
Appeal Decision

Site visit made on 1 March 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17TH march 2022

Appeal Ref: APP/X0415/D/22/3291041

4 Hollow Way Lane, Chesham Bois HP6 6DJ

- 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 & Mrs Halpern against the decision of Buckinghamshire Council.
 - The application Ref PL/21/4480/FA, dated 22 November 2021, was refused by notice dated 12 January 2022.
 - The development proposed is part two storey, part single storey rear extension, first floor side extension and replacement front porch.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers in relation to outlook and light.

Reasons

3. The site is located at 4 Hollow Way Lane and the existing dwelling is directly adjacent to 6 Hollow Way Lane. Both dwellings are on similar building lines and in very close proximity, with limited space in between their respective side elevations.
4. The plot and rear garden area of 6 Hollow Way Lane is on land at a lower level compared to 4 Hollow Way Lane, where an established hedgerow between the dwellings provides a high degree of screening and helps maintain a sense of openness.
5. A habitable room at the rear ground floor of 6 Hollow Way Lane has a letterbox style window in its side elevation facing 4 Hollow Way Lane. It is limited in size and offers correspondingly limited outlook. The habitable room has patio doors which provide appreciable outlook into the rear garden area.
6. A habitable room at the rear first floor of 6 Hollow Way Lane has a large window which also provides appreciable outlook into the rear garden area and over the established hedgerow to the street scene beyond.

7. Altogether, it is clear that the rear aspects of 6 Hollow Way Lane are afforded appreciable degrees of outlook from the rear garden area and from habitable rooms facing the rear garden area.
8. The proposal would introduce a ground floor rear extension projecting 6.6 metres and a first floor rear extension projecting 2.4 metres. These would extend an appreciable distance beyond the existing rear building line of the dwelling and would be of sufficient height to be visible above the existing hedgerow and from the rear aspects of 6 Hollow Way Lane, especially from the habitable room at the rear first floor.
9. Consequently, mitigation from the hedgerow would be limited and in conjunction with the proximity of the rear extensions, and the lower ground level generally, the outlook from the rear aspects of 6 Hollow Way Lane would be harmed.
10. Due to the orientation of the proposal to the south west, it is highly likely that there would be some loss of sunlight around the early evening, compounding the harm on outlook.
11. There is no evidence in front of me demonstrating that the hedgerow could or would be retained in perpetuity. Consequently, if the hedgerow did not endure in its current form, the potential for harm could be significantly greater.
12. I am mindful of the previous appeal decision¹ at the site which found that the 45 degree rule was not a definitive measure due to prevailing characteristics. There is no evidence in this case suggesting that I should take an alternative view.
13. I acknowledge that the appellants have sought to reduce the impact of the proposal in comparison to previous proposal. However, whilst the first floor rear extension has been reduced in depth, the ground floor rear extension has increased in height and together with the other factors already described, harm would remain.
14. Whilst I accept the previous appeal decision may not have determined that the ground floor rear extension was harmful, I am mindful that there has been a material change in scale in this particular case and it is right that any changes are assessed on their own merits.
15. Altogether, there are multiple interlinked factors that lead me to the conclusion that the proposal in this case would cause harm to the living conditions of neighbouring occupiers in relation to outlook and light.
16. Overall, the proposal would conflict with Policies GC2, GC3, H13 and H14 of the Chiltern District Local Plan 1997 and the Residential Extensions and Householder Development Supplementary Planning Document 2013.

Other Matters

17. Whilst the appellants have addressed the acceptability of the proposal insofar as it relates to character and appearance, it is clear that this is not a matter disputed by the Council and has not been determinative in my assessment of the appeal.

¹ APP/X0415/D/21/3276706

18. The appellants refer to permitted development rights, the inference being that there may be a fallback position. However, there is no evidence, by way of lawful development certificate or otherwise, demonstrating that such permitted development rights could be used at the site. Consequently, I have given limited weight to any potential fallback position.
19. The presumption in favour of sustainable development under the National Planning Policy Framework is only engaged in very specific circumstances which are not evident in this case.

Conclusion

20. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR