



Appeal Decision

Site visit made on 3 March 2022

by Michael Evans BA MA MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2022

Appeal Ref: APP/P2114/D/22/3290324

1 Mersley Farm Cottages, Mersley Lane, Newchurch PO36 0NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs W Hall against the decision of Isle of Wight Council.
 - The application Ref 21/01930/RVC, dated 27 September 2021, was refused by notice dated 23 November 2021.
 - The application sought planning permission for the demolition of a single storey conservatory and shed; proposed single storey rear extension; a two storey side extension; and a porch without complying with a condition attached to planning permission Ref 19/00984/HOU, dated 15 November 2019.
 - The condition in dispute is No. 2 which states that:
The development hereby permitted shall only be carried out in complete accordance with the details shown on the submitted plans, numbered:
 - 1.) 19022-104, Rev A and dated May 2019 (proposed ground floor plan).
 - 2.) 19022-105 and dated May 2019 (proposed first floor plan).
 - 3.) 19022-106, Rev A and dated May 2019 (proposed elevations).
 - The reason given for the condition is:
For the avoidance of doubt and to ensure the satisfactory implementation of the development in accordance with the aims of policy DM2 Design Quality for New Development of the Island Plan Core Strategy.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the proposed development would comprise a minor material amendment to that previously approved, having particular regard to:
 - The effect on the character and appearance of the host dwelling and the locality.
 - The effect on the living conditions of the occupiers of the adjacent dwelling at 2 Mersley Farm Cottages, with regard to outlook, daylight and sunlight.

Reasons

Background

3. It is explained in the Planning Practice Guidance that "An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or

remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied". It then goes on to state that "There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved".

Character and appearance

4. The appeal concerns a two storey semi-detached dwelling where a previous planning permission included a single storey rear extension. This would have been about 3.4m deep, span virtually the full width of the rear elevation and have a mono-pitched roof. The amended addition that is the matter in dispute in this appeal would have a very similar width but have a flat roof and be appreciably deeper at about 6.1m. This rear extension has been partly built but not completed.
5. The host dwelling has been extended to the side at two storey height and, as a result, has a main rear wall noticeably wider than that of the attached property at this height. The finished single storey rear extension would extend across virtually the full two storey width of the enlarged property. Its depth would also be fairly substantial, representing a relatively high proportion of that of the building at two storey height.
6. In consequence, the rear extension now proposed would result in an unacceptably large expanse of flat roof. As well as being an alien box-like feature, the addition would be overly dominant, rather than being a subservient feature as the Appellant suggests. Despite being lower than that previously approved due to the flat roof, it would be considerably larger, as well as being appreciably less sympathetic to the form of the existing property. The disharmonious and disruptive nature of the addition would unacceptably detract from and undermine the two storey pitched roof character of the host dwelling.
7. There are flat roof elements at the attached dwelling but these are fairly discreet and would be substantially less in extent. The excessive scale, and expanse of the ground floor addition would be highlighted by the undue and fairly abrupt contrast with the significantly more modest size of the additions at the attached property. Such an unsightly and discordant feature would also unacceptably detract from the quality of the attractive gently rolling open countryside of the Area of Outstanding Natural Beauty within which the dwelling is set.
8. The Appellant points out that the development would not be seen from any public viewpoints. Nevertheless, it would be seen from within the site itself and from the attached property, as well as being open to views from the south. Moreover, any suggestion that acceptability should be conferred on the basis of restricted visibility seems to me to implicitly acknowledge the inappropriate nature of the development. These adverse effects arise from the nature of the addition itself and would not be significantly mitigated by factors such as the plot size or available amenity space at the appeal site.
9. For the above reasons, I conclude that the proposal would harm the character and appearance of the host dwelling and locality. The development would therefore conflict with Policy DM2 of the Island Plan, Isle of Wight Core

Strategy (including Waste and Minerals) and Development Management Development Plan Document, March 2012 (LP), the aims of which include seeking high quality design which complements the character of the surrounding area. It would also be at odds with Policy DM12, which intends, among other things, that proposals should conserve and enhance the landscape.

10. I am reinforced in my view regarding the adverse impact of the development by the importance placed on design in the National Planning Policy Framework (The Framework). This indicates that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and good design is a key aspect of sustainable development. The failure to achieve good design in this case means there would also be conflict with the Framework.

Living conditions

11. There is a side boundary hedge that the Appellant suggests would soften the impact of the rear addition when seen from the neighbouring property. However, this vegetation could simply die or be removed so that it cannot be relied upon, even if subject to a condition. In any event, the extension would rise about a metre above this vegetation. Moreover, it would do this while abutting the boundary, next to the amenity space immediately to the rear of the attached dwelling in fairly close proximity to a ground floor window. The degree of rearward projection would be considerable at just over 6m beyond the parallel main rear walls of the pair of semis, resulting in a fairly substantial horizontal mass of solid wall set in a single plane.
12. In these circumstances, rather than the effect being suitably minimal, as the Appellant suggests, there would be an unpleasant sense of enclosure and reduction in outlook. As a result, the addition would appear overbearing from within the dwelling and from the rear garden area. There would also be an undue reduction in daylight and sunlight for similar reasons. Although not affecting a particularly large area of garden, this would be unacceptable because of the sensitivity of the position in fairly close proximity to the house and the effect in relation to the adjacent window.
13. The neighbouring dwelling is set in a fairly large plot and I have considered the annotated aerial photograph. However, the area of garden affected is particularly important to the quality of the residential environment for occupiers of this property due to its position. The trees to the west are appreciably more distant from the attached dwelling than the proposed extension and I am not persuaded that their effect on light would be sufficient to justify accepting the addition.
14. For these reasons, it is concluded that the living conditions of the occupiers of the attached dwelling would be harmed. As such, the development would not accord with LP Policy DM2, which among other things, seeks to ensure that all new development responds to a clear understanding of social context and provides a functional built environment. There would also be conflict with the Framework, which seeks to ensure that developments promote a high standard of amenity for existing and future users.

Other considerations

15. The Appellant refers to a single storey rear extension granted planning permission by the Council in 2018. Nevertheless, this approved addition would have been significantly narrower than the current proposal while only being 5.2m deep and so also being of a materially lesser size and depth. Furthermore, the approved addition would have a sloping mono-pitch roof so that it would have been noticeably more sympathetic to the pitched roof character of the host dwelling. Due to factors such as these, this planning permission is not a significant consideration in this appeal.
16. Reference is made to matters such as the need for additional living space, the removal of sheds and outbuildings, as well as the use of stone in the extension. Nevertheless, considerations such as these would not justify accepting the extension, which would be constructed at the unacceptable expense of the quality of the residential environment for the adjacent occupiers and the character and appearance of the host dwelling and locality.

Conclusion

17. Due to the substantial differences in scale and nature, the rear addition would not comprise a minor material amendment to the original permission. Taking account of all other matters raised, because of this and the harm that would result it is determined that the appeal fails.

M Evans

INSPECTOR