



Appeal Decision

Site visit made on 13 July 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2021

Appeal Ref: APP/Y2810/D/21/3271163

30 South Street, Weedon NN7 4QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Haines against the decision of Daventry District Council.
 - The application Ref DA/2020/0954, dated 30 October 2020, was refused by notice dated 5 March 2021.
 - The application sought planning permission for a two-storey side extension and single storey rear and side extension without complying with a condition attached to planning permission Ref DA/2019/0756, dated 16 December 2019.
 - The condition in dispute is No 2 which states that:
"The development shall be carried out strictly in accordance with drawing nos. 3599 - 03B, -04E and -08B received 12/12/19; -09B received 28/11/19; -01E and -06E received 2/12/19; -02B, and -05A valid 23/9/19."
 - The reason given for the condition is:
"To ensure development is in accordance with the submitted drawings and to enable the Local Planning Authority to consider the impact of any changes to the approved plans."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The extension permitted by the original 2019 planning permission has been built without complying with the approved plans. As the breach of Condition 2 has already commenced, I have determined this appeal having regard to the provisions of Section 73A of the Town and Country Planning Act 1990.
3. On 1 April 2021 Daventry District Council was merged into a new unitary authority West Northamptonshire Council, along with Northampton Borough Council and South Northamptonshire District Council. My decision will therefore be issued to the new Council. The development plan previously in place for Daventry district continues to have full effect in that part of West Northamptonshire.
4. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. In this case, the amendments to the Framework have not had a significant bearing on the most relevant issues in this appeal. I am therefore satisfied that there is no requirement for me to seek further submissions on the

revised Framework, and that no party's interests have been prejudiced by my taking this approach. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the July 2021 version.

5. The decision notice issued by the Council referred to conflict with Policy RA2(C.iii) of the 2020 Daventry Settlements and Countryside Local Plan Part 2 ("the SCLP") rather than Policy RA1(C.iii), a matter which was brought to my attention by the appellants during the course of the appeal. This was clearly a typographical error, as the Council's officer report correctly refers to RA1, and the correct policy was provided as part of the Council's appeal submissions. I note the appellants' reference to caselaw in respect of withdrawing, amending or re-issuing decision notices¹, although in my view the issues raised by *Holder* are not directly relevant to my determining of this appeal, and I have in any event a statutory obligation² to have regard to the relevant policies of the development plan. I am satisfied that the appellants' interests in this appeal have not been prejudiced by the error on the decision notice.

Background and Main Issue

6. The appeal relates to a dwelling close to the village centre of Weedon, and within the Weedon Bec Conservation Area ("the WBCA"). Planning permission was granted in 2019 for side and rear extensions. It is not disputed that the work carried out does not comply with the drawings approved in 2019. The appellants are now seeking "retrospective" planning permission for the extensions as built, by varying the approved drawings condition attached to the 2019 permission.
7. Briefly, this appeal arises from what the appellants describe as successive negligence on the part of the people they engaged to guide them through the process of planning and constructing the extensions. Firstly, they consider that their (then) architect created a design unfit for purpose because of the very limited headroom in the first-floor rear extension, an issue which became apparent only when construction was underway. Secondly, they state that their builder then, for whatever reason, failed to advise them that changing the size and form of the rear extension would require planning approval before proceeding, leaving them understanding that a retrospective application would be sufficient once construction had been completed.
8. Perhaps inevitably, the Council takes a slightly different view of events. It states that on first learning that the work did not comply with the approved plans, it told the appellants that the extension as built was not acceptable and would be unlikely to secure planning permission. It then advised that the appellants should either revert to the approved plans, or seek planning permission for an alternative scheme ahead of pressing on with further building work. The appellants instead carried on with the development, and later submitted the planning application to vary Condition 2 of the 2019 permission, which the Council refused.
9. In any case, allowing the appeal would permit the retention of the built extensions. I therefore consider that the main issue is their effect on the character and appearance of the host building and the WBCA.

¹ R (Holder) v Gedling Borough Council [2013] EWHC 1611 (Admin); J.P.L. 1426

² Section 38(6), Planning and Compulsory Purchase Act 2004

Reasons

10. The appeal property is a semi-detached dwelling, on a site sloping up from the south side of South Street. Although close to Weedon village centre, the immediate surroundings are residential on three sides, with open fields stretching away to the south behind the rear garden. Dwellings nearby on South Street vary in age, but are overwhelmingly modest in size and scale, and generally arranged either in short terraces or semi-detached pairs. Gaps between blocks on the south side of the street allow glimpses through to the countryside behind, allowing an appreciation of the village's rural setting. No 30 and its attached "twin" at No 28 overlook a small triangular green between two arms of South Street, from where the appeal property's elevated position gives it a certain prominence in the streetscene.
11. As the appeal site is within the WBCA, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202). I have not been provided with a character appraisal or similar document for the WBCA. However, from my observations on my site visit I consider that its significance derives in part from the historic layout of the village centre, its numerous well-preserved buildings, and the broadly consistent scale and densely-packed form of residential and commercial buildings in and around the centre. Together these characteristics help to illustrate the historic development of the settlement.
12. Prior to the extensions being built, the appeal property was a three bedroomed, cottage-style two-storey dwelling. The first floor was on an "L" shaped plan, with a bedroom and bathroom in a rear return, the form of which could still be seen in the neighbouring property No 28 at the time of my site visit. A single storey dining room and entrance hall at the western end of the ground floor seem likely to have been later additions.
13. There are several elements making up the extensions which the appellants wish to retain. The first of these, on the western side and the rear of the building, is a two-storey extension which has provided an enlarged entrance hall on the ground floor, with a new bathroom and fourth bedroom above. It has a shallow double pitched roof above the bedroom, running perpendicular to the main roof ridge. This double pitch continues above most of the bathroom, although the front part of the roof is a single pitch running across the house, with a higher ridge than the rear roof. It is this element of the scheme about which the Council has expressed particular concern.
14. Behind this at the south west corner, the second element is a single storey extension with dual pitched roof which has provided a study or fifth bedroom. Finally, at the south east corner, the third element is a single storey extension with a large area of flat roof wrapping round the rear of the building; this provides a utility and shower room, as well as additional kitchen and dining space. At the time of my site visit the extension's walls were exposed blockwork, which the appellants propose to finish with render.

15. Seen from South Street, the rear part of the two-storey extension protrudes beyond the side wall of the new bathroom by around 1.10m to 1.29m (the lower figure is from the appellants' statement, the slightly higher figure is indicated on the submitted drawings). The appellants argue that the rear part is set back from the street frontage by around 6.1m, so a sense of openness between the appeal property and the neighbouring dwelling at No 32 has been retained. I accept that the depth by which the side extensions are set back from the front building lines means that the creation of a terracing effect when the property is viewed obliquely along South Street has been avoided. However, whatever the precise measurement of the rear two-storey part of the extension, it was quite clear to me that it blocked any glimpses of trees and fields at the rear of the property which might previously have been possible across South Street. The extension has effectively, at least visually, entirely closed the gap between No 30 and No32. Such gaps are a positive feature of South Street in particular, principally for the way they help connect the village to its rural surroundings, and I consider that the loss of such gap has diminished the quality of the streetscape.
16. The high eaves, shallow roof pitches, and disproportionate width of the first-floor extension have combined to create a development which is entirely at odds with and alien to the original modest character and scale of the dwelling. This was readily apparent to me when viewing the extension alongside the more original form which the first floor of No 28 next door retains. The connection between the rear double-pitched roof and the single pitch above the front of the bathroom can be seen both from the street and the side of the property, from where it is jarring and visually incoherent. The description in the Council's officer report of the first-floor extension when viewed from the rear as having "the appearance of a static home that has been placed on top of the flat roof" may be uncharitable, but it is not inaccurate. In my view, the bulk and scale of the extensions as a whole, and the first-floor part in particular, have almost entirely overwhelmed and obscured the original building when seen from the rear.
17. I viewed the first-floor rear extension from the field access way between the rear gardens of Nos 26 and 28 South Street. While it is not widely seen in public views, from the access way it was apparent that it is visible from several neighbouring gardens. I therefore consider that not only is the first-floor extension detrimental to the character and appearance of the appeal property, but it also intrusive and discordant within the wider area.
18. The appellants have referred to the vernacular at the rear of properties in the surrounding area as being one of "assorted extensions, out-houses and other ancillary buildings that have been organically constructed over the years". I do not disagree, but while I saw a variety of other extensions nearby, including some which are perhaps not as sympathetic to their host property or the wider neighbourhood as they might be, I did not see (nor was I directed to) any which approach this scheme in terms of their overwhelming and inappropriate size, scale and design. The diversity of other extensions in the area therefore does not weigh in favour of this development.
19. The appellants' statement referred at various points to the Council's officer report in respect of the original 2019 planning permission. However, many of the extracts presented by the appellants refer to changes from a previous

scheme which had been refused planning permission earlier in 2019³ and do not, on my reading of the evidence, add weight in support of the current scheme. The acceptability in principle of extending the appeal property, including appropriate two-storey elements at the rear, is not disputed by the Council. However, the granting of the original planning permission in 2019, for a scheme which I note the Council describes as “just about acceptable”, does not set any sort of precedent for a development which harms the character and appearance of the appeal property and the wider area.

20. I conclude that the extensions as built are harmful to the character and appearance of the host building and the surrounding area, and fail to preserve the character of the WBCA. The harm to the significance of the WBCA is, in the Framework’s terms, less than substantial. However, no public benefits arising from the development which outweigh this harm have been identified.
21. The development conflicts with Policies RA1(C.iii), ENV7(B, C and D) and ENV10(A.i, A.iii and B) of the SCLP. Together these seek to ensure that development is well-designed including in matters of scale, massing and height, reinforces local distinctiveness, and protects the character and setting of villages and Conservation Areas. The development also conflicts with the requirements of the Framework in respect of conserving and enhancing the historic environment.

Other Matters

22. The extensions are not harmful to neighbours’ living conditions in respect of overlooking or overshadowing. There are no unacceptable impacts on the road network or highway safety arising from the development. However, a lack of harm in these matters is a neutral factor, which does not weigh in favour of the development.
23. I recognise that the appellants will be disappointed with my decision, which could well result in a significant cost burden for them, as well as further disruption. However, it was open to them to engage with the Council about the possibility of working up an acceptable revised scheme at an earlier stage. It may be that other avenues of redress are open to the appellants in respect of the claims of professional negligence which they direct towards their previous architect and builder. My decision in this case has not been taken lightly, and has followed a thorough appreciation of the character of the surrounding area as well as all the other evidence before me.

Conclusion

24. For the reasons given above, the development conflicts with the development plan. There are no material considerations that would outweigh that conflict, and the appeal is therefore dismissed.

M Cryan

Inspector

³ LPA Ref DA/2019/0017