
Appeal Decision

Site visit made on 15 February 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021

Appeal Ref: APP/P2114/D/20/3264340
20 Firestone Glade, Wootton PO33 4LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs M Hudson against the decision of Isle of Wight Council.
 - The application Ref 20/01596/RVC, dated 21 September 2020, was refused by notice dated 17 November 2020.
 - The application sought planning permission for a proposed single storey extension to existing garage (revised scheme) without complying with a condition attached to planning permission Ref 20/01095/HOU, dated 7 September 2020.
 - The condition in dispute is No 3 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E of Part 1 of Schedule 2 to that Order shall be carried out [other than that expressly authorised by this permission]'*.
 - The reason given for the condition is: *'To protect the amenities of neighbouring dwellings in accordance with Policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy'*.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed single storey extension to existing garage (revised scheme) at 20 Firestone Glade, Wootton PO33 4LH in accordance with the application Ref 20/01596/RVC dated 17 November 2020 and subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr and Mrs M Hudson against Isle of Wight Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission 20/01095/HOU includes condition No 3. It restricts the exercise of permitted development rights for a wide range of domestic external alterations, extensions and outbuildings at the appeal site, which is No 20 Firestone Glade. In its decision notice the Council's reason for imposing the condition is 'to protect the amenities of neighbouring dwellings', albeit that in the officer report¹ the condition is considered under a heading 'Impact of the

¹ 20/01095/HOU.

proposal on amenity of site and surrounding area', not the separate heading 'Impact of the proposal on neighbouring dwellings amenity'.

4. I also note that in the appeal application 20/01596/RVC condition No 3 was assessed by the Council in the officer report² under a 'neighbouring dwellings amenity' heading and the harm identified by the Council in the reason for refusal was impact on 'the neighbouring amenities'. Whereas, the reason for refusal also refers to 'amenity areas' that are 'characterised as spacious green areas, not cluttered with sporadic development'.
5. In its response to the appellants' costs application, the Council has referred to a reason for condition No 3 citing the 'character and quality of the surrounding environment'. The appellants have had an opportunity to comment on this reason. I have taken those comments into account and have determined the appeal having regard to both of the Council's reasons for imposing Condition No 3.
6. The appellants consider that the Council has not justified why this condition was imposed and seek to have it removed. Taking this background into account, the main issue is the effect that removing condition No 3 would have on the character and appearance of the area and on the living conditions of the occupiers of the neighbouring houses at No 18 and No 22 Firestone Glade.

Reasons

7. No 20 is a large detached two storey house in a row of similar properties in Firestone Glade, which is a cul-de-sac estate. These houses are sited in large plots, set well back from the road behind open plan landscaped front gardens, many with single storey detached or attached garages to one side. The large gaps between most of these houses and beside or over garages allows views towards mainly open, large landscaped rear gardens and in some cases other domestic outbuildings such as sheds, including at No 20 towards farmland or woodland beyond. There is therefore a verdant, spacious arrangement to the relatively low-density pattern and sequence of this built form which is locally distinctive.
8. The appeal site is located on an outside bend in the road such that the orientation of the house is at an angle, and sited slightly set back, in relation to the neighbouring houses either side at No 18 and No 22. The rear garden is reasonably long and, in particular, is very wide due to the shape of the corner plot and the house is centrally sited within it. The houses at No 18 and No 22 are also centrally sited within their respective plots, which also include large rear gardens separated from the appeal site by close boarded fencing approximately 1.6m high and some taller shrub planting. A double garage is sited next to No 20 in part of the gap to the house at No 18. The rear extension to the garage would be almost as wide as the garage and would extend along (next to) the entire length of the boundary with the rear garden of No 18. It would be a reasonably large outbuilding in terms of its length and width, thus footprint.
9. However, it would not occupy a substantial proportion of the total rear garden area and it would be relatively low in height to eaves and ridge (about 2.2m and 3m respectively), including that it would be set down behind the existing

² 20/01596/RVC.

garage that faces the road and behind the very narrow gap between it and the house and so largely out of public view. It would not therefore have any appreciable adverse effect on the character and appearance of the area. Furthermore, it would also be sited a significant distance from the rear elevation of No 18 and to one side of its rear garden. It would be screened in views from the house at No 22 by No 20 itself and would be seen only from a small, distant part of the rear garden of No 22. It would not therefore cause material harm to the living conditions of the existing occupiers of No 18 or No 22 using rear gardens or habitable rooms.

