



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: 17th December 2019

Appeal Ref: APP/A3655/D/19/3237029

42 Veyan, Woking GU21 3LL

- 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 Tomasz Kielkowski against the decision of Woking Borough Council.
 - The application Ref PLAN/2019/0437, dated 30 April 2019, was refused by notice dated 25 June 2019.
 - The development proposed is single storey extension with accommodation in the loft void.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Tomasz Kielkowski against Woking Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 6 Upton in terms of privacy and outlook.

Reasons

Character and appearance

4. The appeal property is one of four 'back-to-back' dwellings in a development built in the late 1970s and early 1980s. The garden of the appeal property is surrounded by an approximately 1.8m high close boarded fence. The estate has a homogeneity to it from the overall aesthetic and use of materials, although the building forms vary, with properties at a number of different heights.
5. The property has a single storey of brickwork on the front elevation with an expansive roof which acts as a full pitch with that from the property to the immediate rear. There is a mezzanine floor within the overall roof form with a

single rooflight for this property in the southeastern elevation. The upper floor is also lit by two windows in the northeast elevation, which is full height.

6. The proposal is for an extension on the northeastern side of the property, although it would wrap around part of the southeastern elevation to create a small store. This would follow the roof form of the existing property for just over half the height of the existing roof. The roof would then return down from a ridge for a short distance to create an asymmetric roof form. Internally, there would be two floors of accommodation, a lounge and wc on the ground floor with an additional bedroom above. The single rooflight would be replaced by three rooflights lower down in the existing and extended roof plane with the existing mezzanine floor being turned into a conventional floor.
7. The Council has referred to its Woking Design Supplementary Planning Document (the Design SPD). The Design SPD indicates that its purpose is to provide design guidance to improve the quality of design. As this is in line with Policy CS21 of the Woking Core Strategy October 2012 (the WCS), which requires development to create buildings that are attractive with their own distinct identity and make a positive contribution to the street scene and character of the area, I am able to give the Design SPD significant weight.
8. The SPD indicates¹ that extensions should not result in unbalanced or disproportionate frontages and that roof forms that are contrary to the existing roof form will generally be resisted. In this case the proposed extension from the southeast would follow the general form of the building. However, the asymmetric nature of the northeast elevation would appear contrived and discordant and the use of a soldier course and different materials on the upper storey would emphasise this. It would therefore not relate well to the existing building. The view in the quadrant from the north to east would be seen over the boundary fence from the public footpath. This contrived building form would be harmful to the planned and coherent form of the wider area.
9. As such the proposal would be harmful to the character and appearance of the area. Therefore, it would be contrary to Policy CS21 of the WCS and the Design SPD both as set out above. It would also be contrary to paragraph 127 of the National Planning Policy Framework (the Framework) in that it would not result in a visually attractive development which is sympathetic to local character.

Living conditions

10. The Council has also adopted an Outlook, Amenity, Privacy and Daylight Supplementary Planning Document (the Outlook SPD). The Outlook SPD makes it clear that it applies to extensions and alterations to dwellings². The Outlook SPD indicates that it sets out guidance on, among other matters, achieving suitable privacy. As this is in accordance with Policy CS21 of the WCS, which requires development to achieve a satisfactory relationship to adjoining properties to avoid significant harmful impact in terms of loss of privacy and overbearing effect, I am also able to give the Outlook SPD significant weight.
11. The Outlook SPD recommends a number of dimensions to achieve minimum levels of privacy and amenity. It does, however, note that these dimensions are for advice only and evidence of design quality and compatibility with context will be of overriding importance. The Outlook SPD recommends for two

¹ Page 80

² Paragraph 1.2

storey development a 10m front-to-front elevation separation distance and a 20m back-to-back elevation separation. There is no recommended separation distance for the front-to-rear relationship.

