



Appeal Decision

Site visit made on 23 November 2021

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2022

Appeal Ref: APP/C1625/D/21/3272449

Archway Cottage, Lower Kitesnest Lane, Whiteshill, Stroud GL6 6BL

- 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 Tim Jordan against the decision of Stroud District Council.
 - The application Ref S.20/2326/HHOLD, dated 15 October 2020, was refused by notice dated 12 January 2021.
 - The development proposed is installation of timber decking to south elevation of property.
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Decision

1. The appeal is dismissed

Application for costs

2. An application for costs was made by Mr Tim Jordan against Stroud District Council. That application is the subject of a separate decision.

Preliminary Matter

3. The development has already occurred and therefore I am considering the proposal retrospectively.

Main Issues

4. The main issues are the effects of the proposed development on:
 - the living conditions of the surrounding occupiers with particular regard to overlooking and privacy; and,
 - the character and appearance of the area;

Reasons

Living Conditions

5. Archway Cottage is a detached dwelling located on a hillside within an established residential area on the southern side of Lower Kitesnest Lane. The hillside slopes downwards in broadly north-easterly and south-easterly directions. This results in significant variation in the levels of neighbouring dwellings and their gardens. Inevitably, there is a degree of overlooking between neighbouring occupiers given this variation in levels. Prior to the construction of the decking, views were already possible from the rear garden

of Archway Cottage into the gardens of Sage Cottage to the east, Greenacres to the west, and 2 Bishops Walk to the south.

6. The decking has, however, resulted in more open and elevated views over these neighbouring gardens, worsening the degree of overlooking. The significant scale of the decking enables occupants to linger upon it during many activities, thus affording them lasting and more open views from a raised platform into neighbouring gardens. Whilst I cannot be certain that the decking would intensify the use of the area immediately to the rear of the dwelling, harmful overlooking could potentially be for sustained periods given that the decking is large enough for sitting out.
7. The distance of the decking to the garden of No 2, in combination with the angle of view, is such that there is only limited additional harm to privacy from overlooking. The additional loss of privacy is, however, significantly harmful to the living conditions of both Sage Cottage and Greenacres due to the close proximity of the elevated decking to their boundaries. The impact is most pronounced for Sage Cottage given that the fence on its adjacent boundary previously provided a greater degree of screening than the low walls on the site's western and southern boundaries.
8. I note that the appellant has indicated that they would be prepared to accept a condition requiring the erection of privacy screens to the sides of the decking. No detailed drawings in this regard are before me and the scale of screening required would be significant. I cannot be sure, therefore, that the required screening would not have other detrimental impacts, including on adjoining occupiers in terms of overbearing and loss of light.
9. The development is, therefore, harmful to the living conditions of neighbouring occupiers by virtue of its adverse and unacceptable impact on their privacy when using their rear gardens. Accordingly, the development is contrary to policy ES3 of the Stroud District Local Plan (2015) (Local Plan), which requires permission to be withheld for any development which would be likely to lead to an unacceptable loss of privacy. It also conflicts with similar guidance contained within section 12 of the National Planning Policy Framework (the Framework) that states planning decisions should ensure developments create places with a high standard of amenity for existing and future users. As such, the lack of objections from existing adjoining occupiers must be weighed against the wider public interest including the living conditions of future users of adjoining properties.

Character and Appearance

10. The scale and design of the decking is comfortably subservient when viewed against the host dwelling. It is not prominent in public views given the intervening buildings between the site and public vantage points. Despite the decking's projection from a previous extension, ample garden space remains to avoid the site appearing harmfully overdeveloped. As such, the proposal accords with Local Plan Policy HC8 (1) which requires that the plot size of the existing property is large enough to accommodate development without resulting in a cramped or overdeveloped site.
11. I note that the site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) and I give great weight to conserving and enhancing landscape and scenic beauty in AONBs. The appeal site is situated within an existing

residential area, is surrounded by existing development, and is comparatively small scale against existing dwellings. As such, I find that the development has a neutral impact on the AONB, conserving the AONB's natural beauty.

Other Matters

12. I note that the decking currently provides safe access from the bifold doors on the ground floor to the rear garden. I have also had regard to the storage benefits provided by the decking. These factors are not, however, imperative to ensure the residential occupation of the dwelling. Furthermore, safe access to the rear garden could be provided by more minor works without the harm to privacy identified above. The benefits that are derived from the decking do not outweigh the harm caused to neighbouring occupiers living conditions.

Conclusion

13. The development is not in accordance with the development plan when taken as a whole. There are no material considerations, either individually or in combination, of sufficient weight to outweigh the identified harm to the character and appearance of the area and the subsequent conflict with the development plan.
14. For the reasons above, the appeal is dismissed.

S D Castle

INSPECTOR