10. Paragraph 53 of the National Planning Policy Framework (Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. Planning Practice Guidance (PPG) also advises that conditions restricting future exercise of permitted development rights may not pass the test of reasonableness or necessity.³
11. The scope of condition No 3 is precisely defined by reference to permitted development Classes A to E of Part 1 to Schedule 2.⁴ In summary these relate to the enlargement, improvement or other alteration of a dwellinghouse (Class A), enlargement by an addition or alteration to its roof (Class B), any other roof alteration (Class C), the erection or construction of an external porch (Class D) and the provision of a curtilage building or enclosure (Class E). I appreciate that the imposition of condition No 3 would not prevent the appellants (or a future owner) from applying for planning permission for this development at the appeal site and that this would allow the Council to consider a proposal on its individual planning merits.
12. Nevertheless, these permitted development rights are normally afforded to householders. I note that on the evidence before me in this appeal, there is no same, or similar, condition (to condition No 3) at other houses in Firestone Glade or for the estate as a whole, including from when this development was originally granted planning permission. Nor is there any Article 4 Direction to the same effect and the appeal site and Firestone Glade is not in a designated area in respect of any matters of acknowledged planning interest or importance that might otherwise justify this blanket removal of permitted development rights at the appeal site.
13. In restricting permitted development the Council seeks to ensure that 'a negative impact on the visual amenity of the site and the surrounding area is avoided'.⁵ It is also concerned that 'a proliferation of extensions and further outbuildings, in addition to those approved, would overdevelop the site and would cause a detrimental impact upon neighbouring amenity, due to the over-intensification of the site'.⁶ I note that in addition to the garage extension, the Council has approved a 'replacement open porch' at the appeal site and in the planning permission one of the appellants' approved layout plans shows an 'illustration of possible permitted development' for 'allowable' extensions to the house and further outbuildings. This plan is incomplete, for example it includes no details of the elevations of such development, and it is therefore not an

³ PPG paragraph 21a-017-20190723.

⁴ Town and Country Planning (General Permitted Development) (England) Order 2015.

⁵ Council's response to the appellant's costs application.

⁶ Officer report 20/01596/RVC.

accurate representation of the extent of development that is otherwise currently restricted by condition No 3.

14. Nonetheless, I recognise that notwithstanding that the appellants have stated that no further development is intended by them at the appeal site they could change their minds. Moreover, a future owner may have different intentions and I accept that the scope of Classes A to E could potentially result in a reasonable quantum and type of further development at the appeal site.
15. However, the exercise of permitted development in Classes A to E would be subject to the relevant exceptions, limitations and conditions. These criteria include the siting, height, length, width, area and volume of development, distances to site boundaries and site area coverage — consequently, already exert a purposeful and meaningful influence on safeguarding the character and appearance of an area or the living conditions of occupiers of neighbouring properties. The exceptions, limitations and conditions would therefore have a significant mitigating effect on the enlargement, improvement or alteration of the house at No 20 and also on the provision of further curtilage buildings or enclosures within its rear garden.
16. Furthermore, the house at No 20 is sited a long way back from the road and so enlargement, improvement or alteration affecting the front or side elevations would therefore be screened in some views by the forward siting of the houses either side at No 18 and No 22. In addition, the angled siting of the house at No 20 in relation to the houses at No 18 and No 22 means that there is a substantial degree of separation between the scale and massing of these houses and the side and rear elevations of No 20 face away from these neighbouring houses. Consequently, enlargement, improvement or alteration of No 20 would not unduly erode openness between these properties or unduly obstruct views through remaining gaps to the spacious gardens or to the countryside or woodland beyond.
17. Most of the rear garden at No 20 is screened from public view to a significant degree by the siting, height and width of the house, the garage, a shed, boundary fences and planting including in the front garden. There is as a result only relatively narrow gaps or spaces between these elements. In addition, the majority of the large rear gardens at No 18 and No 22 and these houses are a significant distance away from the boundaries with No 20. Consequently, the provision of further curtilage buildings or enclosures would not be unduly prominent or conspicuous in public views from the road. In addition, the use and enjoyment of habitable rooms and rear gardens by the occupiers of these adjoining houses would not be unduly constrained or diminished by such development, even if it was reasonably close to the common garden boundaries.
18. Accordingly, the exercise of permitted development rights within Classes A to E would not result in an overdevelopment or over-intensification of built form at the appeal site or unduly erode its spacious landscaped nature. It would not therefore have an unacceptable impact on the character and appearance of the area or on the living conditions of the occupiers of No 18 and No 22 having regard to rear gardens and habitable rooms. In addition, whilst the Council considers it to be 'quite large' in footprint the Council did not object to the garage extension and that development provides no clear justification to restrict permitted development rights at the appeal site. Nor is condition No 3

required in order to make the proposed garage rear extension acceptable, even if these permitted development rights are exercised at the appeal site in the future. Furthermore, the Council has not substantiated any other compelling reason or clear justification for condition No 3 and thus for this otherwise unduly stringent removal of permitted development rights at the appeal site.

19. Consequently, the proposed extension to the garage, in combination with development otherwise permitted by Classes A to E, would accord with Policy DM2 of the Island Plan Core Strategy, March 2012. This policy includes that development should protect the existing environment, allow change to take place having regard to the size, location and context of a site and constraints such as adjacent buildings and views, and should provide an attractive and functional built environment with a sense of place. It would also be consistent with Framework paragraphs 8 and 127 which include that development should protect and foster a well-designed built environment, be sympathetic to local character, maintain a strong sense of place and have a high standard of amenity for existing users.

Other Matters

20. Some interested parties also objected due to concerns that workshop buildings at the appeal site could be used for commercial purposes. While condition No 4 of planning permission 20/01095/HOU would not prevent the use of the extended garage as a workshop, albeit incidental to the enjoyment of the house at No 20, it would prevent a commercial use of this building. I agree that commercial use of the extended garage could otherwise potentially have an undesirable adverse effect on the character and appearance of the area or on the living conditions of occupiers of the neighbouring houses. I also note that any further outbuildings that might be erected at the appeal site as permitted development would need to be required by the appellants (or a future owner) for a purpose incidental to the enjoyment of the dwellinghouse as such.

Conditions

21. Having regard to PPG⁷ my decision should set out all of the conditions imposed on the new permission and restate the conditions imposed on planning permission 20/01095/HOU that remain relevant and continue to have effect. I have therefore considered these conditions. Where necessary I have modified the wording in the interests of clarity and in light of the tests and advice in Framework paragraph 55 and in PPG.⁸
22. Having regard to s73(5)⁹ and to PPG¹⁰ the time period for the commencement of the development in this appeal should not be extended from that set out in the original permission. The 3 year period should therefore run from the date of planning permission 20/01095/HOU and I have modified the wording of the standard time limit condition (condition No 1) accordingly. I agree with the Council that a condition is necessary to specify the approved plans to ensure certainty and I have therefore re-imposed condition No 2 without modification. I have also re-imposed condition No 4 (now Condition No 3) for the reasons explained in 'other matters' above.

⁷ PPG paragraph 21a-040-20190723.

⁸ PPG paragraph 21a-003-20190723.

⁹ Town and Country Planning Act 1990, as amended.

¹⁰ PPG paragraph 17a-014-20140306.

23. Having regard to PPG,¹¹ I am satisfied that where I have modified the wording of a condition it does not materially alter the development subject to the original permission, or conflict with the description of development, and is a condition that could have been imposed on the original permission.

Conclusion

24. Considering the above and having regard to the relevant tests of Framework paragraph 55 and related PPG,¹² I find that the condition in dispute (condition No 3) is not relevant to the development permitted and does not serve a useful planning purpose at the appeal site. It is not therefore necessary or reasonable to re-impose condition No 3 to restrict these permitted development rights at the appeal site.

25. For the reasons given, the appeal succeeds.

Robin Buchanan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of planning permission 20/01095/HOU, which was approved on the 7 September 2020.
- 2) The development hereby permitted shall only be carried out in complete accordance with the details shown on the submitted drawing numbered 20-792-02 Rev B dated April 2020.
- 3) The extension hereby permitted shall be used only for purposes incidental to the enjoyment of the dwellinghouse known as 20 Firestone Glade, Wootton Bridge and shall not be sold off separately or sublet or otherwise disposed of on a long-term basis unless the express written consent of the Local Planning Authority is obtained.

¹¹ PPG paragraph 21a-040-20190723.

¹² PPG Paragraph 21a-003-20190723.