



Appeal Decision

Site visit made on 4 September 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2020

Appeal Ref: APP/Y3615/D/20/3251550

17 Warwicks Bench, Guildford GU1 3SZ

- 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 & Mrs Lazenby against the decision of Guildford Borough Council.
 - The application Ref 19/P/02217, dated 20 December 2019, was refused by notice dated 10 February 2020.
 - The development proposed is a single storey side and rear extension with roof garden over following demolition of existing garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Lazenby against Guildford Borough Council. This application will be the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the development upon the character and appearance of the area.
 - the effect of the proposal on trees the subject of a Tree Preservation Order.
 - the effect of the development upon the living conditions of the occupiers of No 15D Warwicks Bench in respect of daylight and sunlight, outlook and privacy and the occupiers of Grantley House in respect of privacy.

Procedural Matters

4. The appellant has submitted additional plans and an arboricultural statement, which includes a tree protection plan, as part of their statement of case. Whilst I acknowledge that the documents do not seek to evolve the original proposal, it is important that I determine this appeal on the basis of what was considered by the local planning authority, and on which interested people's views were sought. To this regard, I note that the appeal before me is a householder appeal where the local planning authority and other interested parties, including the owner of the adjoining trees, were not afforded the opportunity to submit additional comments. Therefore, I have not had regard to the documentation as part of the determination of this appeal.

Reasons

Character and appearance

5. The appeal property is a two-storey detached dwelling, which occupies a generous plot on Warwicks Bench. To the side of the dwelling there is an existing double garage. The topography of the site rises upward from the roadside boundary to the rear boundary.
6. The surrounding area has a suburban residential character and the properties along Warwicks Bench are typically detached dwellings that are set within generous plots, which creates a spacious character. The dwellings date from different architectural periods, but the consistent use of common materials, such as brick, hanging tile and render and the predominant use of simple gabled or hipped roof forms, results in a design balance and symmetry which contributes positively to the character and appearance of the area.
7. It is proposed to demolish the existing garage and erect an 'L-shaped' single storey side and rear extension with a roof garden. As part of the development the rear garden would be excavated to provide a central courtyard.
8. Policies H8 and G5 of the Guildford Borough Local Plan (2003) (the 'LP') and Policy D1 of the Guildford Local Plan: Strategy and Sites (2019), amongst other things, requires development, including residential extensions, to have no adverse effect on the scale and character of the existing dwelling and to achieve a high quality design that reflects the local character.
9. The Council's Residential Extensions and Alterations Supplementary Planning Document (2018) (the 'SPD') explains that extensions and alterations should be subordinate to and in character with the existing dwelling. Works should not over-dominate or be discordant with the main property.
10. Whilst I recognise that the proposed development would provide more useable outdoor amenity space for the occupiers of the host dwelling, the overall bulk, mass and scale of the proposed extensions would be significant and excessive in the context of the proportions of the existing dwelling. Furthermore, the overall footprint of the proposed extensions would occupy a significant amount of the plot of the host building, which would undermine the spacious characteristics of the existing property, which contribute positively to the local distinctiveness of the area. For these reasons, the proposed extensions would not have a subordinate relationship with the host building.
11. In terms of the proposed design, the extensive use of zinc cladding on the street facing elevation, in addition to the large flat roof form of the proposed extensions, would be out of keeping with the host building and the local vernacular. Therefore, the proposed extensions would have a stark and jarring appearance when viewed in the context of the host building and the other dwellings within the local area.
12. The SPD states that the Council will take a more flexible approach in the design of rear extensions that are not visible from the street. Indeed, I note that a rear extension with contrasting materials to the host building is shown within the Council's SPD. However, the extension shown is located to the rear of the host building. In contrast, owing to the topography of the appeal site, despite the proposed entrance gates/boundary wall, a significant part of the proposed side extension would be visible when viewed from Warwicks Bench, for the

reasons given, it would appear as an incongruous and prominent feature when viewed in the context of the host building and neighbouring dwellings. Moreover, glimpse views of the balustrading around the proposed roof garden would be visible from the street, which would emphasise the excessive proportions of the proposed development.

13. Overall, the proposed extensions would be discordant additions to the host building, which would unacceptably diminish the architectural integrity of the host building and cause significant harm to the character and appearance of the area.
14. I recognise that the existing garage has a flat roof form. However, the garage is considerably smaller than the proposed extension and sited further back from the front elevation of the host building. Therefore, the garage has an incidental function and appearance to the host dwelling, which would not be the case for the proposed extensions.
15. The appellant has drawn my attention to several examples of flat roof developments in the local area, which provide roof gardens/terraces above. However, most of the examples are located on Abbot Road where such development is not seen in the context of the appeal site and does not therefore contribute directly to the aforementioned and distinctive characteristics of the local area. Similarly, the extensions to 8 Warwicks Bench are viewed from Abbot Road.
16. In terms of the extensions to 6 Warwicks Bench, which were allowed at appeal in July 2018, the Inspector found that the proposed flat-roofed terrace extension would "show subordination to the dwelling". In this instance, I have found that the proposed extensions would not have a subordinate relationship with the appeal property.
17. For the reasons set out above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. As such, the proposal does not accord with Policies H8 and G5 of the LP and Policy D1 of the Guildford Local Plan: Strategy and Sites (2019). In addition, the proposal does not accord with advice contained within the Council's SPD.
18. Accordingly, the proposal would be inconsistent with paragraph 127(c) of the National Planning Policy Framework (the 'Framework'), which requires development to be sympathetic to the local character. Paragraph 130 of the Framework makes clear that planning 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.