12. To the southeast is 6 Upton. This is a two storey dwelling with a conservatory at ground floor level on its rear elevation which faces the appeal site at an angle. Thus, the relationship from the front of the appeal property to the rear of No 6 is front-to-rear.
13. Currently the rear windows in the upper floor of No 6 are readily visible from the public domain. The proposed development would not materially affect the level of privacy within No 6 in that regard. The Council is particularly concerned about overlooking from the appeal property to the rear garden of No 6 and to the conservatory.
14. The appellant maintains that the Outlook SPD does not deal with the relationship to the garden, but I note that the Outlook SPD does state³ that dwellings designed for family accommodation will need to provide a suitable area for private outdoor amenity, normally in the form of an enclosed garden to the side or rear of the dwelling. Should such a garden be harmfully overlooked then it would no longer be private. I do accept that in an urban area, such as here, there would be some overlooking from adjoining properties, so it is the degree of overlooking that is of concern. I consider that ensuring an existing reasonably private garden area retains an appropriate level of privacy is a fundamental element of good design and good planning practice.
15. As noted above, there is a rooflight in the southeastern elevation of the appeal property and at the site visit I went into the appeal property and looked out of this window. Due to the level of the window in relation to the mezzanine floor my view was level and upwards rather than lower down towards ground level in the garden of No 6 and its conservatory. The three new rooflights in the proposed southeastern elevation would be set lower in the roof plane. While at an angle rather than directly facing No 6 and its garden, the proposed rooflights would allow unrestricted views down to the garden area and to the rear of the ground floor and the conservatory of the dwelling which is currently private. This would result in a harmful loss of privacy for the occupiers of No 6.
16. The appellant has referred to the vegetation between the properties, but this would not provide a permanent screen to resolve this issue.
17. The Council is also concerned about a potential overbearing effect for the occupiers of No 6. However, I am satisfied that the proposed development would be sufficiently distant and separate from that property and its rear garden so that it would not have such an effect to a harmful material extent.
18. However, by resulting in an unacceptable loss of privacy, the proposal would be contrary to Policy CS21 of the WCS and the principles of the Outlook SPD both as set out above. It would also be contrary to paragraph 127 of the Framework in that it would not result in a high standard of amenity for existing users.

Other matters

19. The appellant has indicated that in the event that this appeal was to be dismissed, he would locate a caravan in the side garden of the appeal property

³ Paragraph 2.4

on the basis that this would not result in a material change of use of the land and would provide the accommodation that he seeks. This contention was supported by an appeal decision⁴ relating to a Certificate of Lawful Development or Use under Section 192 of the Town and Country Planning Act 1990 (as amended) relating to another site.

20. It is not the purpose of a Section 78 appeal to make a determination as to whether such an approach would be lawful. However, on the assumption that it would be, on the basis that this would act in the favour of the appellant, it is necessary to take a view of the likelihood of this being carried out. I note that the appellant made it clear in his grounds of appeal that this "will be temporary until the Appellant can find an affordable larger home in the Woking area to move to"⁵.
21. Thus, based on the assumption I have set out, I consider that there is a greater than theoretical possibility that a caravan would be so sited. However, this should be given moderate weight as it is stated only to be for a temporary period. This should be compared with the effects of the proposal which would be permanent.
22. I have also taken into account the personal circumstances of the appellant. Again, as they will only be temporary and subject to change, I give these only limited weight.
23. In its response to the appellant's application for costs the Council has referred to a subsequent grant of planning permission for a single storey side extension with a pitched roof. Following this, in its rebuttal of the Council's costs response the appellant provided me with a drawing showing the southeastern elevation of this approved scheme. From the information that I do have, I understand that the roof form is lower and materially different in form leading to different effects on the character and appearance of the area when compared to the appeal scheme. I also note that there would be only two rooflights in the southeast elevation and again this would have materially different effects on the occupiers of 6 Upton when compared to the appeal scheme.

Conclusion

24. I conclude that the proposed development would be harmful to the character and appearance of the area and would result in harm to the living conditions of the occupiers of 6 Upton. In my view these harms are significant and the proposed siting of a caravan, the personal circumstances of the appellant and the subsequent grant of planning permission are not of such weight, either individually or cumulatively, as to outweigh the harms.
25. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR

⁴ APP/C1570/X/18/3209244

⁵ Paragraph 3.30