
Appeal Decision

Site visit made on 3 December 2019

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 16th December 2019

Appeal Ref: APP/Y3615/D/19/3238807

7 Wherwell Road, Guildford GU2 4JR

- 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 T Littlejohns against the decision of Guildford Borough Council.
 - The application Ref 19/P/01205, dated 2 July 2019, was refused by notice dated 23 September 2019.
 - The development proposed is proposed new front boundary wall, driveway alterations, single/two storey rear extension and existing street signage to be relocated.
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Decision

1. The appeal is dismissed.

Procedural matters

2. During the consideration of the application by the Council the then applicant submitted amended plans. This changed the form of the development and, by default, the description. I have used the description of the development as set out on the Council's decision notice and on the appeal form as this accurately describes the amended proposal.
3. When I arrived for the site visit, during the appointed time, the appellant was not present. I waited for a short while. However, I noted that the occupant of the adjoining property, 9 Wherwell Road, was there and approached them. I explained to them why I was there and asked if I could view the appeal site from their garden. They agreed to this and I went into the rear garden and viewed the site from there. Following this I went to 1 Testard Road and the occupant there also let me into their rear garden. This also allowed me to view the site from this location.
4. I am satisfied from my visits to the two gardens and from my general inspection of the site from the public domain that I was able to see sufficient of the situation to allow me to determine the appeal.
5. Following the site visit I asked the Case Officer to confirm that the appellant was content for me to determine the appeal on this basis. He advised that he was, although he was concerned that I might have discussed the appeal with the neighbours. Other than explaining why I was there, I can confirm I did not discuss the case with either of the neighbours.

Main Issue

6. The main issue is the effect on the living conditions for the occupiers of:

- 9 Wherwell Road in terms of overbearing effect; and
- 9 Wherwell Road and 1 Testard Road in terms of privacy.

Reasons

7. The appeal property is a detached dwelling located on the southeast side of Wherwell Road. The landform drops significantly to the rear. The main entrance is up a short flight of steps, but there is also a short flight down to a secondary entrance. The level change means that this lower level, which I will describe as 'the lower ground floor', is set above the actual ground level at the rear of the property which continues to fall to the rear. I will describe the main entrance level as 'the upper ground floor' and the top storey as 'the first floor'.
8. The proposal is for a three storey side extension to the side, a part two, and part single storey extension on the rear as well as alterations to the front boundary wall. The two storey element would extend the lower and upper ground floors and the single storey element would be at lower ground floor level only.
9. The side and rear extension would extend into the gap between and beyond the rear elevation of 9 Wherwell Road. Currently there is a reasonable space between the two properties providing the vehicular access to the rear, but this would be significantly reduced. A dimension of 1.15m is given to the side wall of No 9 from the side of the proposal as what would be the remaining gap.
10. Due to the proximity of the proposal to the boundary and the amount it would extend beyond the rear of No 9 it would result in an overbearing effect which would be harmful to the living conditions of the occupiers of that property. This would also apply in the rear garden of that property because, as with the appeal property, the rear garden of No 9 is set at a lower level to the rear of that property.
11. The proposed single storey element at the rear of the property would be effectively totally glazed facing No 9; it is described as a "sun room". This would result in overlooking of the rear garden of No 9 at a distance of just over 7.3m leading to a harmful loss of privacy.
12. The appellant has suggested that this could be mitigated by the introduction of planting or an obscure glazed screen. However, I consider that to be effective either would increase the overbearing effect from the built development. In any event I consider that to require any planting to be maintained would not be reasonable as it would impose an obligation interfering with the peaceful enjoyment by the owner of the property which would not, in this case, be proportionate. The imposition of a condition to this effect therefore would not comply with the tests for conditions set out in paragraph 55 of the National Planning Policy Framework (the Framework) and the national Planning Practice Guidance. In the circumstances of the appeal I do not consider that the introduction of an obscure glazed screen would be appropriate for the reasons given above.

13. I have taken into account the existing conservatory at the rear of the property at lower ground floor level. This is narrower than the single storey extension would be and is currently partially covered in vegetation. The proposal would result in the sun room being located further to the rear of No 9 and that, and its increased width, would result in an increase in the level of overlooking.
14. I have also considered the existing relationship between the patio at the rear of No 9 and that of the appeal site. While this allows some overlooking towards the rear garden of the appeal property, views of the rear of the appeal property are partially obscured by the rearmost part of the recent extension to No 9. Furthermore, the appellant refers to a landing on the stairs from the patio down to the garden. Due to the nature of this landing I consider that this is not a location where somebody would loiter to look over the rear of the appeal property. I therefore consider that there are material differences between the two situations.
15. Currently there are three windows in the rear elevation of the appeal property at both first and upper ground floors. These are shown to be three bedrooms and the kitchen. They look out towards the rear garden of 1 Testard Road which is set at right angles to the appeal property.
16. The proposed extension would bring the rear elevation at upper ground floor level closer to the rear boundary; the Council indicates by 4.5m. At upper ground floor level there would be five windows; four to bedrooms and the last to an en suite. At first floor level the property would be extended to the side, and as a result of the proposal across the whole of the elevation at this level there would be six windows; four to bedrooms and two to en suites. The windows to the en suites could reasonably be conditioned to be obscure glazed.
17. The rear garden of 1 Testard Road is set at a lower level than that of the appeal property. The proposal indicates that a 2m high fence would be located on the rear boundary meaning that this would be taller within the garden of No 1. While there would be more windows looking out over No 1 the provision of the cited fence would ensure that the level of overlooking into the rear garden of that property would not be materially more harmful than the current situation.
18. Consequently, while the proposal would not result in unacceptable living conditions for the occupiers of 1 Testard Road, it would harm the living conditions of the occupiers of 9 Wherwell Road. As such it would be contrary to Policies H8 and G1(3) of the Guildford Borough Local Plan and Policy D1 of the Guildford Borough Local Plan: strategy and sites. These policies require development not to have an adverse effect on the amenities enjoyed by the occupants of adjoining buildings in terms of privacy, and be of high quality as per the Design Guide Supplementary Planning Document. In this regard the Design Guide Supplementary Planning Document indicates that care should be taken that extensions do not result in a harmful loss of privacy or overbearing impact. It would also be contrary to paragraph 127 of the Framework which indicates development should ensure a high standard of amenity for existing users.

Other matters

19. The appellant has emphasised that the proposal would result in the bringing back into use of an unoccupied and untended dwelling. I take this into account

but only give it little weight as it has not been demonstrated to me that the current proposal is the only way this benefit can be achieved. This, therefore, does not alter my overall conclusion.

20. The occupier of No 9 has also expressed concern about the loss of light into the side window from the proposal. The appellant has submitted drawings which indicate that this window did not form part of the original permission. It is not for me to reach a conclusion on whether the development at No 9 is lawful. Whatever the situation, I am satisfied that as this is a small window the proposal would not materially affect the amount of light reaching the room within it.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR