

Appeal Decision

Site visit made on 9 April 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2021

Appeal Ref: APP/M3645/W/20/3262873

42 Church Road, Warlingham CR6 9NU

- 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 Mrs Karen Francis against the decision of Tandridge District Council.
 - The application, Ref. TA/2020/1239, dated 13 July 2020 was refused by notice dated 7 September 2020.
 - The development proposed is demolition of the existing garage and its replacement with a new garage with storage over.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing garage and its replacement with a new garage with storage over, in accordance with the terms of the application, Ref. TA/2020/1239, dated 13 July 2020 and subject to the following conditions:
 - 1) The development to which this permission relates shall begin not later than the expiration of three years beginning with the date of this decision;
 - 2) The development shall be carried out in accordance with the following approved plans: Drawing Nos. 2030-1A & 2030-2B and the external materials specified on the application form;
 - 3) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 42 Church Road.

Main Issue

2. The main issue is the effect of the proposed garage on the living conditions for the occupiers of Nos. 40 and 44 Church Road, with particular reference to outlook, light and privacy.

Reasons

3. The replacement garage at No. 42 Church Road would be on the site of the existing structure to be removed, but 2m higher with a height of 5.2m. This would include a storage area with rooflights, this area being above the car space within the garage accessed from Church Lane, as at present. The Council's concern is that because of its height and proximity to the southern
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boundary the new building would be dominating and overbearing for the occupiers of No. 40.

4. However, No. 40's garden is of a reasonable size and there is an open aspect over other neighbouring gardens to the south east. And the officer's report accepts that *'whilst the development would be more visible than that it replaces, it is not considered it would be an overtly dominant structure to cause significant harm to the character and appearance of the site and locality'*. I acknowledge that this assessment related to character and appearance, but in this open garden setting this can reasonably also apply to outlook.
5. Indeed, with its position close to the bottom of No. 40's rear garden and the nearby larger garage of No. 30 already drawing the eye, there is no reason to suppose that the increase of 2m in height compared to the existing garage would stand out in views or result in an overbearing or dominating effect. This is also the position as regards any cumulative effect with No. 30's garage.
6. As regards light, because No. 40's garden lies to the south of the appellant's there cannot be overshadowing, other than possibly a small area for a brief period as the sun first rises in the morning.
7. The Council has also referred to a loss of privacy, but it is difficult to see out of a roof light because the angle of view is essentially skyward and in this case all the more so because of the shallow pitch of the roof. And as the appellant points out, there are also intervening outbuildings in the garden of No. 42 that would restrict the view from these windows towards No. 40.
8. Although not referred to by the Council in the Notice of Refusal, the occupiers of No. 44 consider that the proposed building would have an unacceptably adverse effect on their garden. I do not find the wording in the officer's report to be particularly clear as to whether the Council considers this property would be affected, although arguably not from the Notice of Refusal's wording.
9. In any event I take the view that the new garage in its position 5m away from the boundary with No. 44, and to all intents and purposes past No. 44 further along Church Lane, would have little if any effect in terms of visual impact or overlooking. And any shadows cast would be likely to extend towards the Lane rather than the end of the garden. For these reasons I did not consider it necessary to accept the invitation to see the appeal site from No. 44's garden.
10. On the main issue I conclude that if there were to be any effect on the outlook, light and privacy of users of the gardens of Nos. 40 and 44, it would be only slight. There would therefore be no conflict with Policy CSP18 of the Tandridge District Core Strategy 2018 and Policies DP1 & DP7 of the Tandridge Local Plan Part 2: Detailed Policies 2014. There would similarly be no conflict with paragraph 127f) of the National Planning Policy Framework 2021. I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt. A condition restricting the building's use to the occupation of No. 42 will safeguard residential amenities.

Martin Andrews

INSPECTOR