



Appeal Decision

Site visit made on 12 April 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2023

Appeal Ref: APP/X0415/W/22/3304268

49 Treachers Close, Chesham HP5 2HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Eranda Rathnayaka against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/22/1497/FA, dated 27 April 2022, was approved on 9 July 2022 and planning permission was granted subject to conditions.
 - The development permitted is a two storey rear extension.
 - The condition in dispute is No 5 which states that: *This permission relates to the details shown on the approved plans as listed below: Drawing No.(s): Location Plan received on 27 April 2022, ASB870-03HPA Rev A received on 7 July 2022, ASB870-04HPA Rev A received on 7 July 2022, ASB870-02HPA Rev A received on 7 July 2022, ASB870-05HPA received on 7 July 2022 and in accordance with any other conditions imposed by this planning permission.*
 - The reason given for the condition is: *To ensure that the development is carried out in accordance with the details considered by the Local Planning Authority.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The condition in dispute is No 5, which the appeal submissions indicate is incorrectly labelled as condition No 6 on the Decision Notice. I have determined the appeal on this basis.
3. During the course of the planning application amended plans were submitted to the Council which show the proposed 2 storey rear extension set back from the rear elevation of the adjoining property at 51 Treachers Close (No 51). Planning permission was granted on the basis of these amended plans (the approved plans) as set out in condition No 5. However, the appellant wishes to construct the extension as shown on the original plans submitted with the planning application (the proposed development). These show the proposed extension projecting from the rear of the appeal property, flush with the rear elevation of No 51. The appeal therefore seeks to vary the list of approved plans imposed by condition No 5, in order to seek a revised design to the approved extension.
4. Interested parties were consulted in relation to the original plans and have been advised of the appeal, with the opportunity to comment further. I am therefore satisfied that no injustice would occur should I consider the appeal on the basis of the original plans.

5. Government guidance is clear that under Section 73 I must consider only the condition in question. My consideration of the appeal is therefore confined solely to condition No 5 and the extension as amended. A number of concerns were raised by interested parties in relation to the proposals as part of the planning application process. However, these matters were considered by the Council in deciding to grant planning permission and as my decision will not remove or alter that permission there is no need for me to address further any of the points raised.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of the occupiers of No 51, with particular reference to privacy.

Reasons

7. The appeal site is located in a residential area comprising terraced and semi-detached 2 and 3 storey dwellings of a similar design and appearance, although the residential properties in the wider area comprise a mix of ages and styles.
8. The host dwelling (No 49) lies at the end of a short row of terraced dwellings in a staggered row in a small cul-de-sac. The residential properties to the rear of the appeal site which look towards the dwellings in the row are some distance away and at a lower level. As a consequence of the siting and layout of the properties the area immediately to the rear of the dwellings is not directly overlooked in the same way a normal attached property would be. This provides a pleasant sense of privacy to the rear of the dwellings at the end of the row.
9. Due to the existing arrangement, part of the patio area immediately to the rear of No 51 is not overlooked by the adjoining dwellings to either side. Whilst the existing first floor rear bedroom window at No 49 does allow for a degree of overlooking of the rear garden to No 51, including part of the rear decked area, views in that direction are restricted by the screening effect of the side wall of No 51, which extends beyond the rear elevation of the appeal property. The approved plans, which show the proposed extension set back from the rear elevation of No 51, would prevent any direct overlooking of the rear patio area in its entirety and would therefore maintain a degree of privacy to the occupiers of No 51.
10. The proposed development would include the provision of 2 first floor bedroom windows in the rear elevation of No 49, flush with the rear wall of No 51. This would increase overlooking towards the rear of No 51 from the adjoining property over and above the existing situation. It would also introduce the ability for views from the first floor windows directly over the rear patio area at No 51, an area which is not currently overlooked. The appeal proposal would therefore result in a loss of privacy to the occupiers of No 51.
11. In light of these considerations, I conclude that the proposed development would harm the living conditions of the occupiers of No 51 through overlooking.
12. Accordingly, I find that the proposals would conflict with the combined aims of Policies GC3 and H14 of the Chilterns District Local Development Plan (Adopted 1 September 1997, including alterations adopted 29 May 2001 and consolidated September 2007 & November 2011) which require development to protect the amenities of neighbouring properties, having regard to privacy.

The proposal would also fail to accord with the Chiltern District Council Residential Extensions and Householder Development Supplementary Planning Document adopted September 2013, in so far as it requires extensions to be designed to avoid an unacceptable loss of privacy to neighbours, as well as Section 12 of the National Planning Policy Framework which requires development to achieve a high standard of amenity for existing and future users.

Other Matters

13. I understand the appellant's desire to create larger bedrooms at the property to improve the living standards of the occupiers. However, this does not mean that the proposed development is an acceptable solution given the harm it would cause. Moreover, there is no substantive evidence that either the existing dwelling or the approved plans are of a particularly poor design to justify the proposed development.
14. I note the economic benefits of the proposal in terms of employment during the construction phase, however this would be modest given the scale of the development and would not outweigh the harm I have identified.

Conclusion

15. For the reasons set out above the appeal is dismissed.

Emma Worley

INSPECTOR