



Appeal Decision

Site visit made on 3 October 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Appeal Ref: APP/A2280/W/23/3320435

44 Love Lane, Rochester, Medway ME1 1JD

- 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 Terry Clennell against the decision of Medway Council.
- The application Ref MC/22/2804, dated 29 November 2022, was approved on 21 February 2023 and planning permission was granted subject to conditions.
- The development permitted is the construction of an extension to existing dormer window to rear together with balcony.
- The condition in dispute is No. 2 which states that: *"The development hereby permitted shall be carried out in accordance with the following approved plans: Received 06 February 2023: 44LL002B Rev B Existing and Proposed Floor Plans P2, 44LL003B Rev B Proposed Front and Rear Elevations P2, 44LL004A Rev A Existing and Proposed Side Elevations P2"*.
- The reason given for the condition is: *"For the avoidance of doubt and in the interests of proper planning"*.

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appellant applied to the Council for planning permission for an extension to the existing dormer window at the rear of the property, together with balcony. During the determination of the planning application, the Council's Planning Officer advised that the proposed development was not acceptable. Following discussions between the Appellant and the Council, a revised proposal was submitted and subsequently granted planning permission.
3. The appellant is now seeking to revert to the original development proposal submitted to the Council and found unacceptable by its Officer, by substituting the approved floor plans and elevations of the development (as listed under Condition No. 2 in the banner heading above) with the set of floor plans and elevations originally submitted to the Council.
4. Based on the evidence before me, I consider the main issues to be:
 - the effect of the proposal on the character and appearance of the host property and area, including whether it would preserve or enhance the character or appearance of the Historic Rochester Conservation Area (CA), and,
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to the privacy of the occupiers of Numbers 42 and 46 Love Lane.

Reasons

Character and appearance, including the CA

5. The character, appearance and significance of the CA appears to be derived from the large proportion of traditional buildings of varied styles that are found in the area, and their relationship with the street pattern and extensive open spaces in the area. I observed that the pattern of buildings appeared to vary from a generally continuous row fronting the linear route of the High Street, to a looser knit pattern of buildings extending away from it and set within more spacious surroundings, including formal open spaces.
6. The appeal building is a relatively modern mid-terraced dwelling set within a cul-de-sac of residential properties. Set on the rear roof slope of the terrace is a symmetrical pattern of 3 relatively small sized roof dormers in a traditional form. These dormers are substantially identical to 2 other dormers that are set on the rear roof slope of the linked building on the opposite side of the footpath. Whilst these buildings have noticeably different roof forms, comprising of a mixture of gabled and hipped roofs, the substantially identical roof dormers contribute positively to the architectural compositions of the buildings. Together, they form a distinctive and broadly repetitive pattern of traditional dormers in the roofscape that are highly visible within the CA, in views from the Churchfields area of open space.
7. In these views, the pattern and rhythm of the existing dormers contributes positively to a consistency of appearance to the roofscape of the buildings, and their architectural order. In combination with the similar window designs and exterior materials, they have a unifying effect on the appearances of the respective buildings in views from the open space. For these reasons they contribute positively to the character and appearance of the host property and area, and the CA. My statutory duty under Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, is to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
8. Although the enlarged dormer granted planning permission by the Council would have a greater vertical emphasis than the existing dormer, it would nonetheless have retained its width, pitched roof profile and ridge level. As such, it would have retained the positive attributes of the existing dormer and been an acceptable addition to the roofscape.
9. The proposed dormer in this appeal would be considerably larger than both the existing small dormer and the enlarged dormer granted planning permission by the Council, and with a taller roof ridge. The width of the proposed dormer, and its glazed doors and balustrade, would be greater than the upper floor window below it, thus emphasising its scale and unacceptably drawing the eye to it. Despite being set back from the main roof eaves, its scale would add high level bulk in a prominent and highly visible position on the terrace's roof slope. In views from Churchfields open space, the proposed dormer would appear as an unduly dominant and visually jarring addition to the terrace's roof in the roofscape. Consequently, it would erode the hierarchy of its architectural order and noticeably disrupt the repetitive pattern and rhythm of the existing small dormers of traditional forms in the roof scape.

