



Appeal Decision

Site visit made on 6 December 2022

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 JANUARY 2023

Appeal Ref: APP/M3645/D/22/3296071

130 Harestone Valley Road, Caterham CR3 6HG

- 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 J Muralidharane against the decision of Tandridge District Council.
 - The application Ref TA/2021/1726, dated 24 September 2021, was refused by notice dated 14 January 2022.
 - The development proposed is Demolition of existing conservatory. Proposed part single part two storey rear extension, proposed loft conversion to create habitable accommodation, increase in ridge height, portico to the front and replacement front boundary wall, railings and gates.
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Decision

1. The appeal is dismissed.

Applications for costs

2. The appellant has made an application for costs and this is the subject of a separate decision.

Preliminary Matters

3. A revised description of development was agreed between the Council and the appellant after submission of the planning application. This includes words which are not acts of development, and I have therefore excluded them from my banner heading above.
4. The host property benefits from planning permission Ref TA/2019/899 approved 22 July 2019 (the first permission) for a part two storey, part single storey rear extension, conversion of roofspace to habitable use to include 5 x rear dormers, 2 x front dormers, increase in ridge height and canopy to front. Extensive works pursuant to that permission appear to have taken place.
5. The development approved under the first permission has not been carried out in accordance with that permission. The planning application which is the subject of this appeal was submitted with a view to regularising matters. I have considered this appeal on the basis of the planning application as submitted and the plans submitted with it. I have referred to these as the "submitted plans".

Main Issues

6. The main issues are:

- i. The effect of the proposal upon the character and appearance of the host property and the wider area; and
- ii. The effect of the proposal upon the living conditions of neighbouring occupiers, with regard to outlook, privacy, noise and disturbance.

Reasons

Character and appearance

7. The Harestone Valley Design Guidance Supplementary Planning Document, adopted 3 March 2011 (HVDG) defines the character and appearance of the area and seeks to ensure it is respected and reinforced. The area is characterised by individually designed two storey detached properties, set back from the road, with consistent building lines. Off road parking is provided within the curtilage, generally screened by garaging or mature frontage planting to some depth with a wide variety of species including trees. The street scene is predominantly verdant with soft boundary treatments in terms of materials and colour palette.
8. The host property was fully rendered in a pale colour at the time of my site visit, in accordance with the submitted plans, and in keeping with the prevailing character and appearance of the area.
9. The HVDG details specific guidance for boundary treatments and car parking arrangements. The proposed development includes an extensive dominant area of hardstanding which conflicts with the HVDG which seeks a gravel or non-porous finish, and a predominance of vegetation. The proposed soft landscaping scheme comprises very narrow borders to the front and side boundaries with a limited range of species. At the time of my site visit, the planting scheme to the border adjacent to the front portico was not yet implemented.
10. The proposed boundary treatment comprises a pale coloured rendered wall with tall pillars and tall railings between, with a recessed gateway and access gates. At the time of my site visit no railings or gates were in place, but light fittings were in place on the pillars. I found some inconsistencies between the submitted plans and the boundary treatment on site – for example the positioning, height and form of the gateway treatment. The proposed boundary treatment fails to respect the prevailing character of low brick walls and the avoidance of tall railings as specified by the HVDG.
11. The proposed boundary treatment and frontage would create a dominating hard and very harsh appearance, out of character with the wider area. While I accept that new planting will need time to mature, the limited depth of the planting beds will not provide sufficient space for planting to thrive. The limited range of species and coverage would not deliver the depth and variety of soft landscaping to the property frontage as required by the HVDG. If I were to allow the appeal, this matter could be controlled by a suitable condition.
12. The front portico appears to have been constructed in accordance with the submitted plans. It projects significantly beyond the building line, which is in conflict with the design principles of the HVDG and is sited on an elevated stepped area. It appears as a dominating and incongruous feature within the street scene, due to its elevated position, form, height, width, and depth. Other

portico examples in the wider area do not project to such a significant degree and have a more subservient form and relationship to the principal elevation.

13. The rear extensions appear to be in general conformity with the submitted plans. The ridge height of the rear two storey extension is in line with the height of the main roof, and in this regard, it does not create a subordinate relationship. The parapet walls around the top of the single storey extension elements together with the height, width and depth of the rear two storey extension create a sense of scale, bulk and massing at the rear.
14. For the reasons above, I conclude that due to its scale, form, siting and design, the proposal causes significant harm to the character and appearance of the host property and the wider area.
15. I therefore conclude that the proposed development conflicts with Policy CSP18 of the Tandridge District Core Strategy, adopted 2008; Policies DP7 and DP9 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029, adopted 2014; Policies CCW4 and CCW5 of the Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2018-2033, adopted 2021; and the HVDG. These policies and guidance seek (among other matters) to achieve high standards of design; to respect, preserve, enhance and reinforce local character and distinctiveness; and, to ensure proposals conform with local design guidance including supplementary planning documents.

Living Conditions

16. The proposed development details a part single part two storey extension to the rear, including a roof terrace above the central part of the rear single storey extension, accessed from the master bedroom located on the first floor. At my site visit, the rear extensions were substantially complete.
17. The immediately adjacent properties (Nos 128 and 132) are two storey detached dwellings with private rear gardens that slope upwards away from their rear elevations due to the topography of the area. No 128 is situated at a lower level than the host property. I am mindful that prior to development taking place, the host property was already sited close to the common boundary with its neighbours.
18. The proposed rear extensions project well beyond the rear elevations of No 132 and 128. The side gable elevation of No 128 has a first-floor window to a habitable room which directly faces the side elevation of the host property in very close proximity. The proposal results in an eaves height considerably higher than this window, and the outlook is essentially a blank rendered gable and part parapet wall, which is overbearing to the occupiers of No 128.
19. The combination of the height, width, depth and proximity of the proposed rear extensions to Nos 128 and 132, together with their parapet walls, creates a sense of bulk and massing to the rear elevation, which is overbearing to both Nos 128 and 132 when viewed from their rear gardens.
20. The proposed terrace area (as submitted) significantly projects from the master bedroom of the host property to a point well beyond the rear elevations of Nos 128 and 132. At the time of my visit, a screen was located on the parapet wall above each of the side elements of the rear single storey extension towards the respective neighbouring properties of Nos 128 and 132. There were no screens in place adjacent to the master bedroom. The submitted plans (Ref 40E)

appear to show screens outside the master bedroom, but they do not appear to be illustrated on the elevation drawings (Ref 42B). At my site visit I was able to access the rear terrace and observe the relationship to the neighbouring properties. I found a significant degree of direct overlooking from the proposed terrace into the rear gardens of the neighbouring occupiers, harming their privacy. This would not be sufficiently mitigated by the proposed screens adjacent to the master bedroom.

21. I acknowledge the concerns of the Parish Council and local residents that the whole of the flat roof above the proposed single storey rear extensions could be used as a terrace or balcony, and that doors appear to be in place from bedrooms 2 and 3. However, I am duty bound to consider the planning application as submitted, which asserts that the roof area above each rear side extension will not be used as a terrace or balcony, and the submitted plans do not detail egress from bedrooms 2 and 3 onto the roof terrace. Nevertheless, at my visit I considered that development 'as built' does appear as a balcony, due to the presence of parapet walls and screens, together with its depth, width, floorscape, and the presence of electrical wiring and fittings. If I were allowing this appeal, a condition could be applied to control the use of the terrace. However, I consider that such a condition would not meet the six policy tests. For example, such a condition may be considered unenforceable as it would be almost impossible and/or unreasonably onerous for the local planning authority to detect a breach. A condition would therefore not be appropriate.
22. Objection has been made to the proposed two front dormers with regard to overlooking from a high vantage point to No 133 which is situated on the opposite side of the road to the appeal site. Given the distance between the two properties, I am not persuaded that this would be the case.
23. The Council included a reason for refusal regarding a lack of information to demonstrate that the proposed plant room located near to the common boundary with No 128 would not have a detrimental impact upon neighbouring amenity. The appellant has provided an image showing the inside of the plant room which appears to demonstrate installations of a domestic scale. I therefore conclude that the proposal would not harm the neighbouring occupiers of No 128 in relation to noise and disturbance.
24. For the reasons above, I conclude that due to its scale, proximity, position, form, design and cumulative impact, the proposal would significantly harm the living conditions of neighbouring occupiers at No 128 and 132 with regard to outlook and privacy.
25. I therefore conclude that the proposed development conflicts with Policy CSP18 of the Tandridge District Core Strategy adopted 2008; and Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029, adopted 2014, which seek (among other matters) to achieve high quality design; to safeguard and prevent significant harm to neighbour amenity; and, to ensure development conforms with local design guidance including supplementary planning documents.

Other Matters

26. The appellant sought to rely on a fallback position for this appeal, and also at the time of submission of the planning application, whereby it is argued that

- because the proposed development granted under the first permission is substantially complete, the property benefits from permitted development rights. However, all of the development was carried out as one operation.
27. It is not permissible to separate out parts of one development and to argue that those benefit from the grant of planning permission by way of the GDPO¹, and that other parts of the same development are to be assessed separately. As one operation, falling within the meaning of development as set out in section 55 of the Town and Country Planning Act 1990, either the whole of the development benefits from planning permission or the whole has no planning permission.
28. It is not the role of the Inspector dealing solely with an application for planning permission to determine whether a use or operation is lawful in order to decide whether the appellant might be able to rely on permitted development rights as a fallback. This can only be formally determined by a lawful certificate application. Nevertheless, the fallback position of the first permission, pursuant to the exercise of permitted development rights is a material consideration.
29. In comparing the appeal scheme to the fallback scheme, the most substantial differences are the scale and design of the front portico; the scale of the rear elevations; the formation of a terrace; and the front boundary treatment including hardstanding, boundary wall and piers. I consider that the fallback scheme is significantly less harmful than the appeal scheme, with regard to the main issues of character and appearance, and living conditions.
30. I have considered the scale of the works required to alter the appeal property to the extent that it would comply with the first permission. This would be of considerable magnitude, comprising a number of elements, including but not limited to the alterations to the front portico, rear elevation and fenestration, and the removal of render, hardstanding, boundary walls and pillars. In my judgment, this would involve considerable expense and upheaval. As such, I consider that whilst the realisation of the fallback is technically and theoretically possible, it would not be a realistic prospect. Therefore, I must give the fallback position limited weight.
31. Consequently, the fallback position does not present sufficient justification to allow the appeal scheme.

Conclusion

32. For the reasons given, I conclude that the proposed development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.