Effect on existing trees

19. Policy G1 (12) of the LP explains that development should be designed to safeguard and enhance the characteristic landscape of the locality.
20. Policy NE5 of the LP states that development will not be permitted if it would damage or destroy trees protected by a Tree Preservation Order unless the removal would be in the interests of good arboricultural practice; or the need for the development outweighs the amenity value of the protected trees.
21. In this instance, there are two mature beech trees located within the curtilage of 15D Warwicks Bench, both of which are protected by a Tree Preservation

Order and located in close proximity of the appeal site. The trees contribute positively to the character and appearance of the area.

22. The appellant asserts that the proposed development would not have a detrimental impact upon the health and longevity of the existing trees. However, this assertion is based upon the arboricultural statement and tree protection plan that were submitted as part of the appeal. For the reasons set out above, I have not had regard to this documentation as part of the determination of this appeal.
23. No technical information was submitted with the planning application to demonstrate the extent of the Root Protection Areas of the adjoining trees and how the protected trees may or may not be impacted by the proposed development. Nor was any technical information provided to demonstrate how the existing trees would be protected during the construction of the proposed extensions.
24. I recognise that the Council did not request an arboricultural statement and tree protection plan when determining previous planning applications at the site. However, based on the limited information before me, the previous applications were materially different to the current proposal. As such, I have afforded this matter limited weight.
25. Overall, in the absence of any technical information, I am unable to assess the extent to which the proposal would impact upon the health and longevity of the existing trees situated near to the appeal site, which are the subject of a Tree Preservation Order. Therefore, I am unable to conclude that the proposal would have an acceptable effect on existing trees. Consequently, I cannot conclude that the proposal would accord with Policies G1 (12) and NE5 of the LP.

Living conditions of neighbouring occupiers

26. No 15D Warwicks Road is located to the north of the appeal property. The property occupies lower ground and is set back from the roadside with a private amenity area to the front of the site. Grantly House is located to the south of the appeal site and has a large rear garden.
27. Whilst I recognise that the proposed development would introduce a significant volume of additional built form along the shared boundary between the appeal site and No 15D, when compared to the current arrangement. Given the single storey height of the proposed extensions and the significant excavations proposed at the appeal site to facilitate the development, which would have the effect of limiting the overall height of the proposal when viewed from the front garden of No 15D, I am satisfied that the proposed development would not have a significantly enclosing and overbearing impact when viewed from No 15D. For this reason, the proposal would not result in a material loss of daylight and sunlight from the adjoining property and from within the front garden area of No 15D.
28. Notwithstanding the above, owing to the topography of the appeal site and the layout of No 15D, users of the proposed roof garden would have clear and unobstructed views from the proposed roof garden into the front garden of No 15D. Given the limited separation distance between the two properties, the overlooking from the roof garden would result in a loss of privacy for the

- occupiers of No 15D. In addition, harmful overlooking would occur from the use of the external staircase, which would serve the proposed roof garden.
29. I recognise that there is already a degree of overlooking from the upper level of the existing rear garden of the appeal property into the front garden of No 15D. However, the proposed roof terrace would be situated at a higher level than most of the existing garden. In addition, the roof garden would provide an attractive outdoor space, which would be likely to experience higher levels of use by occupiers of the appeal property than the upper parts of the existing rear garden, which the appellant explains is 'hard to use as amenity space'.
30. In terms of effect of the development upon the living conditions of the occupiers of Grantley House, on my site visit I observed that there was a large hedge on the shared boundary, which provided a suitable degree of screening between the appeal property and Grantley House. The appellant explains that the hedge falls within the ownership of Grantley House and it would be reinstated as part of the proposed development. Despite the proposed level changes, the existing hedge would prevent any significant overlooking into the rear garden of Grantley House from the proposed roof garden.
31. The Council have expressed concerns that the removal and reinstatement of the hedge cannot be guaranteed due to the significant excavation works proposed. Furthermore, concerns have been expressed about the longevity of the hedge. Whilst I acknowledge that the existing hedge cannot be relied upon in perpetuity to provide screening between the appeal site and Grantley House, especially as it is located on land outside of the appeal site, there is no evidence before me to suggest that the reinstatement of the existing hedge would be unsuccessful. Moreover, I see no substantive reason why a mature replacement hedge could not be planted, or another form of boundary screening could not be erected, if the reinstatement of the existing hedge was unsuccessful. If I were minded to allow this appeal, such works could be secured by a condition.
32. For the reasons set out above, I conclude that the proposed development would not cause significant harm to the living conditions of the occupiers of No 15D Warwicks Bench in respect of daylight and sunlight and outlook and the occupiers of Grantley House in respect of privacy.
33. However, the proposal would result in overlooking of the front garden of No 15D Warwicks Bench which would cause significant harm to the living conditions of the neighbouring occupiers in respect of privacy. As such, the proposal does not accord with Policies H8 and G1(3) of the LP, which amongst other things, requires development to avoid unacceptable harm to the amenity of occupiers/users of nearby properties.
34. Furthermore, the development would conflict with advice contained within the Council's SPD which states that care should be taken to ensure that an extension or alteration does not result in a harmful loss of privacy for neighbouring occupiers.
35. Given the above, the proposal would be consistent with the aims of Paragraph 127(f) of the Framework, which requires that development does not have an adverse impact on the amenities of existing and future occupants.

Conclusion

36. I have been unable to conclude that the proposal would have an acceptable effect on the existing trees. In addition, I have found that the proposal would cause significant harm to the character and appearance of the area and the living conditions of the occupiers of No 15D Warwicks Bench in respect of privacy. Therefore, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR