



Appeal Decision

Site visit made on 7 March 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2023

Appeal Ref: APP/T3725/D/23/3315752

192 Cromwell Lane, Burton Green, Kenilworth, Warwickshire, CV4 8AP

- 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 P Ward against the decision of Warwick District Council.
 - The application Ref W/22/1524 dated 20 September 2022, was refused by notice dated 16 December 2022.
 - The development proposed is erection of rear roof dormer and conversion of roof space, alteration of part two storey, part single storey rear extension of previously approved scheme ref: W/19/0504 (retrospective application).
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Decision

1. The appeal is allowed and planning permission is granted for erection of rear roof dormer and conversion of roof space, alteration of part two storey, part single storey rear extension of previously approved scheme ref: W/19/0504 (retrospective application) at 192 Cromwell Lane, Burton Green, Kenilworth, Warwickshire, CV4 8AP in accordance with the terms of the application ref: W/22/1524 dated 20 September 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be undertaken in complete accordance with the following approved plans: 2111-01 PL – 1 (Site Location Plan) and 2111-01 PL – 3 Rev B (Proposed Plans and Elevations);
 - 2) The materials used in the development hereby permitted shall match those of the existing dwelling or those stated on the submitted application form as appropriate unless details are submitted to, and approved in writing by, the Local Authority;
 - 3) Prior to occupation of the proposals two bat boxes are to be erected on buildings within the site in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.

The boxes shall then be maintained for the lifetime of the development.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development. There are several elements to the appeal proposal as outlined in the development description in the header of this decision letter.
3. The refusal reason makes specific reference to the rear dormer structure being the main basis for refusal and, in addition to this, I note that the Council's Committee Report confirms that the installation of the roof light to the front elevation is consistent with the limitations set out within the General Permitted

Development Order (GDPO) and that the increase in height of the gable feature to the rear of the property is considered acceptable. The two-storey side extension is noted to have a set-down and set-back which are the same as approved in application W/19/0504.

4. Considering the Council's Committee Report summary/conclusion, refusal reason and the evidence before me at the time of my site visit, I have no reason to conclude differently on these elements. For the avoidance of doubt, the appeal will therefore focus upon the rear dormer structure, as an addition to the roof, as specifically referred to within the refusal reason stated.

Main Issue

5. The main issue is the impact of the proposal upon the scale, design and character of the original property.

Reasons

6. The appeal site is a three-storey, semi-detached, dwelling located on Cromwell Lane where the immediate area is generally characterised by semi-detached properties which are varied in size and design. The Council reference architectural character of the area, however, no further commentary or assessment is provided. The proposed rear dormer structure is not visible from within the street-scene and, based upon the evidence before me, the Council's refusal reason is based upon the character of the host property and non-compliance with the Warwick District Council Residential Design Guide 2018 (RDG).
7. The RDG does contain specific design guidance regarding roof dormers. Indicative drawings are included within figures 21-22 inclusive as well as further written commentary. It states that dormer windows will only be permitted where they can be inserted without damaging the character and appearance of the building and the general area and without unreasonably affecting the amenity of neighbours. There are three bullet points which outline the general guidance for dormers and it is acknowledged that the rear dormer structure does present as contrary to all three provisions in that it has been erected within a metre of the eaves line of the house and introduces a flat roof dormer as opposed to traditional modest pitched roof or lead roof dormers. The RDG does not apply a blanket ban on flat roof dormers, however, it does seek to avoid them unless they are character appropriate to a more modern house.
8. Despite this, whilst acknowledged to be submitted as a householder application which is considered against the relevant policies, the appellant has raised the potential for a dormer to be constructed under the provisions of the general permitted development order. The Council acknowledge such structures can be constructed under permitted development, but state that in this case, the attachment to the rear gable extension means that planning permission is required. The GDPO is, none the less, a potential fallback position.
9. The Town and County Planning (General Permitted Development Order) (England) Order 2015 Schedule 2, Part 1, Class B allows for additions etc to the roof of a dwelling house. As submitted, I acknowledge that the proposal would not be consistent with the restrictions within Class B, however, as a fallback position, which has been raised by the appellant, it is fully possible that

something with not dissimilar impact to the character of the host dwelling could be constructed as a dormer structure which would be beyond the control of the Council.

10. Given the planning history, and works on-site to date, I have no doubt that the intention of the appellant is to renovate and extend the property (including conversion of the roof space) and that if this appeal failed, a dormer would likely be constructed or adjusted to comply with the limitations of the GDPO to maximise available space. Such a dormer would, realistically, I find have similar implications to the character of the host dwelling as the dormer which is proposed in the plans before me. I attribute significant weight to this alternative within the consideration of this proposal.
11. I find that a dormer, constructed to meet the provisions of the GDPO, would look more awkward as an unattached structure to the rear gable extension compared the joined-up proposal that is before me within the submitted plans despite its non-compliance with the RDG. The RDG is, ultimately, guidance and it falls to consider actual impact of non-compliance. Without the gable extension a dormer of large scale would likely dominate the rear elevation as a top-heavy proposal on the roof but, in this case, I find impact to character of the host dwelling and area to be limited when combined with the rear gable extension. I find that the large two storey rear extension balances the bulk out (and partly screens the proposal) compared to, for example, if a large top-heavy dormer was proposed alone without the gable extension on this site which would look more jarring.
12. As a result of this, I do not find the proposal constitutes poor design or fails to respect the scale, design, and character of the original property. The proposal would be consistent with the Warwick District Local Plan 2017 Policy BE1, which requires new development to positively contribute to the character and quality of the environment through good layout and design. The proposal would also be consistent with National Planning Policy Framework 2021, paragraph 130, which seeks to ensure that developments will function well add the overall quality of the area over the lifetime of the development.

Other Matters

13. I note objection to the proposal. Comments regarding the appellants ill health and an ability, or inability, to have appealed the previously refused proposal (though I note an explanation as to confusion over appeal timings) are not matters which fall within the scope of this appeal. Matters raised within the previous application, including the refusal reasons of 22 June 2022, similarly fall outside the scope of this appeal. It falls to consider the proposal before me on its own merits against the relevant planning policies at the point of determination in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
14. Applications which are retrospective in nature are considered against the same Local Plan policies, and material considerations, as if the proposal had not been built and on this occasion the comments made as to the appellant's behaviour do not change the outcome or findings in the determination of this appeal. Comments and support of the proposal are noted, however, a lack of objection is a neutral consideration. Having assessed the proposal on its own merits, considering relevant material considerations, I find the proposal acceptable.

The Council reference Policy BG7 of the Burton Green Neighbourhood Plan, however, this policy is not included within the refusal reason stated.

Conditions

15. The Council have suggested standard conditions in their questionnaire which I have applied, however, the proposal before me is partly retrospective so the standard time condition (commencement within three years) is of no relevance on this occasion. Whilst the works to date exceed that which is allowed by this appeal the plans show the partly constructed box dormer beyond the original house to be removed. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent which assists in controlling this. Any existing development beyond these approved plans remains open to enforcement action within a defined timescale from the Council if appropriate, it is not for this appeal to become involved in such matters.
16. A materials condition is required to ensure the proposal matches the host dwelling and that any deviations in materials from existing are approved by the Council to ensure an appropriate finish. The appellant notes that the imposition of a planning condition to address biodiversity is considered reasonable. A condition requiring a scheme for bat-roosting boxes is required as, given the evidence before me and comments from the Council which are not disputed, it is reasonable to require such features in an area which has the potential for roosting features for protected species.

Conclusion

17. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR