeal proposals before me.

12. For the reasons set out above the proposed development would be significantly harmful to the character and appearance of the area. Therefore, it would be contrary to criteria (i) of Policy BE30 or criteria (i) of Policy BE37 of the Bedford Borough Local Plan (2002) (the BBLP) or CP21 of the Bedford Borough Council Development Plan Document Core Strategy & Rural Issues Plan (2008). Amongst other things and in combination, these require development has sufficient regard to its context, respects and enhances the existing character and quality of an area and does not result in a cramped development. It would also conflict with paragraph 127 of the National Planning Policy Framework (2019) (the Framework) which requires that development is sympathetic to local character and adds to the overall quality of the area.

Privacy

13. There would be a spiral staircase on the north western side of the front elevation of the proposed development. The top of floor level of the staircase would be approximately 2.6 metres above ground level, allowing visibility above the boundary fencing into the gardens of neighbouring properties. Being close to the boundary with No. 55 there would be visibility at a very short distance into the garden. This would be significantly harmful to the privacy enjoyed by that neighbour when the existing trees and shrubs are not in leaf, or if they were removed or die in the future, which is not under the control of the appellant. There is row of small trees within the appeal site property on the boundary, but I have doubts, if retained, as to whether this could provide any adequate screen for several years, if at all.

14. The distance of the stairs from the garden boundary of No. 57 is greater than No. 55, however without the guaranteed permanent retention of the hedgerow within the boundary of No. 57, the staircase would also be prejudicial to the privacy of the occupiers of No. 57. The appellant has stated the staircase is only for access, however it would still allow views into neighbouring gardens.

15. For the reasons set out above the proposed development would be contrary to the requirements of criteria (ii) of Policy BE37 of the BBLP, which expects development to respect the standard of amenity/privacy enjoyed by adjoining occupiers. It would also be contrary to paragraph 127(f) of the Framework which requires planning decisions should create places which promote health and well-being with a high standard of amenity for existing and future users.

Overbearing

16. The rear garden of No. 100 Ruffs Furze is approximately 8m in depth. There would be only a short further gap within the appeal site to the eaves of the significantly enlarged roof form. From No. 100 the outlook from the rear windows and garden is onto almost the full width of the appeal site and it would be afforded significantly greater visibility of the increased height and depth of the roof form. The short gap within the appeal site and the sloping roof would provide a small degree of relief. However, by reason of the height, depth and proximity of the proposed development the large mass of roof would

be overbearing when viewed from the rear garden and windows, to such a degree that it would be significantly harmful to the occupiers of No. 100.

17. The existing landscaping within the appeal site currently provides a modest amount of screening, however, at an increased height and thickness to adequately screen the proposed development the planting might result in further harm to living conditions at No. 100. Whilst I have noted the previous Inspector's views of the impacts on No. 100 in considering appeal APP/K0235/D/16/3154190, that development was markedly shorter and shallower than the development before me.

18. Although the roof would integrate a slope away from Nos. 55 and 57, its considerable height would run for around 15m in very close to the shared boundaries. By reason of height, depth, shape, close proximity to the boundaries, and massing of the roof, the proposed development would be significantly overbearing and harmful to the living conditions of the occupiers when viewed from the gardens of Nos. 55 and 57 Church Lane.

19. For the reasons set out above the development have a significant adverse effect upon the living conditions of the occupiers of the neighbouring properties by reason of being overbearing. In this regard the development would conflict with the requirements of criteria (ii) of Policy BE37 of the BBLP, which expects all new development to respect the standard of amenity presently enjoyed by adjoining occupiers. It would also conflict with paragraph 127(f) of the Framework, the relevant provisions of which I have set out above.

Other Matters

20. The appellant has made reference to a development proposal that was approved for what is understood to be a similar development at Nos. 13 – 15 Station Road (Ref: 14/02176/FUL). However, I have not been provided with the plans, details or exact circumstances of the development, therefore I cannot make any comparison with the development subject of this appeal.

21. The appellant has referred to the neighbouring property (No. 55) which was understood to have been re-built (Ref: 16/02252/FUL), referring to its height and a perceived loss of privacy. Although I saw this dwelling from the appeal site, I do not have the details of that development, the approved plans or the detailed circumstances of its approval. The appellant has also mentioned a rear window at No. 57, although the circumstances of its installation are unclear, as is the internal space that it serves. Therefore, I cannot make any meaningful comparisons between these two neighbouring properties and the development before me.

Conclusion

22. The proposed development would be contrary to the development plan and the Framework, and there are no other considerations advanced which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR