



Appeal Decision

Site visit made on 28 June 2022

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH July 2022

Appeal Ref: APP/E3715/D/22/3292124

21 The Shrubs, Wood Lane, Shilton CV7 9JZ

- The appeal is made under section 78A 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 C.G.B. & Sons Ltd against the decision of Rugby Borough Council.
 - The application Ref R21/1098, dated 28 October 2021, was refused by notice dated 14 January 2022.
 - The application sought planning permission for 'alterations to provide additional roofspace and the erection of side and rear extensions' without complying with a condition attached to planning permission Ref R20/0323, dated 10 June 2020.
 - The condition in dispute is No 2 which states that: 'Unless non-material variations are agreed in writing with the Local Planning Authority the development shall be carried out in accordance with the plans and documents detailed below: Site Location Plan, Existing Plans/Elevations WS1010 (Received by the Council on 22 April 2020) and Proposed Plans/Elevations WS1011A (Received by the Council on 6 May 2020)'.
 - The reason given for the condition is: 'For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority'.
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Decision

1. The appeal is allowed and planning permission is granted for alterations to provide additional roofspace and the erection of side and rear extensions at 21 The Shrubs, Wood Lane, Shilton CV7 9JZ in accordance with the application Ref R21/1098 dated 28 October 2021, without compliance with condition number 2 previously imposed on planning permission Ref R20/0323 dated 10 June 2020 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with approved drawing number WS1011B.
 - 2) The facing materials to be used on the external walls and roof shall be as specified on drawing number WS1011B.
 - 3) The windows to be formed in the side elevation of the proposed extension shall not be glazed or reglazed other than with obscured glass.

Procedural Matter

2. The development was partly complete at the time of my visit. This has no bearing on my decision which is based on the planning merits of the case.

Main Issues

3. The main issues in this case are the effect of the development on the character and appearance of the host dwelling along with its effect on the living conditions of the occupiers of neighbouring dwellings with particular regard to outlook and privacy.

Reasons

Character and appearance

4. The appeal relates to a bungalow style property. It is located within a row of broadly similar dwelling types.
5. Planning permission has previously been granted for extensions and alterations to the appeal dwelling, including a rear box dormer (Ref. R20/0323). The development which has been undertaken deviates from this planning permission. The alterations include an increase in the depth of the rear extension by just over a metre, a slight widening of the roof span, a taller and deeper rear box dormer which includes French doors and Juliet balconies rather than windows, a slightly wider pitched roof dormer to the front elevation, rooflight alterations and additional windows to the side elevation and a porch of a slightly different design.
6. The Council raises no concerns with the front dormer and porch as built and I have no reason to disagree. The Council's main concern relates to the enlarged rear extension and rear dormer, arguing that it introduces significant bulk and massing to the dwelling. To my mind, the increase in the depth of the rear extension by just over a metre is not significant in the context of the approved alterations. Whilst the rear dormer is slightly taller and deeper than the approved dormer, it is set comfortably below the eaves and ridge. To this end and in light of the scale of the alterations previously permitted, I am of the view that the development undertaken is visually acceptable.
7. I therefore find that the development undertaken does not harm the character and appearance of the host dwelling. In this respect, I find no conflict with policy SDC1 of the adopted Rugby Borough Local Plan (LP).

Living conditions

8. As explained, the rear extension is just over 1m deeper than the permitted scheme and although the rear dormer is larger, it is set comfortably below the ridge and eaves of the host dwelling and it is set well in from the outer hip of the roof. In the context of the permitted scheme, I am satisfied that the dormer is not overly large. Furthermore, the enlarged dwelling is set off the boundary with the dwelling immediately to the east, No. 19 Wood Lane, which is also set off the boundary and it projects only marginally beyond the conservatory at the rear of this dwelling. Meanwhile, the dwelling immediately to the west, No 23 Wood Lane, is set a comfortable distance from the shared boundary, with its recessed garage providing something of a buffer.
9. Against this context, I am satisfied that the limited additional rearward projection of the extension and the limited additional massing of the roof dormer does not have a materially more overbearing effect for the occupiers of the dwellings either side than that of the permitted scheme.

10. The Council also raises concern that the change of fenestration of the rear dormer from windows to French doors with Juliet balconies has resulted in greater overlooking of neighbouring properties. Although the dormer as built is slightly deeper than the approved dormer, the additional level of rearward projection is limited. Furthermore, the installation of the Juliet balconies means that in reality, there is no greater overlooking from the French doors than the level of overlooking that could be achieved from traditional windows. On this basis, I am satisfied that the development as built has not resulted in a greater loss of privacy for nearby residents than if the approved scheme had been implemented.
11. I therefore find that the scheme as built does not have a materially greater effect on the living conditions of the occupiers of neighbouring dwellings than the permitted scheme. In this particular regard, I find no conflict with the National Planning Policy Framework or policy SDC1 of the LP.

Overall Conclusion

12. I conclude that the design alterations that have been undertaken are a minor deviation from the approved plans. They do not harm the character and appearance of the host dwelling and they have not resulted in a material worsening of the living conditions of the occupiers of adjacent dwellings when compared to the effects of the approved scheme. On this basis, varying condition number 2 of the original planning permission to accommodate the amendments undertaken would not conflict with the development plan policies outlined above. On this basis, planning permission can be granted.

Conditions

13. The Council has suggested several conditions in the event the appeal is successful. The standard time limit condition is not required because the development has commenced. A condition to ensure the development takes place in accordance with the approved plans is required for the avoidance of doubt. Meanwhile, the two additional conditions imposed on the original planning permission relating to external finishing materials and the fitting of obscured glazing to the windows on the side elevation of the extension remain relevant in the interests of visual and residential amenity respectively.
14. In allowing the appeal, I shall impose these conditions.

David Fitzsimon

INSPECTOR