10. I acknowledge that the proposed dormer would be constructed from materials matching the existing dormer and with a matching eaves levels and roof pitch angle, and it would be positioned centrally on the roof slope. However, these characteristics would not overcome the harm arising from its scale that I have identified above.
11. The evidence before me does not demonstrate that a larger roof extension which could result in a greater visual impact could be carried out as a permitted form of development. As such, this matter carries limited weight and does not alter my conclusion on this main issue.
12. For the reasons given above, I conclude on this issue that the proposed dormer would cause significant harm to the character and appearance of the host property and area, and it would fail to preserve the character or appearance of the CA. As such, it would conflict with Policies BNE1, BNE12 and BNE14 of the Medway Local Plan (Adopted May 2003) (the MLP), which seek to ensure that development is appropriate in relation to the character and appearance of the built environment, and development within a CA achieves a high quality of design which preserves or enhances the area's historic or architectural character or appearance.
13. In terms of the National Planning Policy Framework (the Framework), the harm that would be caused to the significance of the CA as a designated heritage asset would be less than substantial. Nevertheless, this is a matter of considerable weight and importance, and Paragraph 202 of the Framework requires me to weigh this harm against the public benefits of the proposal.
14. The proposed dormer would enlarge the living space within the dwelling, particularly the bedroom it would serve. The proposed external balcony would be of a size sufficient to accommodate the doors being opened outwards and across it, thus maximising interior space and assisting the occupiers in enjoying extensive views out of the room. However, these would be private benefits to the occupiers of the property that carry limited weight in favour of the proposal. Planning Practice Guidance¹ sets out that planning is mainly concerned with the use of land in the public interest.
15. I find that there are no public benefits associated with the proposal that would outweigh the considerable importance and weight that 'less than substantial' harm to the significance of the designated heritage asset carries. As such, there is conflict with the conserving and enhancing the historic environment objectives of the Framework.
16. The appeal proposal would also conflict with Paragraphs 126 and 130 of the Framework, which state that good design is a key aspect of sustainable development and planning decisions should ensure that developments are visually attractive and sympathetic to local character, including the surrounding built environment, amongst other objectives.

Living conditions

17. The proposed balcony would introduce an elevated vantage point from which people could stand or sit outside of the dwelling. Some overlooking is a characteristic that is common in many built-up areas, and the proposed balcony would be relatively modest in size and set back from the roof eaves of

¹ Paragraph: 008 Reference ID: 21b-008-20140306

the property. However, it would nonetheless allow its users a range of views across the gardens of the nearby flanking properties (referred to in the evidence as Numbers 42 and 46 Love Lane) and towards their rear facing dormer windows. These views would not previously have been available from either the existing rear facing window or from the approved enlarged dormer.

18. The proposed balcony would afford its users considerably more open views over the rear gardens of the flanking properties, particularly from a standing position. The views into the gardens of these properties would be intrusive, causing overlooking and a heightened perception for the occupiers of being overlooked from the proposed balcony. Consequently, the privacy of the occupiers of both nearby properties would be harmfully compromised. Use of the proposed balcony would be likely to occur intermittently, most likely during warm and dry weather. However, this would not be a mitigating factor as it would be likely to coincide with the times when nearby occupiers are also using their gardens.
19. The evidence indicates that the clear-glazed windows in the rear facing roof dormers of the flanking properties serve habitable rooms. These windows are relatively small and views towards them from the proposed balcony would be at oblique angles. Because of these factors, users of the proposed balcony would not be afforded clear views into the rooms served by these windows, or any other windows in the nearby properties. Therefore, the occupiers of those properties would not experience an unacceptable loss of privacy in their rooms. However, an absence of harm in this respect would not outweigh the harm that I have identified above.
20. For these reasons, I conclude on this issue that the proposal would harm the living conditions of the occupiers of Numbers 42 and 46 Love Lane, with particular regard to a loss of privacy. As such, it would conflict with MLP Policy BNE2, which seeks to ensure that development protects the amenities enjoyed by nearby properties with regard to privacy, amongst other considerations. It would also conflict with Paragraph 130.f) of the Framework, which states that planning decisions should ensure that developments create places with a high standard of amenity for existing users, amongst other objectives.

Other Matters

21. My attention is drawn by the appellant to several balconies on existing properties within the locality of the appeal site. These include balconies which appeared likely to be original to their host residential buildings and also an external balcony at the rear of 32 Love Lane, which the evidence indicates was added following the approval of planning application MC/05/0896, and was granted a further planning permission to be enlarged, along with a Juliet balcony.
22. Whilst those existing balconies may cause some overlooking of neighbouring properties, I have limited details regarding the circumstances under which they were first approved. Therefore, I am unable to reasonably draw any meaningful comparisons between them and the proposed balcony. In any case, I am not bound by previous decisions of the Council, and they would not justify approving harmful development. As such, the examples cited are of limited relevance to my considerations in this appeal, which I have determined on its own merits, based on the evidence before me. They do not reduce the harm that I have identified or alter my conclusion on this main issue.

23. I note that a nearby resident supports the proposal, however neither this nor the other matters raised outweigh or alter my conclusions on the main issues.

Conclusion

24. For the reasons given above and having considered all matters raised, I find that the condition in dispute is necessary, and that the appeal proposal conflicts with the development plan as a whole. There are no material considerations of sufficient weight to outweigh this finding and indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR