



Appeal Decision

Site Visit made on 25 May 2021

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/M2270/W/21/3268445

309 Upper Grosvenor Road, Royal Tunbridge Wells, TN4 9EY

- 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 D Austin against the decision of Tunbridge Wells Borough Council.
 - The application Ref 20/00307/FULL, dated 31 January 2020, was refused by notice dated 13 November 2020.
 - The development proposed is the demolition of existing single storey building/conservatory and erection of a single storey studio flat with associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application as originally submitted to the Council was for what was described as 'a pair of single storey studio flats'. This was subsequently amended to a single studio. It is clear from the appeal documentation that this appeal is for a single unit. I have therefore used the wording in the Council's decision notice as it more accurately describes the development the subject of this appeal. The wording is also used on the appeal form.
3. There were inconsistencies on the drawing that was initially submitted to me, with regard to the position and type of windows proposed on the south east elevation. However, a revised drawing has now been provided by the appellant which clarifies the situation and shows high level windows on the south east elevation. The Planning Officer's report noted these inconsistencies but considered the proposal on the basis of the windows being installed at high level on this elevation. On that basis I am satisfied that my consideration of this latest drawing does not prejudice the Council's position.
4. From my site visit, it was evident that a building similar to that which is proposed in this appeal has been erected on site. However, it differs from that shown in the submitted drawings, noticeably in respect of its position relative to the front boundary of the site, the number of windows and the position of the main entrance, the absence of a cycle/refuse store to the side of the proposed building, the provision of a roof overhang and different external finishes to the elevations. Accordingly, and for the avoidance of doubt, I confirm that I have based my decision on the proposed building shown in the amended drawing and not the building as erected on site.

Main Issues

5. The main issues are the effect of the proposed development on the character and appearance of the area and the living conditions of future occupiers, with particular regard to the design, form and position of windows.

Reasons

6. The appeal site forms part of the rear garden of 309 Upper Grosvenor Road, a two storey semi-detached dwelling. This property is on the corner with Holmewood Road, a road which inclines up from Upper Grosvenor Road. The garden of the appeal property responds to the changing levels with the highest part of the garden being adjacent to No.1 Holmewood Road.
7. Houses in Upper Grosvenor Road and Holmewood Road are generally two storey semi-detached or terraced houses with generally spacious gardens extending to the rear. They are finished in either brick or render and have hipped or gabled roof forms. The rear garden of the host property, No.309 Upper Grosvenor Road, and its counterpart on the opposite corner, No.311 Upper Grosvenor Road, are at a lower level to, and provide a visual break from, the properties in Holmewood Road. Even allowing for ancillary outbuildings, this gap adds an important sense of space to the character of the area.

Character and Appearance

8. The proposed building would be located on the rear portion of the garden to No.309 Upper Grosvenor Road, closest to No.1 Holmewood Road. The building would have its frontage directly onto Holmewood Road. By virtue of its separate front door, provision of cycle/refuse area and separate curtilage, together with the consequential partitioning of the garden of the host property, the proposed building would very clearly be read within the street scene as a separate dwelling unit.
9. As a single storey flat roofed detached building, the appeal scheme would fail to relate appropriately in visual terms to the prevailing form of other local buildings. In addition, and given the size of the proposed building relative to its curtilage and its location on the boundary with No.1 Holmewood Road, the proposed development would appear squeezed within its obviously constrained plot when compared to others.
10. The appeal scheme would not only add a substantial amount of built development to what is currently an important visual break in the street scene, it would also substantially reduce the garden of No.309 Upper Grosvenor Road. The resulting small garden to this property would then fail to reflect the spacious feel to plots in the local area.
11. For the above reasons, the proposed development would be harmful to the character and appearance of the area. As such, it would be contrary to Policy EN1 of the Local Plan¹ and Policy 4 of the Core Strategy², which amongst other things, seek to ensure developments do not harm the character of their area and that they respect their context.

¹ Tunbridge Wells Borough Local Plan (2006)

² Tunbridge Wells Borough LDF Core Strategy (2010)

Living Conditions

12. The amended drawing clarifies that the proposed building would be served by two high level windows on the south east elevation and have a similar arrangement on the north west elevation. The front (north east) elevation would be served by a front door and window with a further glazed panel serving the bedroom. Two roof lanterns are also proposed, one of which would serve the bathroom.
13. Providing natural light to all areas of the main living space would rely on the window and door on the north east elevation, a roof lantern and two high level windows that face onto the side elevation of No.1 Holmewood Road. Given this situation and the orientation of the building, the light these windows could provide would be limited. The result is likely to be a gloomy and oppressive experience for future occupants.
14. The outlook from the bedroom would be via a glazed panel. The main living area would have the small window next to the front door and, if as appears to be the case, the glazed front door itself, from which to derive any outlook. Outlook from the proposed building would therefore be single aspect to the north east and extremely limited.
15. Given the limited set back from the pavement, what fenestration there is on the north east elevation would itself be vulnerable to being overlooked by passing pedestrians. Having some form of curtain or blind would help to reduce any loss of privacy for future occupiers but would equally reduce the outlook and further limit natural light from entering the proposed unit. None of the windows are shown as being obscurely glazed although the appellant suggests obscure glazing to the bedroom could protect privacy, but this would have consequential implications for outlook. Any boundary fencing designed to protect future occupant's privacy would similarly compromise outlook and hamper natural light from entering the building.
16. It is clear therefore that the proposed building would harm the living conditions of future occupiers, with particular regard to the design, form and position of windows. Accordingly, it would be contrary to Local Plan Policy EN1, which amongst other things, seeks to protect future occupants of new development and ensure there are appropriate levels of light and privacy.

Other Matters

17. The appellant points out that there were previously outbuildings on the site and directs me towards householder permitted development rights. The appellant suggests that a building of similar dimensions to the proposed development could be erected in this general location. Whilst this may be possible, there is no lawful development certificate before me to confirm this matter. Regardless of this, as an outbuilding it would function very differently to that of an independent residential unit, which is the proposal before me. As a result, and as I have concluded, its character and effect on the street scene would be very different.
18. The appellant suggests that studio flats do not generally have significant areas of glazing or outlook. Although the proposed development might not strictly be considered either a flat or a studio, I do not accept the appellant's basic assertion. Flats, of whatever size, may sometimes have only one aspect, but it

would be most unusual for them not to have areas of glazing and a reasonable outlook. Regardless of this, I have found that in this instance, the proposed development would have windows that provide neither sufficient access to natural light nor a reasonable outlook, and that this would be detrimental to the living conditions of future occupants.

19. The appellant suggests that the level of privacy/overlooking experienced by future occupiers of the proposed unit would be similar to other properties in Holmewood Road. However, other houses in the road appear to have a slightly greater set back from the pavement and also have clear defensible space in front of their windows. Occupants of these neighbouring properties would not have all their habitable rooms at the front of the building or on the ground floor. In addition, the ground floor rooms of these neighbouring properties would benefit from larger windows and thus curtains or blinds would not have the same degree of impact as would be the case with the appeal proposal.

Planning Balance and Conclusion

20. The Council cannot demonstrate a 5 year housing supply and as such I am taken to the so called tilted balance of paragraph 11 of the Framework³. I have found multiple harms in relation to the effect of the proposed development on the character and appearance of the area and the living conditions of future occupiers. These harms are significant and as a consequence would be worthy of significant weight. The harm I have found would accordingly lead to conflict with the Framework, in particular paragraph 127, which amongst other things, seeks to ensure development is attractive and sympathetic to local character and also provides a high standard of amenity for future users.
21. The appeal site would provide one additional dwelling that would accord with the Framework's support for windfall sites. The provision of a single dwelling would make a small contribution towards housing supply and there would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal. Overall, and for these reasons, I would attach only a small amount of weight to them. As such, it would be the case that the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It would not therefore be sustainable development for which the presumption in favour applies. Accordingly, the appeal should be dismissed.

Stewart Glassar

INSPECTOR

³ National Planning Policy Framework (2019)