



Appeal Decision

Site Visit made on 19 July 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/A1720/D/21/3271052

Yale Cottage, Duncan Road, Park Gate, Southampton SO31 1BD

- 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 Richard Becheley against the decision of Fareham Borough Council.
 - The application Ref P/20/1399/FP, dated 16 November 2020, was refused by notice dated 4 March 2021.
 - The development proposed was originally described as 'an outbuilding on the plot basically a games room'.
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Decision

1. The appeal is allowed and planning permission is granted for a detached family room at Yale Cottage, Duncan Road, Park Gate, Southampton SO31 1BD in accordance with the terms of the application, Ref P/20/1399/FP, dated 16 November 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Notwithstanding the description of the development proposed in the banner heading above (which is taken from the application form and excludes superfluous words which are not acts of development) the Council described the development as a 'detached games room within rear garden'. The Council's officer report referred to use for 'a games room, gym and storage'. Part E of the appeal form states that the description of development has not changed but a different wording has been entered — 'a detached family room for education, fitness, pool table, relaxation, storage and potential home schooling'. Neither main party has provided written confirmation that a revised description of development has been agreed.
3. It is clear from the evidence before me that the outbuilding is intended to be used for any or all of the above activities. It would therefore be more precise and apt to describe the development as a 'detached family room'. This would not materially change the nature of the proposal or, therefore, having regard to the 'Wheatcroft Principles'¹, cause prejudice to any party. I have dealt with the appeal on this basis and used this description in my formal decision above.
4. At the date of the application, the application form stated that the development had not commenced. The foundations and footings for the development are in situ on the requisite part of the appeal site.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37].

Main Issues

5. The main issues are the effect of the development on:

- the character and appearance of the area; and
- the living conditions of the occupiers of neighbouring houses having regard to outlook, daylight, privacy, light spill and noise.

Reasons

Character and appearance

6. Yale Cottage is a two-storey detached house with garden located in the built-up area of Park Gate. It is bordered either side by two houses similar in type and size fronting Duncan Road. Next to one of these houses, Lower Duncan Road slopes down to the side and then returns behind Duncan Road with a row of closely spaced, mainly two-storey houses. The appeal site backs onto the rear gardens of some of these houses. The wide corridor of gardens between these houses are mostly separated by hedgerow, shrubs and fences with some taller trees. Some contain domestic outbuildings of various size, design, siting, materials and use, including some with pitched roofs. This pattern of buildings and landscaped gardens is locally distinctive.
7. The family room would be a reasonably wide and long building. However, the lower vertical part to eaves height would not project above ground level by an inordinate distance. Moreover, while the upper roof part would comprise a significant proportion of the overall height of the building, it would have a shallow roof pitch and therefore appreciably less bulk than the lower part of the building. It would be sited in a small nub of the L-shaped garden, behind the end of the rear garden of the house on the north-east side of Yale Cottage, in the lowest part of the appeal site and centrally placed behind the opposing houses, within this swathe of rear gardens. It would therefore be a significant distance from Duncan Road, and also from both parts of Lower Duncan Road, with satisfactory separation distances to nearby houses and outbuildings and largely screened by landscaping or other garden boundaries.
8. As a result, the family room would be inconspicuous in public views from Duncan Road. Some taller parts would be seen between houses, above garden boundaries or over or next to planting in public views from both parts of Lower Duncan Road, especially in winter months when some planting may not be in full leaf. However, and even if some or all of this landscaping was not permanent, these parts would not be extensive parts of the building and these views would be distant and glimpsed in nature. The family room would not therefore be unduly prominent or appear incongruous in its setting. Furthermore, it would not significantly erode the mainly open, landscaped arrangement of these gardens or appear overly cramped in relation to adjoining houses or outbuildings in the Duncan Road or Lower Duncan Road streetscenes.
9. Considering the above, I find that the family room would not cause harm to the character and appearance of the area. Consequently, it would comply with Policy CS17 of the Fareham Core Strategy, August 2011. This policy includes that development will respond positively to the key characteristics of the area, including landscape and in scale, form, spaciousness and external materials. It would also be consistent with the National Planning Policy Framework (the

Framework) which seeks to ensure that development will add to the overall quality of the area, be visually attractive in architecture and layout, sympathetic to local character, including the surrounding built environment and landscape setting, and maintain a strong sense of place.

Living conditions

10. The proposed rooflights and apex gable end glazing would be in a part of the family room with no first floor and an open, vaulted ceiling. Accordingly, views from internal ground floor level would be at a steep angle upwards and towards the sky, not downwards or towards any nearby houses, windows or gardens. The ground floor glazed bi-fold doors at one end would face the appellant's rear garden.
11. The family room would be sited mainly at the ends of the adjoining rear gardens of two houses. In Duncan Road the rear garden is reasonably long and the building would be a significant distance from habitable room windows. Moreover, the building would be sited at a lower level and the intervening boundary is a row of tall evergreen planting. Even if this planting was reduced to a height usually required to maintain adequate privacy (ie 1.8m) or replaced by a similar height fence, the apparent bulk of the building would nonetheless not therefore be overbearing to users of this garden or unduly restrict sunlight or daylight into the garden or rooms at this property. Nor would it adversely affect views from habitable room windows, and the ground floor side facing windows in the family room would not be able to overlook this garden or provide any view towards these habitable rooms for the same reasons.
12. In Lower Duncan Road the rear garden is shorter and the family room would be on higher ground. However, the intervening boundary fence would obscure most of the vertical height of the building facing towards this house and garden and there would be no ground floor windows in this elevation. While this elevation would extend along a large part of this common boundary, it would not be all of the boundary and the part projecting above the fence would be quite narrow. Moreover, while the height to the ridge of the roof would be taller, it would not be a conventional two storey house height and the shallow, low pitch roof slope would recede away from the garden and habitable room windows in this house. As a result, the family room would not appear too high or overly imposing and would not unduly restrict sunlight or daylight into this neighbouring garden or house, or adversely affect views from windows.
13. Other nearby houses and rear gardens in Duncan Road and Lower Duncan Road would be significantly further away or orientated at an angle to the family room. As a result, these would either not be overlapped at all, or not to a significant degree, by the siting or scale and massing of this building. These properties would also therefore be separated visually and spatially from the building, including by intervening buildings, planting or fences. The family room would not, therefore, have any unacceptable adverse effect on the use of, or daylight into, the gardens or habitable rooms of these houses or in views from or towards these habitable room windows.
14. The family room would provide additional living space for purposes incidental to the use of Yale Cottage as a dwellinghouse. The proposed use(s) would be typical domestic activities and not unusual or unexpected. There is no compelling evidence that individually or cumulatively these uses would

generate excessive light spill into neighbouring gardens or habitable rooms or generate inordinate noise in this surrounding residential context.

15. Construction work, including the operation of machinery and equipment, would take place close to some neighbouring gardens and houses. While some noise and disturbance is inevitable, the development is small-scale and so likely to be carried out reasonably quickly. Moreover, the Council could seek to control antisocial working activity causing statutory nuisance using Environmental Health powers.
16. In addition, if following a grant of planning permission, the family room is not used as is proposed, or if there is a material change of use (including to create a separate dwellinghouse or to a commercial or business use that was not incidental to the enjoyment of Yale Cottage) then another grant of planning permission would be required.
17. Considering the above, I find that the family room would not cause harm to the living conditions of the occupiers of neighbouring houses having regard to outlook, daylight, privacy, light spill and noise. Consequently, it would comply with Policy DSP3 of the Fareham Local Plan Part 2: Development Sites and Policies, June 2015. This policy includes that development should ensure no unacceptable adverse impact upon living conditions of neighbouring development by way of loss of sunlight, daylight, outlook and privacy. It would also be consistent with the Framework which seeks to ensure that development would provide a high standard of amenity for existing users, such as the occupiers of neighbouring houses.

Other Matters

18. Despite the concerns of some local residents, there is no evidence that the development has, or would have, an adverse impact on protected species. Some local residents are concerned that underlying ground conditions, said to be clay, may have an influence on surface water drainage for the development. In this regard, I have been referred to incidents of existing surface water flow from the appeal site into adjoining gardens. However, there is no evidence that rainwater discharging from the roof of the family room could not be harvested into a suitable water butt or soakaway (as anticipated by the appellant and the Council) or to another suitable mechanism to manage surface water drainage. I am therefore satisfied that suitable details in this regard could be secured by a condition.

Conditions

19. The Council has suggested some conditions. I have considered these and where necessary I have modified the wording in the interests of clarity and in light of the tests in Framework paragraph 56 and in Planning Practice Guidance². The main parties were also given an opportunity to comment on conditions which I consider are necessary to make the development acceptable. I have taken comments received into account in my decision.
20. I have not imposed a standard time limit condition for the development to commence because it has already begun. I agree with the Council that a condition is necessary to specify the approved plans. This would ensure

² Paragraph ID: 21a-003-20190723.

certainty in the interests of the character and appearance of the area and in the interests of the living conditions of the occupiers of neighbouring houses.

21. The Council has not suggested a condition with regard to details of the materials for the external surfaces of the development, though it does not object to such a condition. The appellant has confirmed that bricks, tiles and guttering would match Yale Cottage and that windows, fascia and soffit would be uPVC with aluminium bi-fold doors. I am satisfied that these materials, including colour to match Yale Cottage, would ensure a high quality design commensurate with Yale Cottage and the residential context of the site. It is therefore necessary to impose a condition to ensure that the development is carried out accordingly. This would ensure certainty in the interests of the character and appearance of the area.
22. Section 55(2)(a)(i)³ provides that building or other operations that affect only the interior of a building do not involve development, consequently, would not require planning permission. I have therefore imposed a condition to require that the position and size of the proposed first floor of the family room shall be retained in accordance with the approved plans. It would also ensure that details of any proposed future internal enlargement or increase in the size of the first floor shall have been submitted to and approved in writing by the Council. This is necessary to prevent outlook from the proposed rooflights and apex gable end glazing which might otherwise result in unacceptable overlooking of nearby rear gardens or habitable rooms and loss of privacy to the occupiers of these properties. It would allow the Council to consider the individual planning merits of any such proposal. The appellant has not objected to this condition, nor has the Council.
23. The appellant and the Council have not objected to a surface water drainage condition, which I consider to be necessary for the reasons explained in 'other matters' above. The appellant has provided some information in this regard in comments on the suggested condition. However, the approval of satisfactory details could require the Council to carry out formal consultation. I am therefore satisfied that the suggested condition is necessary.
24. I am also satisfied that these conditions would serve a useful planning purpose and are also relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Planning Balance and Conclusion

25. Notwithstanding the position and size of the proposed family room, and that some people may be able to see parts of it from private property and in some public views, I have found that it would be in keeping with existing development in the vicinity of the appeal site and would not be an unneighbourly form of development. The proposal would accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should succeed.

Robin Buchanan

INSPECTOR

³ Town and Country Planning Act 1990.

Schedule of Conditions (4)

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - As existing site location plan 1:1250@A4
 - Proposed elevations and site plan, marked 'Amended' 1:100@A3
 - Proposed floor and section plan, marked 'Amended' 1:50@A3
- 2) Notwithstanding condition 1, no development above ground shall take place until details of surface water drainage have been submitted to and approved in writing by the local planning authority. Development shall be carried out and thereafter retained and maintained in accordance with the approved details.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall comprise brick, tile and guttering to match Yale Cottage; windows, fascia and soffit in uPVC and aluminium bi-fold doors that in colour match Yale Cottage.
- 4) The position and size of the first floor of the family room hereby permitted shall be retained in accordance with the approved plans. Details of any proposed internal enlargement or increase in the size of the first floor shall first be submitted to and approved in writing by the Council and thereafter carried out and retained in accordance with the approved details.