



Appeal Decision

Site visit made on 24 October 2023

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07.11.2023

Appeal Ref: APP/J3720/D/23/3328568

26 Mill Street, Harbury, Warwickshire, CV33 9HR

- 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 Miss Sharon Evans against the decision of Stratford-on-Avon District Council.
 - The application Ref 23/01376/FUL, dated 18 May 2023, was refused by notice dated 12 July 2023.
 - The development proposed is the erection of detached garage, installation of new French doors, new first-floor window with Juliet balcony and new obscure glazed first-floor window.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of proposed development that was given on the Council's decision notice. This is an accurate, but more succinct description compared with the one that was given on the planning application form.
3. Part of the proposal includes the installation of new French doors at ground floor on the rear facing, side elevation of the property and at first-floor, on the same elevation, a new full height window with a Juliet balcony and a new obscure glazed window. At the time of my visit, these openings had been created. I have noted the appellant's offer to omit the full height window and Juliet balcony from the proposal and instead exercise their permitted development rights to install a window that meets Condition A.3 of Class A of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Nevertheless, the application that was determined by the Council was not amended to that effect and neither have amended plans been prepared along these lines as part of the appeal submissions. Consequently, I have considered the appeal on the basis of the scheme and the plans which were before the Council when it made its decision.

Main Issues

4. The main issues are the effects of:- (i) the proposed garage upon the character and appearance of the area; and (ii) the development as a whole upon the living conditions of neighbouring occupiers at Nos 24 and 28 Mill Street, with particular regard to privacy.

Reasons

Character and Appearance

5. The appeal property is a detached, two-storey, gable-fronted dwelling, set close and orientated perpendicular to Mill Street, with its front entrance to the east side facing a driveway and the immediately adjacent side elevation of the neighbouring property at No 24, which is also set close to the roadside pavement. On the opposite side, the appeal property is tight to the common side boundary with No 28, which is a deeply recessed two-storey dwelling behind a driveway and open plan frontage. Land levels rise fairly steeply away from the rear elevation of the appeal property such that, according to figures provided by the appellant, the highest point at the foot of the rear garden is around 2.5m above the finished floor level of the dwelling.
6. Part of the proposal would involve the construction of a garage within the rear garden of the appeal property, described as 'subterranean'. This would involve land excavations to create a flat base for the garage, commensurate with the ground levels immediately adjacent to the rear of the existing property to give level access for a vehicle to enter, with a green, flat roof over, shown to be just under 2.5m higher over its whole area, and equivalent in height to the deepest part of the existing garden with which it would merge.
7. The appeal property is understood to be a former chapel, converted to a residence in the 1930s. As a consequence, its setting and orientation is atypical for the spacing and rhythm of dwellings that is otherwise displayed along this side of Mill Street at this point, where there is a pleasing sense of spaciousness to the street scene. This is derived from a combination of the fairly extensive gaps between dwellings to the east side of the appeal site at Nos 24, 22 and the end terrace at No 20, where views can be had from Mill Street of a rising mature and verdant backdrop, and where the same can be appreciated in the gaps at first-floor level between the dwellings to the west side at Nos 28-32 (even) enhanced by the mature tree planting within their open plan frontages. The appeal property somewhat breaks this rhythm by virtue of its forward siting and more confined layout, but yet still contributes to the established character of the area by maintaining a gap with No 24, allowing sight through to open land beyond.
8. I accept that the garage would be deeply recessed, and that its visual presence would only be detected from some limited viewpoints along Mill Street. However, it would not be out of sight nor inconspicuous. It would span almost the width of the void between Nos 26 and 24 and, despite the proposed cedarwood finish, its roller-shuttered garage door façade would make it appear as a harsh and utilitarian structure, and one overall which would defy the natural contours of the land. The glass balustrade above to contain the newly raised garden level would add a further unnatural presence at an elevated height, rising up almost equivalent to the eaves height of the dwelling, and likely obscuring any possible visual benefit from the proposed green roof in views from Mill Street. Overall, I find that the garage would appear as an intrusive and incongruous feature that would noticeably detract from the natural and verdant qualities of the garden hinterlands that otherwise prevail.

Living Conditions

9. The effects of the proposal upon the living conditions of neighbouring occupiers arises from two different aspects; (i) the proposed windows to the rear facing, side elevation of the appeal property and (ii), the proposed levels changes to the rear garden.
10. Dealing with the windows first. I agree with the Council that the ground-floor French doors would offer no sight towards any neighbouring land that would be harmful due to the outlook being directed into the lower levels of the appeal site.
11. The new, obscure glazed window at first-floor would serve an en-suite facility. Had I been minded to allow the appeal I am satisfied that it would have been reasonable to have imposed a condition requiring the window to remain obscurely glazed and for it to be fixed shut up to an appropriate height. This would have avoided any harm to the living conditions at No 28 through overlooking.
12. The floor-to-ceiling window and Juliet balcony would serve a bedroom. The outlook would be principally over the appeal property's rear garden. However, the plot's rear garden side boundary shared with No 28 is on a splay and is angled back towards the appeal site. As a consequence, the exceptionally long rear garden to No 28 extends beyond the much shorter garden of No 26. When standing within the rear garden to No 28 close to the back of the property, and on land that would ordinarily be considered to be most private, I was struck by the presence and perceived proximity of the newly created opening at first-floor intended to serve the bedroom. At a distance measuring around 10.5m from the proposed Juliet balcony to the rear garden of No 28, I accept that the requirement of the Council's *Development Requirements Supplementary Planning Document* of 10m separation between windows and a neighbour's garden (near to their house) would be met. However, this distance is expressed as a minimum and is guidance only. Given the size and nature of the proposed opening and the inclusion of a Juliet balcony, there would be the likelihood of occupants enjoying periods of a more prolonged outlook when compared with a more conventional bedroom window. In my assessment this would harmfully impact upon the level of privacy currently enjoyed by the occupants of No 28 in their rear garden.
13. In addition, given the recessed position of No 28 in relation to the rear, side facing elevation of the appeal property, there would also be some potential for looking towards the neighbour's nearest front facing bedroom window, albeit at an oblique angle. The proximity between these windows and the potential for prolonged periods of outlook would add some further harm to the living conditions at No 28.
14. Turning to the issue of levels. From my own observations on site, the new raised levels above the proposed garage, and shown to be equivalent to the highest levels on the appeal site, would equate approximately with the ground levels to the rear of No 24 and the finished floor level of a conservatory extension to the rear of that property. In light of this, I am unable to detect anything that would be unconventional in the relationship between these two properties or which would make use of the raised garden levels at the appeal site unacceptable, or which would not be mitigated by a typical height garden boundary fence enclosure.

15. The proposed raised levels would be away from the site's boundary with No 28, with the existing slope of the land retained nearest to this property. Due to this, and the separation distances involved, I am not persuaded that there would be any opportunity to gain any additional sight from the garden of No 26 into the garden of No 28 that would be significant or harmful.

Conclusions

16. By failing to preserve or appropriately reflect the character and distinctiveness of the locality, the proposed garage would conflict with the requirements of Policies CS.9 and CS.20 of the Stratford-on-Avon District Core Strategy 2011 to 2031 (CS).
17. Notwithstanding my findings with regard to the effects of the proposal upon the living conditions at 24 Mill Street, I have found that the proposed first-floor window with Juliet balcony would have the potential to harm the living conditions at No 28 through overlooking and loss of privacy. This would be further contrary to CS Policies CS.9 and CS.20 by failing to be sensitive to the neighbouring use.
18. I have been unable to identify any direct conflict with Policies H.01 or H.05 of the Harbury and Deppers Bridge Neighbourhood Development Plan 2018-2031, which are referenced by the Council in their decision notice. These appear to deal more with new housing developments within Harbury rather than alterations and modifications to existing dwellings. Nevertheless, the harm that I have identified means there would also be conflict with the National Planning Policy Framework's objectives for achieving well-designed places. As such, the proposal would not achieve a sustainable form of development.
19. Accordingly, for the reasons given, and having regard to all other matters raised, the appeal is dismissed.

John D Allan

INSPECTOR