



Appeal Decision

Site visit made on 26 November 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Appeal Ref: APP/M1005/D/19/3236487

12 Holloway Road, Duffield DE56 4FE

- 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 Robert Fowkes against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2019/0504, dated 22 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is rear extension for new garden room. Re-roof existing rear flat roof area and move rear building line out to increase back bedroom sizes.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Robert Fowkes against Amber Valley Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The above description of the proposal is taken from the planning application form, albeit the words 'to' and 'slightly' have been removed given these were either superfluous or in the latter case a matter for my assessment.
4. I have made my assessment against the amended drawings submitted during the course of the planning application which included an alteration to the first-floor extension to provide a 45-degree angle to the nearest edge of the neighbouring first floor window serving No 14 Holloway Road.
5. The Council's first reason for refusal refers to the potential impact on No 10 Holloway Road. However, the delegated report also refers to concerns relating to the impact on No 14 Holloway Road. For the purposes of my assessment, I have therefore considered the relationship with both these neighbouring properties under the second main issue.
6. Whilst the Local Plan is now of some age, Paragraph 213 of the National Planning Policy Framework (the Framework) states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Insofar as they seek to ensure good design which respects the character of the locality and protect the living conditions of occupiers, the policies referred to in the Council's decision are

broadly in accordance with the Framework and I therefore attach full weight to them.

Main Issues

7. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of occupants of the neighbouring dwellings at No 10 and No 14 Holloway Road with particular regard to outlook; and
- whether the proposal would provide suitable living conditions for occupants of the host dwelling with particular regard to outlook.

Reasons

Character and appearance

8. Holloway Road is characterised by mainly two-storey semi-detached dwellings. No 12 is one such dwelling with existing front and rear extensions. The original character of the rear elevation of the host dwelling has been diminished to an extent by the previous extensions. However, the extensions to the rear do retain a degree of subservience through the continuation of the main roof slope with the dormer set within this. The similar alignment to the two-storey rear extension at No 14 also assists in assimilating these additions within the context of neighbouring properties on Holloway Road.
9. Section 10.1 of the Amber Valley Borough Council Residential Development Supplementary Planning Document (2007) (the SPD) includes that flat roofs are usually unacceptable and that consideration should be given as to how a rear extension will look from neighbouring properties. The proposal would replace the existing pitched roof and dormer with a flat roof with a minimal pitch. The extension would then project beyond the two-storey extension at No 14 and would be of irregular shape due to the differing angled side elevations. Consequently, the first floor rear extension would appear contrived and its excessive depth and flat roofed design would be unsympathetic to the scale and character of the host dwelling and its surroundings.
10. I acknowledge that there are other flat roof extensions in the area, including the two-storey extension at No 14. However, from what I observed on site, I am not persuaded that these examples act as an endorsement for the increased depth and unique shape of the proposal. Whilst the proposal would not result in harm to the street scene and there is a mature planted screen to the rear boundary, the incongruity of the development would be visible from the rear of neighbouring properties on Holloway Road. Even accounting for the use of matching brickwork, brown window frames and sandstone coping and lintels, the development would not successfully integrate into its surroundings.
11. To conclude, and for the reasons given, the proposed extension would have a harmful effect on the character and appearance of the area. Consequently, in that regard, the development would be contrary to Policies LS3 and H12 of the Amber Valley Borough Local Plan (2006) (the LP) which amongst other things require proposals to reflect the principles of good design and respect the character of the locality in terms of the scale and nature of development, its

layout, height, massing and architectural style. The proposal would also conflict with the Council's SPD and the National Planning Policy Framework (the Framework) which amongst other things states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Living conditions for occupants of No 10 and No 14 Holloway Road

12. The neighbouring dwelling at No 10 Holloway Road has a single storey rear extension. There is a clear glazed window in the side elevation of the extension facing the appeal site. However, the extension would be angled away from the boundary with this neighbour and there would be an intervening gap retained by virtue of the existing driveway between the dwellings at No 10 and No 12. As a result of these factors the development would not unduly impact on levels of outlook for this neighbouring dwelling.
13. The amended design of the extension ensures that there would be a 45-degree angle from the edge of the nearest first floor principal window serving No 14. This would be in compliance with the Amber Valley Borough Council Supplementary Planning Document – Residential Development (2007) (the SPD). The massing and position of the extension relative to this neighbouring window would also retain a reasonable level of outlook for the occupants of No 14.
14. To conclude, the proposal would have an acceptable relationship with the living conditions of No 10 and No 14 Holloway Road. Consequently, in that particular regard, the development would comply with Policies LS3 and H12 of the LP which amongst other things require development proposals to take account of the relationship between neighbouring buildings and not to unduly affect the amenities of adjacent properties.

Living conditions for the occupants of the host dwelling

15. The proposal would allow for internal arrangements to be made to increase the size of an existing room to provide a study / bedroom. This room would be served by a rooflight window. During my site visit, I noted the room in question was already being utilised as a bedroom. The proposal would not provide the optimum solution for means of outlook. However, when compared with the existing situation, there would be an improvement in terms of provision of natural light to this room.
16. To conclude, when the lack of a suitable means of outlook is balanced against the additional light that would be provided to this room, the degree of harm is diminished to an acceptable degree. Consequently, the proposal would not unduly affect the amenities of the host dwelling and would be in general conformity with Policies LS3 and H12 of the LP and Paragraph 127 of the Framework in this particular respect.

Other Matters

17. The Council's handling of the planning application including whether or not the case officer was proactive and positive in discussions, whether they viewed the appeal site or considered the proposal from a neighbouring property are not matters that can influence my own assessment of the proposal against the development plan. An absence of objections from the occupiers of neighbouring

dwelling does not override the need to assess the proposals against the policies of the development plan and the Framework.

18. My attention has been drawn to a planning permission at No 10 for a substantial first floor extension which included a flat roof and an angled elevation and was considered against the same LP and SPD. I noted on site that this neighbouring planning permission has not been implemented. From the limited information before me, I am not aware of the full circumstances which led the Council to grant planning permission in that particular instance. However, this example is not identical to the proposal before me and does not persuade me that the appeal proposal would comply with the policies of the development plan or the guidance in the Framework which seek to ensure proposals are of a high standard of design.

Conclusion

19. I have concluded that the development would not result in harm to the living conditions of the occupants of neighbouring dwellings, nor that of the occupants of the host dwelling. However, there would be harm to the character and appearance of the host dwelling and the surrounding area. This matter represents a significant and overriding issue which is decisive in this case.
20. Therefore, for the reasons set out, the appeal is dismissed.

M Russell

INSPECTOR