



Appeal Decision

Site visit made on 18th February 2022

by Megan Thomas Q.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 4th April 2022

Appeal Ref: APP/M3645/D/21/3284256

1 Farley Park, Oxted, Surrey, RH8 9HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under s.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 Guy Everall against the decision of Tandridge District Council.
 - The application Ref. TA/2021/1036, dated 28 May 2021, was refused by notice dated 23 September 2021.
 - The application sought planning permission for a rear single storey orangery type extension plus new bedroom extension with en suite over the existing garage without complying with conditions attached to the planning permission (ref TA/2020/623) dated 28 May 2020.
 - The conditions in dispute are condition 2 stating "This decision refers to drawings numbered 1 (red-edged site location plan), 2, 3, 4, 5, 11 scanned on 2nd April 2020, 10A and 14A scanned on 26th May 2020 and 12B and 13B scanned on 28th May 2020. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings", and condition 5 stating "The retained flat roof area to the eastern side of the building shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the District Planning Authority".
 - The reasons given for the conditions are respectively: "To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the development plan" and "To protect the amenities and privacy of occupiers of adjoining properties and to protect the character and appearance of the site and surrounding area in accordance with Policy CSP18 of the Tandridge District Core Strategy 2008 and Policy DP7 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014".
 - The Appellant seeks variations of the conditions in dispute to allow use of the retained flat roof area to the eastern side of the building as a balcony, roof garden or amenity area, and to vary condition 2 so as to allow development in the form of removal of a small window on the east face, removal of a Juliet balcony screen on the east face, addition of a first floor laminated glass balcony on the east face, removal of the first floor balcony on north face, and replacement of French window with conventional window on north face.
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Decision

1. The appeal is allowed and planning permission is granted for a rear single storey orangery type extension plus new bedroom extension with en suite over the existing garage at 1 Farley Park, Oxted, Surrey, RH8 9HY without complying with conditions 2 and 5 attached to the planning permission (ref TA/2020/623) dated 28 May 2020, in accordance with application Ref. TA/2021/1036, dated 28 May 2021, and subject to compliance with the following conditions:

- 1) The development hereby permitted shall be begun not later than the expiration of 3 years from the date of this permission.
- 2) This decision refers to drawings numbered 5A, 6A, 7A, 8A and 10B. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.
- 3) The materials to be used on the external faces of the proposed development shall be in accordance with the details shown on the submitted application particulars.
- 4) No development shall start until a detailed arboricultural method statement and tree protection plan, in accordance with BS5837:2012 Trees in relation to design, demolition and construction - Recommendations (appropriate and specific to the approved scheme), to include details of all works within the root protection area, or crown spread (whichever is greater), of any retained tree, has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, all works shall be carried out and constructed in accordance with the approved details and shall not be varied without the written consent of the Local Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows/doors shall be inserted in the eastern flank elevation of the extension hereby permitted (apart from those expressly authorised as part of this permission).

Procedural Matters

2. In the box heading above bullet point 4, it is more accurate to record the description of development pursuant to application ref. 2020/623 as "a rear single storey orangery type extension plus new bedroom extension with en suite over the existing garage" because it is the description given on the Application Form dated 23 March 2020 and is apt.
3. The application under s.73 of the Town and Country Planning Act 1990 is to delete condition 5 so as to be able to use the retained flat roof area to the eastern side of the building as a balcony, roof garden or amenity area, and to vary condition 2 because the submitted plans seek proposed development in the form of removal of a small window on the east face, removal of a Juliet balcony screen on the east face, addition of a first floor laminated glass balcony on the east face, removal of the first floor balcony on the north face and replacement of French window with conventional window on north face. The submitted plans were before the Council and were subject to public consultation and accordingly I do not consider there is prejudice to any party in dealing with the appeal in this way.

Main Issue

4. The main issue in the appeal is the effect of the proposal on the character and appearance of the host dwelling and the wider area.

Reasons

5. The appeal site is a two storey house facing north, located in the urban area of Oxted on a residential cul de sac of eight houses called Farley Park. Access into Farley Park is from Wilderness Road. There is vegetation (e.g. shrubs, a tree and a grassy bank) on and around the south/south-western corner of the access into the cul de sac and the road and footpaths rise quite steeply on entering Farley Park. Robinslade is a property on the east side of Wilderness Road. It is situated to the east of the appeal site and to the east of the junction with Farley Park. 1 Farley Park sits on materially higher ground than Robinslade.
6. Policy CSP18 of the Tandridge District Core Strategy 2008 'CS' requires new development to be of a high standard of design and to reflect and respect the character, setting and the local context, including those features which contribute to local distinctiveness. Policy DP7 of the Tandridge Local Plan Part 2 Detailed Policies 2014 'LP' has similar objectives.
7. The appeal site has planning permission for development which includes a first floor balcony which is located towards the eastern end of the house and faces north across the cul-de-sac towards no.8 Farley Park. The proposal before me would result an east facing balcony over the flat roof of the single storey east flank elevation. It would have a laminated glass surround and would be reasonably modest in footprint. There would be no balcony served from the north-facing (front) elevation.
8. Whilst the proposed east-facing balcony would visually add to the perception of bulk of the building, that would be minimal and it would not result in a building which failed to harmonise with the other houses in the cul-de-sac, for example because it was oversized. The design of the building is congruous with the addition of balconies, as can be gleaned from the approved north-facing balcony, and I do not consider that the appearance of the host dwelling is harmed by the incorporation of the east-facing balcony. The wider residential area has examples of properties incorporating balconies and the character of the area is not adversely affected by the proposal.
9. On this issue, I conclude that the proposed development would not harm the character or appearance of the host dwelling or the surrounding area. It would not conflict with policy CSP18 of the CS or policy DP7 of the LP.

Other Matters

10. The east-facing balcony would allow an occupier to overlook land to the north, east and south. Whilst Robinslade is to the east, the separation distance between the proposed balcony and Robinslade and its garden is generous. Wilderness Road is in between the two. The land on which Robinslade sits slopes downwards towards the east and it has a storey of accommodation (with windows) below the road level storey (main entrance) to the house. Having considered the distances between the proposed balcony both horizontally and vertically, and the orientations of windows in Robinslade on my site visit, I conclude that there would be no undue loss of privacy for the occupants of Robinslade when in their house or in their garden.

11. Occupants of other nearby properties would not suffer from loss of privacy sufficient to warrant refusal of planning permission in this case.

Conclusion

12. Having taken into account all representations made, for the reasons given above, I allow the appeal and grant planning permission for the proposed development with condition 2 reflecting the submitted plans and there being no condition preventing use of the flat roof of the eastern single storey element of the house as a balcony, terrace or amenity area.

Megan Thomas Q.C.

INSPECTOR