



Appeal Decision

Site Visit made on 19 October 2021

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2021

Appeal Ref: APP/L1765/D/21/3279011

Walcote Place, High Street, Winchester, SO23 9AP

- 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 Josh Mathias against the decision of Winchester City Council.
 - The application Ref 20/02714/HOU, dated 4 December 2020, was refused by notice dated 27 April 2021.
 - The development proposed is retrospective application for works to courtyard garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Winchester Planning Committee resolved to refuse permission against the officer recommendation. Notwithstanding the debate at the Planning Committee meeting the reason for refusal is that the development is overbearing to neighbours' residential amenity by reason of size and form resulting in an unacceptable loss of outlook. The description of development as stated on the application form is lacking in detail but the Committee Report explains the proposal is to regularise works to the garden area including installation of a fence, a pergola and the layout of the courtyard area. I have considered the appeal on this basis.

Main Issue

3. The main issue is the effect on the living conditions of occupiers of neighbouring properties taking particular account of outlook.

Reasons

4. The house at Walcote Place adjoins a more modern small single-storey extension in commercial use to the north. There is a small courtyard garden (the courtyard) between this commercial unit, the patio garden areas at the backs of properties on Staple Gardens (the patios), and the communal garden of properties at St Paul's Place. The urban grain is quite tight with properties close to each other. Planning permission has previously been granted for the erection of pizza oven and BBQ area in the courtyard so these uses are not a matter for this appeal.
5. The patios of Staple Gardens are at a much lower level than the courtyard. The courtyard is reached via a path and steps at the back of the house. A high quality timber fence with horizontal slats has been erected along the boundary

with the patios. It is some 1.8m high alongside the path rising by the side of the steps to some 2.3m.

6. The patios are relatively shallow and already enclosed by the retaining wall that supports the courtyard. As a result of the land level differences the top of the fence would be some 2.3m and 2.8m higher than the patios. As the gaps between the fence slats are very narrow they would let through little light. Moreover shrubs inside the courtyard are growing up the fence and are beginning to obscure the gaps. As a result of its height, length and degree of solidity, the fence has an overbearing effect on the patios and creates a gloomy oppressive outlook from them and from ground floor windows. This is harmful to the living conditions of occupiers of the adjacent Staple Gardens properties.
7. I acknowledge that planting could exceed the height of the fence but this would generally have a softer, less oppressive, appearance than a fence. Moreover, there is no certainty that the planting that has already taken place in the courtyard will be kept at or below the height of the fence. Accordingly this does not lead me to any different conclusion.
8. The pergola is some 7m from the boundary with Staple Gardens so does not have an unacceptable effect on the outlook from those properties and provides some privacy for users of the courtyard. The St Paul's Place communal garden area is at a higher level than the courtyard. There is a retaining wall with railings between the courtyard and the communal garden. The base of the pergola is at the lower level and because of this only a relatively short section of its supports and top can be seen from the communal gardens. It is not intrusive in relation to the occupiers of St Paul's Place and provides a significant amount of privacy for the courtyard both from the communal gardens and from the first floor terraces of Staple Gardens properties.
9. For the reasons set out above I conclude the fence has a harmful adverse effect on the living conditions of occupiers of adjacent Staple Gardens properties. Accordingly there is conflict with Policy DM17(vii) of the Winchester District Local Plan Part 2 Development Management and Site Allocations 2017 which seeks to ensure development does not have an adverse impact on adjoining land or property by reason of overlooking, overshadowing, or by being overbearing.

Other Matters

10. Winchester has a Cathedral and College founded in the Middle Ages as well as many other historic buildings. The appeal site is in the Winchester Conservation Area (the CA) which covers the entire city centre and a substantial portion of its inner suburbs. Its special character arises from its historic patterns and periods of development: the underlying Saxon street pattern; the close-knit medieval Cathedral Close and High Street; individual pockets of Georgian building; and extensive Victorian suburbs.
11. Walcote Chambers is a Grade II Listed Building in Winchester City Centre. It was built in the 18th Century as one dwelling; later it was converted to offices; now it has returned to residential use.
12. The courtyard is small and in a concealed position away from the public realm and is not highly visible in the street scene. Due to their scale, materials and position, together with the separation afforded by the unlisted commercial unit,

I consider the fence and pergola of the development have a neutral effect on the character and setting of the Listed Building and on the character and appearance of the CA as a whole and accordingly preserves them.

Planning Balance and Conclusion

13. The fence provides a degree of privacy for users of the courtyard and for users of the patios. However, some overlooking between residential properties is not unexpected in such tight knit areas. Moreover, the fence does not prevent overlooking of the courtyard from the first floor terraces at Staple Gardens. Accordingly I give the privacy provided by the fence little weight in support of its retention.
14. The Council raises no objection to the revised flue arrangements for the pizza oven which would be re-routed to the wall of the unlisted commercial unit. This would be a benefit of the proposal but, as it may be achieved in other ways, does not carry much weight in the context of this appeal.
15. I have found that the development has a harmful effect of the living conditions of occupiers of neighbour properties and there is conflict with Policy DM17(vii). I give these matters significant weight.
16. In failing to comply with Policy DM17(vii) the development cannot be said to comply with the development plan taken as a whole. I have found insufficient material considerations to indicate the decision should be other than in accordance with the development plan. I conclude that the appeal should be dismissed.

S Harley

INSPECTOR