

Appeal Decision

Site visit made on 18 January 2022

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st February 2022

Appeal Ref: APP/W1715/W/21/3282266
50 Shaftesbury Avenue, Chandler's Ford SO53 3BP

- 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 Matthew Burton-Garner against the decision of Eastleigh Borough Council.
 - The application Ref H/21/90791, dated 7 June 2021, was refused by notice dated 2 August 2021.
 - The development proposed is for a two storey side extension with attached rear first floor extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this appeal are the effect of the proposal upon: the character and appearance of the area; the living conditions of the occupants of 52 Shaftesbury Avenue, with specific reference to outlook and light; Bats; and highway safety.

Reasons

Character and Appearance

3. The appeal site comprises a detached two storey house with a substantial single storey flat roof rear extension, situated to the east of the crossroad junction of Shaftesbury Avenue with Chalvington Road.
4. I accept that the proposal would not result in a doubling of the footprint of the original house, but that would effectively be the case at first floor level and in totality, the extensions would be substantial in size and would lack subservience to the original dwelling. I recognise that dwellings within the immediate locality do vary in scale and design and whilst some of those have been extended, ultimately each case must be assessed on its own merits.
5. However, all dwellings immediately adjacent to the appeal site constitute bungalows and notwithstanding that the rear extension is behind the existing dwelling, the fact that it sits in a more elevated position does not mean that the extension would have less of a visual impact. It would be clearly visible when travelling along Chalvington Road and whilst approaching the site from the west

along Shaftesbury Avenue. Further, whilst I acknowledge that the existing rear extension is rather unsightly, the scale of the proposed extension at first floor level would render it as highly prominent within the street scene bearing in mind its overall length and width.

6. In conclusion on this matter I find that the proposal would result in a disproportionate and dominant extension that would be harmful to the character and appearance of the area and would be contrary to the first criterion of saved Policy 59.BE of the Eastleigh Borough Local Plan 2001 which requires development proposals to take full and proper account of the context of the site and to be appropriate in mass, scale, design and siting both in themselves and in relation to adjoining buildings.

Living Conditions

7. Contrary to the proposed Site Plan, the dwelling to the east of the appeal site is 52 Shaftesbury not no48. The rear elevation of the two storey element of the host dwelling is currently broadly in line with that of no52. However, by virtue of the ground floor utility room infill extension and the first floor extension over the flat roof extension, which would be closer to the shared boundary than the existing two storey range, the proposal would give rise to a 7m long two storey flank wall within 800mm of the rear garden of the neighbouring bungalow. The appellant does not dispute these dimensions.
8. The rear garden of no52 faces approximately south-south west and not as indicated by the north/orientation point on the proposed Site Plan, although I do however accept that any overshadowing and resultant loss of sunlight caused to the neighbouring dwelling would occur later in the day. Whilst, on balance, that would not give rise to a material level of overshadowing due to the fact that other parts of the rear garden would continue to receive direct sunlight, nonetheless I consider that the outlook from the rear of that property would be significantly curtailed. I have been provided with no diagrammatic evidence to demonstrate that the '45 degree rule' suggests otherwise, and whilst I acknowledge that the occupants of no 52 have not objected to the scheme, occupancy of dwellings is ultimately transitory and the planning system operates in the wider public interest.
9. In saying this however, I accept that there would be no material loss of privacy caused from the proposed development, although in respect of a material loss of outlook, I find that the proposal conflicts with criterion (vii) of Saved Policy 59.BE which requires developments to avoid unduly interfering, disturbing or conflicting with adjoining uses especially in terms of, amongst other things, outlook.

Protected Species

10. The Council's Ecologist states that due to the presence of two EPSM licences for bat roosts within 500m of the site and extensive works to the roof, a preliminary Bat Roost Assessment is required, including an internal inspection of the loft.
11. In response to this the appellant states that they offered to complete an assessment for this, but the Planning Officer deterred them from doing so as

they had confirmed to them that it was likely that the planning application would be refused.

12. I agree that such a survey could have easily been provided by them. However, notwithstanding that they stipulate that no evidence of bats nesting in the roof has been found. In the absence of evidence to demonstrate the fact, and taking a precautionary approach, I consider that the proposal would be contrary to Policy DM11 of the Emerging Submitted Eastleigh Borough Local Plan (2016 – 2036) which is concerned with nature conservation and specifically, in this case, the need for surveys for Protected Species.

Highway Safety

13. There is an existing vehicular access and driveway that leads off Chalvington Road and whilst I accept that the appellant has not demonstrated that 3no cars could be provided clear of the public highway, I am content that there would be physical space to enable that to be achieved.
14. I also noted on my site visit that the vast majority of dwellings within the locality do not have turning facilities to enable vehicles to enter and leave their frontages in a forward gear. Bearing in mind that the road is traffic calmed, and that the proposal would only give rise to an increase in the need for one additional parking space, I am not convinced that the proposal would have a detrimental effect upon highway safety. Such traffic impacts would not be 'severe' which is the test set by paragraph 111 of the National Planning Policy Framework.

Conclusion

15. Notwithstanding that I have found in favour of the appellant in respect of highway safety, nonetheless the proposal would have a detrimental impact upon the character and appearance of the area, the outlook from 52 Shaftesbury Avenue; and it has not been demonstrated that the proposal would not give rise to harm to Protected Species. I note the appellant's offer to plant trees to the west of the property to soften the view from the west and to reduce the height of the flank wall to the east of the property, however with respect to the latter I have not been provided with any revised drawings to demonstrate how this would be achieved.
16. Having regard to the above and all other matters raised, I conclude that the appeal be dismissed.

C J Tivey

INSPECTOR