



Appeal Decision

Site visit made on 19 November 2020

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2020

Appeal Ref: APP/K3605/D/20/3256270

44 Firlands, Weybridge, Surrey, KT13 0HR

- 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 Anthony & Caroline Tattershall against the decision of Elmbridge Borough Council.
 - The application Ref 2020/0739 dated 18 March 2020, was refused by notice dated 18 June 2020.
 - The development proposed is single-storey front and rear extension, partial conversion of garage into living space, hip-to-gable roof extension incorporating rear dormer window and front roof lights and alterations to fenestration following demolition of existing front porch.
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Decision

1. The appeal is allowed, and planning permission is granted for a single-storey front and rear extension, partial conversion of garage into living space, hip-to-gable roof extension incorporating rear dormer window and front roof lights and alterations to fenestration following demolition of existing front porch at 44 Firlands, Weybridge, Surrey, KT13 0HR in accordance with the terms of the application ref: 2020/0739, dated 18 March 2020, subject to the following conditions:
 - 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this decision;
 - 2) The development hereby approved shall be carried out in accordance with the following approved plans: unreferenced location plan produced 6 March 2020, proposed floor plans (2161/P/05 B) and proposed elevations (2161/P/06 B);
 - 3) No 'above-ground' building works shall proceed above damp-proof course level or equivalent until a schedule and samples of all bricks, tiles and other materials to be used in the external elevations have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details;
 - 4) The second-floor window in the Southern elevation, serving the bathroom, shall be obscurely glazed, and fixed shut in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details which shall be maintained for the lifetime of the development.

Procedural Matters

2. I have utilised the Council's description of the proposal as it is put more concisely than that on the original application form.
3. Within this appeal the appellant has submitted additional documentation including a Lawful Development Certificate¹ (LDC) dated 25 August 2020 for part hip-to-gable roof extension, rear dormer windows and front roof lights and revised plans which alter the design of the rear dormer and reduce the number of skylights in the front elevation.
4. Given that the Council and any interested parties are/would be aware of the LDC (as it was raised within the appellant's statement of case as having been submitted) and the revised plans scale back the proposals slightly, compared to the original plans, I do not see that any party would be prejudiced by their acceptance on this occasion. I have, therefore, taken the documents into account within the determination of this appeal.

Main Issues

5. The main issues are the impact of the proposal upon the character of the host dwelling and the character of the area and street scene.

Reasons

6. The appeal proposal has multiple elements to it and I note, from both the refusal reason and the Council's delegated report, that the refusal reason is focused specifically upon the proposed roof alterations only. I have no evidence or reason before me to conclude differently to the Council in that the single storey front and rear extensions, part conversion of the garage and changes in fenestration following demolition of the porch are acceptable.
7. The appeal will, therefore, focus on the alterations to the roof which consist of a hip-to-gable extension, rear dormer window and rooflights.
8. The appeal site is a two-storey dwelling detached dwelling. It is located within a row of six, visually similar, dwellings which stagger away from each other. They are, as a group of dwellings, notable within the street scene and provide a contrast to dwellings surrounding them as part of the Firlands. I find that the group of dwellings are consistent in design, scale and roof form.
9. The proposed hip-to-gable roof extension would square up the existing hipped roof to a gable roof. Whilst the majority of properties along the Firlands have gable roofs I find that the hipped roof is a notable characteristic within the row within which the appeal site stands. When viewed within the row the proposal would appear dominant and at odds to the dwellings within which the appeal site stands. It would be notable and, therefore, prominent within that section of the street scene.
10. The uneven scattering of five rooflights in the original plans would also contribute poorly, overall, in design terms. The rear dormer, occupying a large proportion of the roof, I find would dominate the roof of the host dwelling as a result of its scale and general design and its proximity to the ridge line of the existing roof. The combination of alterations to the roof would appear incongruous.

¹ 2020/1637

11. As a result of the above I find that the roof alterations would result in unacceptable harm to the character of the host dwelling as well as the character/street scene of the row of dwellings within which the appeal site stands. The proposal would conflict with Elmbridge Core Strategy 2011 (CS) Policy CS4 which requires development to integrate within, and enhance, local character and CS Policy CS17 which requires development to respond to positive features of individual locations.
12. The proposal would also conflict with Elmbridge Development Management Plan 2015 Policy DM2 which requires development to be based on an understanding of local character and have regard for appearance, scale, mass and character of the host building.

Other Considerations

13. The appellant has, as outlined in the procedural matters above, secured a LDC for a part hip-to-gable roof extension, rear dormer windows and front roof lights. The certificate was granted as the proposal constitutes permitted development (PD) under Schedule 2, Part 1, Classes B & C of The Town and Country Planning (General Permitted Development) (England) Order 2015. The proposed development does not require planning permission from the Local Planning Authority. It is permitted development (PD).
14. The PD plans (2161/P/04) show the appellant could construct a notable amount of the proposal within this appeal (in terms of roof alterations) without planning consent. In *Mansell v Tonbridge and Malling BC & others* [2017] EWCA 1314 the judgement by the Court of Appeal confirms that there should be "real prospect" of a fallback development being implemented. Given the recent nature of the LDC I have no evidence before me to demonstrate that, if this appeal failed, the appellant would not construct what is allowed under PD to increase their living space. I consider that the stated fallback position has a greater than theoretical possibility that it would take place. As a result of this, I attribute great weight to the stated fallback position.
15. In considering this fallback position I find that, if implemented, the part hip-to-gable roof extension would in this case represent a significantly more awkward and harmful addition to the to both the host property and character of the immediate area than the full hip-to-gable extension proposed. Both the appeal proposal, and the scope under PD, do result in harm but the vast majority of properties have gable roofs along The Firlands beyond the row within which the appeal site stands (including immediately opposite the site).
16. The part roof extension I find would present as awkward and look incongruous not only in the row dwellings, but also in general within the wider setting of the Firlands overall. I find this would result in greater harm beyond the immediate setting and find, in the circumstances before me, that the appeal proposal would be preferable and represent better design.
17. In addition to the above, there are the revised plans which the appellant has submitted. The key differences are the reduction in rooflights (to three, evenly spaced, from five, scattered) in the front elevation and a reduction in scale of the rear dormer in that two, smaller, dormers are proposed further down the ridge. This, I find, overcomes the Council's concern regarding the dormer dominating the rear roof and the alterations to the skylights (matching that

allowed under PD) removes the uneven scattering which was considered to be a poor contribution.

18. In light of my findings in relation to the proposal being preferable to the fallback position I further consider the revised, scaled back, plans are preferable to the originally submitted proposals.

Conditions

19. The Council has not suggested any conditions. A condition requiring the development to be in accordance with the approved plans is required in order to control and define the development which is granted consent. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. In order to ensure a satisfactory appearance, I have attached a condition requiring approval of the materials for the external elevations. A condition relating to the second-floor bathroom window is required to protect the amenity and privacy of neighbour occupiers at no. 42 Firlands.

Conclusion

20. The proposal, as submitted, I find would present unacceptable harm to both the character of the host dwelling and the character of the area and street scene. Despite this, the presence of a viable fallback position under PD as outlined I find is sufficient to outweigh the harm, and policy conflict, identified on this occasion. This is as a result of my finding that the viable fallback would cause greater harm to the character of the host dwelling, the street scene and the wider character of the area when considering the design of the dwellings along the Firlands in general.
21. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR