



Appeal Decision

Site visit made on 5 July 2022

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 21th July 2022

Appeal Ref: APP/W1715/D/22/3296199

11 Fairfax Mews, Thornhill, Hampshire SO19 6DY

- 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 Robert Haines against the decision of Eastleigh Borough Council.
 - The application Ref H/21/91977, dated 23 November 2021, was refused by notice dated 19 January 2022.
 - The development proposed is described as: *"Infill ground floor extension with side wrap-around, and 1st floor addition over ground floor extension and existing garage"*.
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Decision

1. The appeal is allowed and planning permission is granted, for an *"Infill ground floor extension with side wrap-around, and 1st floor addition over ground floor extension and existing garage"*, at 11 Fairfax Mews, Thornhill, Hampshire SO19 6DY, in accordance with the application, Ref H/21/91977, dated 23 November 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development shall be carried out in accordance with the submitted drawing entitled 'Proposed Plans and Elevations'.
 - 3) The materials to be used on the external surfaces of the development shall match those used on the existing building.
 - 4) The development shall not be brought into use until the new first floor bathroom window has been fitted with obscured glazing, meeting Pilkingtons Level 3 or equivalent. No part of that window that is less than 1.7 metres above the internal floor level shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

Preliminary matter

2. In April 2022, the Council adopted a new Eastleigh Borough Local Plan (the EBLP), which replaces the earlier plan of the same name. However, I note that the relevant policies of the new plan were identified within the Council's refusal notice, and that these policies do have not changed materially since then. I am therefore satisfied that all parties have had adequate opportunity to address the relevant planning policies during the course of the appeal.

Main issues

3. The main issues in the appeal are the proposed development's effects on the character and appearance of the area, and on protected wildlife species.

Reasons for decision

Effects on character and appearance

4. Fairfax Mews is a small estate of 12 two-storey detached houses, of late-20th century design. The development now proposed would extend the ground floor accommodation forwards alongside the existing integral garage, and sideways to the boundary, to create a larger, open plan living area, with a new porch projecting forward in front of this. At first floor level, the scheme would extend forwards above this, and also above the garage, to create one additional bedroom, and to increase the size of another.
5. The Council's objections relate to matters of size, siting and design. I acknowledge the strength of those objections. The development would bring the appeal property's main front elevation forward by just over 3m, and extend the width by about 1.25m. In this position, No 11's new front wall would come slightly further forward, and closer to the road, than the 2-storey part of No 10 Fairfax Mews, which adjoins the site. The scheme would thus add a significant amount of volume to the front of the building, in a highly visible position at the entrance to the estate. It would also include two flat-topped dormer windows, which are not typical of most other properties in the estate. I fully accept that there are many residential situations where a development of this type would not be appropriate.
6. In the present case however, the appeal property forms part of a small informal group, in which the properties are staggered from the road in an irregular pattern, with No 11 being set further back than either No 10 or its other immediate neighbour, No 12. Even with the extension now proposed, the appeal property's front elevation would still be well behind the front of No 12, and behind the line of No 10's integral garage. The existing pleasant irregularity and informality of the layout would thus be maintained.
7. I agree that the appeal property's increased mass and proximity to the road, together with the proposed dormers, would make it somewhat more prominent than at present. But this effect would be partly offset by the lowered eaves line of its new front elevation. The main ridgeline would remain unchanged, at a height which is slightly below that of No 10, due to the slope of the land. The new dormers at No 11 would be relatively modest in relation to the roof as a whole, and would in any event be smaller than those already existing at No 12. The side extension would have a lower ridge than the main house, and would thus appear as a subsidiary element. The porch would be small and unobtrusive, and would add a welcome touch of articulation. Taking account of all these considerations, the proposed development would not appear over-dominant.
8. The appeal property would no longer be identical to No 10, or to any of the other properties in Fairfax Mews, but there is no requirement in any local or national planning policy for uniformity between neighbouring dwellings. To my mind, the development now proposed would be a well-considered and well-composed design, which would sit comfortably in its surroundings.

9. I conclude that the development would take full account of the site's context, and would properly protect the area's character and appearance. In these respects it would comply with the relevant provisions of EBLP Policy DM1.

Protected species

10. The Council's ecology officer states that bats have been recorded in the area, and suggests that there may be a possibility of roosts being present in the roofspace of the appeal property itself. There is no expert evidence to the contrary.
11. But nevertheless, as shown in the appellant's comprehensive photographic evidence, and as I saw on my visit, the appeal property is of modern construction and detailing, with any potential access to the main roofspace restricted by the closely-fitting barge boards and enclosed soffit treatments. These features appear to me to be in good condition, and likely to be effective in preventing entry by most types of wildlife. There is no evidence of any bats having gained access to the roof space, or of any roosts being present there. Any bats elsewhere within the appeal site would not be likely to be directly affected by the development.
12. I appreciate that the Council's approach is based on precautionary principles. I also note that EBLP Policy DM11 requires the Council to work with others to protect and conserve networks of natural habitats and features important to biodiversity; and states that development is not to be permitted where it would be likely to adversely affect protected species or the local ecological network. However, there is no clear or persuasive evidence that the development now proposed would have such an effect. Neither is there any requirement in national policy to refuse planning permission in these circumstances.
13. I am fully aware that bats are protected by the Wildlife and Countryside Act 1981, and that knowingly interfering with them, or their roosts, would constitute an offence. But the grant of planning permission for development would not remove or weaken that protection in any way. Any offence committed in the course of carrying out the development would still be punishable in law, in accordance with the relevant legislation. In these circumstances, the mere possibility of such an offence being committed is not sufficient justification for a refusal of permission.
14. I therefore conclude that there is no evidence that the proposed development would have any effect on any protected wildlife species. In this respect, the scheme would not conflict with Policy DM11.

Other matters

15. The development would extend the appeal property up to the shared side boundary with No 12. I note the concerns of the occupier of that property regarding light, outlook and privacy. However, No 12 stands some distance away from this boundary, and to the south of No 11. The proposed development would bring the appeal property about 1.25m closer than now, but given the relatively wide separation that currently exists, and their orientation, this relatively small increase in proximity would not unduly affect the amount of light received by No 12, nor the outlook from its windows or garden. One new side window is proposed in No 11, but this would only serve a bathroom; the installation of obscure glazing would be sufficient to prevent overlooking, and this could be secured by condition.

16. Noise and disruption during construction would be temporary. In my judgement, these would not justify refusal in this case. I also note the issues raised relating to covenants, and regarding the effects on property values, but these are not material planning considerations, and therefore cannot be taken into account.

Conclusions and conditions

17. For the reasons set out above, I have found that the proposed development would have no adverse impacts on the area's character and appearance, or on protected species. The scheme would therefore accord with the relevant development plan policies. No material considerations weigh against the development. Planning permission should therefore be granted.
18. In granting permission, I have imposed conditions requiring adherence to the approved plans, in the interests of clarity and certainty, and to control the external materials, in order to ensure a satisfactory appearance. In addition, as already discussed above, a further condition is also imposed regarding obscure glazing, to ensure the privacy of adjoining occupiers.

J Felgate

INSPECTOR