



Appeal Decision

Site visit made on 10 March 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/L1765/D/19/3242735

2 Greenacres, Andover Road, Winchester SO22 6BZ

- 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 Gary McCulloch against the decision of Winchester City Council.
 - The application Ref 19/02200/HOU, dated 7 October 2019, was refused by notice dated 3 December 2019.
 - The development proposed is for a loft conversion and extension with rear dormer and front rooflights.
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Decision

1. The appeal is allowed and planning permission is granted for the loft conversion and extension with rear dormer and front rooflight at 2 Greenacres, Andover Road, Winchester SO22 6BZ, in accordance with the terms of the application, Ref: 19/02200/HOU, dated 7 October 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Gary McCulloch against Winchester City Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the surrounding area and the host building; and,
 - The effect of the proposed development on the living conditions of nearby residents with particular reference to privacy.

Reasons

Character and Appearance

4. The appeal property is a two storey mid terrace house within a residential area. The appeal scheme seeks to introduce a dormer extension to the rear of the appeal building as part of the proposed loft conversion. Whilst I acknowledge that dormers are not common within the immediate surrounding area, there are nonetheless examples of dormers on dwellings near to the appeal site. The appeal property and its immediate neighbours have a straightforward and pleasing visual balance. Whilst these do not incorporate any architectural

features of high value, they do contribute positively to the character of the area due to the consistent form and appearance of the buildings and their sloping roof designs.

5. Due to the increase in the bulk and mass of the roof form, the proposed rear dormer would be an incongruous feature within the wider roofscape. It would unbalance the host building and the symmetrical relationship with its immediate neighbours to a limited degree. The resulting limited adverse effect on the character and appearance of the host building would be conspicuous, being visible from the rear of the nearby and neighbouring dwellings and, to a far lesser extent, from glimpsed views within Bereweke Road. Consequently, the proposed dormer would harm the contribution of the host building to the symmetrical and consistent building pattern within Greenacres, and thereby would have a harmful effect on the character and appearance of the surrounding area.
6. Accordingly, it would conflict with Policies DM15 and DM16 of the Winchester District Local Plan Part 2 – Development Management and Site Allocations¹ (the Local Plan) which, amongst other things, seek to ensure that development responds to the local character and distinctiveness of the area. Furthermore, the appeal scheme would not accord with sections GP1, HQB2, HQB3, HQB9 and E5 of the Winchester City Council High Quality Places Supplementary Planning Document (March 2015) which together requires that development responds positively to the character of the area and that dormers should be well related to the host building in terms of scale and proportions.
7. The Appellant has put it to me that similar alterations to the roof and provision of a dormer extension could be constructed under permitted development rights with regards the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class B. In this regard, the Appellant maintains that the dormer that could be constructed under permitted development, would be larger than the appeal scheme.
8. The Appellant has indicated that in the event that planning permission for the appeal scheme is not provided, that it would be their intention to implement the fallback position under permitted development rights. There is nothing before me which suggests this course of action is not open to the Appellant or that it could not be implemented. The prospect of this outcome is of a reasonable likelihood and is more than only a theoretical possibility. As such, it represents a legitimate fallback position that would still result in the construction of a rear dormer at the appeal property.
9. Whilst I acknowledge the submissions of the main parties with regards to whether the appeal scheme would be larger than that which could be implemented under permitted development rights, it is important to understand, assess and compare the harm that may occur in respect of both the appeal proposal and the potential fallback position.
10. In this respect, whilst it is apparent that the appeal scheme would be wider than that which could be implemented under permitted development rights, the roof of the proposed scheme would be at a lower height than that which could be implemented under permitted development rights. In my view, despite the increased width, the overall lower profile of the appeal proposal would be less

¹ Adopted April 2017

conspicuous within the immediate and wider surrounding area and would have a less harmful impact on the character and appearance of the host building and the surrounding area than that which could be constructed under permitted development rights.

11. Further to the above, whilst I acknowledge that the appeal scheme would not use materials which would reflect the materials used in the construction of the appeal building, the design of the proposed dormer and use of contrasting materials, in combination with the above described overall lower profile of the design, would result in a dormer which would appear subservient to the host building. In my view, this would be less harmful to the character and appearance of the surrounding area than that which could be constructed under permitted development rights, where the overall height and use of materials which matched the host building, would appear as an additional storey to that building with a flat roof, rather than a subservient extension.
12. In light of the above, whilst I conclude that the appeal scheme would conflict with the policies of the development plan, the legitimate fallback position would have a more harmful impact on the character and appearance of both the host building and the surrounding area than the appeal proposal. This is a factor to which I attach significant weight in the determination of this appeal.

Living Conditions

13. Given the very elevated position of the proposed dormer and by reason of the narrow and tall nature of the individual dwellings which comprise the terrace which the appeal property forms part of, occupants of the appeal building could have an extensive view over the rear gardens of nearby and neighbouring dwellings. Due to the narrow nature of the modest rear gardens within this terrace of dwellings, occupants of neighbouring and nearby properties would be very aware of people using or looking out of the proposed dormer.
14. I therefore conclude that the appeal scheme could result in a degree of overlooking and loss of privacy for occupants of the neighbouring properties. Whilst a certain level of overlooking of back gardens is to be expected in residential areas, for example from the upper windows of adjacent houses, in this instance and by reason of the elevated position of the opening in the proposed dormer, I conclude that the appeal scheme would be harmful to the living conditions of nearby residents with regards to loss of privacy.
15. Accordingly, the appeal scheme would conflict with Policy DM17 of the Local Plan which, amongst other things, seeks to ensure that development does not have a harmful impact on the occupants of adjoining properties with regards to overlooking.
16. Notwithstanding the appeal scheme's conflict with the development plan with regards to overlooking, I am conscious of the fallback position as described under the character and appearance main issue above. In this instance, and in terms of the relative impact on the living conditions of neighbouring residents, in my view there would be no material difference in the impact of the appeal scheme with regards to overlooking, when compared to the impact of the dormer which could be constructed under permitted development rights. Given that the level of harm would be to the same degree, this is a factor to which I attach considerable weight in the overall planning balance.

Planning Balance and Other Matters

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. For the above reasons, some conflict with the development plan has been identified in terms of the effect of the proposal on the character and appearance of the surrounding area and in respect of the impact of the scheme on the living conditions of adjoining residents.
18. However, as noted above, the development would result in no greater harm either in terms of its impact on the character and appearance of the host dwelling and the surrounding area or in terms of its impact on the living conditions of adjoining residents, than the legitimate fallback position. These are considerations that carry significant weight. As no other harm has been identified, I therefore conclude that for the reasons given above, material considerations exist in this case which justify a decision other than in accordance with the development plan.
19. Interested parties have put it to me that they were previously assured by the Council that no additions to the roof space within this terrace would be possible when the original housing development was proposed. However, there is no evidence before me which indicates that permitted development rights, which would include certain alterations to a roof within a terrace, have been restricted or that conditions were attached to the original housing scheme which would have prevented such a form of development.

Conditions

20. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord.
21. Whilst I acknowledge that the Council have suggested a condition that would require the external materials used in the construction of the proposed dormer to match those of the existing dwelling, in this particular instance and for the reasons given above, I conclude that the use of the proposed materials would assist in ensuring that, from glimpsed views within the wider surrounding area, the dormer would be seen as a subservient addition rather than an intrusive new additional third storey to a building within a terrace of two storey dwellings. Accordingly, the suggested condition is not necessary in order to protect the character and appearance of the host building or the character and appearance of the surrounding area and I have, therefore, not included the Council's suggested materials condition within this decision.

Conclusions

22. For the reasons given above, the appeal succeeds and planning permission granted subject to conditions identified.

A Spencer-Peet

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.
2. The development hereby approved shall in all respects accord strictly with the application plans, documents and drawings numbers:
Location Plan 735/L01, Existing Plans 735/P01, Existing Elevations and Section 735/P02, Existing Block Plan 735/P03, Proposed Plans 735/P04, Proposed Elevations and Section 735/P05 and Proposed Block Plan 735/P06, received by the Local Planning Authority on 8 October 2019.