



Appeal Decision

Site visit made on 15 June 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/X0360/W/21/3268070 67 Ellis Road, Crowthorne RG45 6PP

- 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 a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Steven and Angela Shaw against the decision of Wokingham Borough Council.
 - The application 203306, dated 29 November 2020, was refused by notice dated 15 January 2021.
 - The application sought planning permission for addition to lounge without complying with a condition attached to planning permission 01282, dated 23 August 1974.
 - The condition in dispute is No 3 which states that: Notwithstanding the provisions of the Town and Country Planning General Development Order, 1973, no further additions or extensions to the dwelling shall be built without the prior permission of the District Planning Authority.
 - The reason given for the condition is: To prevent an overdevelopment of the building and to safeguard the amenities of the adjoining properties.
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Decision

1. The appeal is allowed and planning permission is granted for addition to lounge at 67 Ellis Road, Crowthorne RG45 6PP in accordance with the terms of the application 01282, dated 23 August 1974.

Preliminary Matters

2. The Council granted planning permission for the application but imposed a new condition (No 2) that removed permitted development rights for additions to the roof of the dwelling¹. The reason given for imposing the condition was to protect the amenities of neighbours in accordance with the National Planning Policy Framework and Core Strategy Policies CP1 and CP3. The appeal seeks the grant of planning permission for the addition to the lounge unencumbered either by condition 3 imposed on planning permission 01282 or the more recent condition 2 imposed on planning permission 203306.
3. The addition to the lounge granted under planning permission 01282 has been implemented.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 1, Class B.

Main Issue

4. The main issue is whether it is necessary to restrict domestic permitted development rights to prevent an overdevelopment of the building or safeguard the amenities of adjoining properties.

Reasons

5. Paragraph 55 of the National Planning Policy Framework (the 'Framework') states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
6. The development granted under planning permission 01282 relates to a single storey rear extension, whereas condition 3 imposed on that permission relates to permitted development rights applicable on a much wider scale to the whole of the dwellinghouse. The condition is not relevant to the development permitted, and was not necessary to enable the development to have taken place. The condition therefore does not satisfy two of the tests set out in paragraph 55 of the Framework.
7. The same considerations apply to condition 2 imposed on planning permission 203306 restricting permitted development rights for additions to the roof. Since the original development relates to a single storey rear extension to the lounge, a condition restricting permitted development rights for additions to the roof of the dwellinghouse is not relevant to that development, nor is it necessary for that development to have taken place.
8. Furthermore, paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
9. The Council accepts there is no clear justification to restrict ground floor domestic permitted development rights but has expressed concern that a roof extension/dormer would introduce first floor windows that could introduce overlooking and a loss of privacy to occupants of neighbouring dwellings.
10. However, the appeal property already has rooflights at first floor level in both the front and rear roof slopes. The neighbouring property at 69 Ellis Road also has first floor windows, as do the dwellings at the rear. While first floor windows may result in views into and across neighbouring properties' gardens, such relationships are normal and to be expected in a suburban layout. Ellis Road is no different in that respect. Consequently, I see no clear justification why domestic permitted development rights for additions to the roof should be restricted. Such a restriction therefore also conflicts with paragraph 53 of the Framework, and is unnecessary.
11. I conclude that the imposition of conditions restricting domestic permitted development rights at the property are not relevant to the development permitted. Furthermore, I do not consider that the exercise of domestic permitted development rights would lead to an overdevelopment of the building or be harmful to the amenities of occupants or adjoining properties, and conditions restricting such rights are therefore unnecessary. It follows that there would be no conflict with Policies CP1 and CP3 of the Wokingham Borough Core Strategy 2010, which set out general principles for good design.

Conditions

12. As the addition to the lounge granted under planning permission 01282 has been implemented and completed, there is no need to impose a time limit condition or a condition requiring matching materials as was the case on the original permission. Consequently, condition 1 on planning permission 203306, which seeks the reimposition of these earlier conditions, is unnecessary as well.
13. For the reasons set out above I do not consider conditions limiting domestic permitted development rights to be necessary or relevant to the development permitted.
14. The result is that permission is granted for the addition to the lounge without any conditions pursuant to it.

Conclusion

15. I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR