
Appeal Decision

Site visit made on 14 December 2023

by Rebecca McAndrew, BA Hons, MSc, PG Dip Urban Design, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/U1620/D/23/3332465

2 Woodgate Close, Gloucester, Gloucestershire GL4 3TN

- 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 and Mrs Barr against the decision of Gloucester City Council.
 - The application Ref 23/00462/FUL, dated 31 May 2023, was refused by notice dated 12 September 2023.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of this appeal, a revised National Planning Policy Framework ('the Framework') has been published (December 2023). I am satisfied that Paragraph 135 of the current Framework duplicates Paragraph 130 of the July 2021 version, which is referred to within the Council's Officer Report. I have therefore considered the appeal on this basis.

Main Issues

3. The main issues are;
 - i) The effect of the proposal on the character and appearance of the site and area; and
 - ii) Whether the scheme would provide satisfactory living conditions for the existing and future residents, in terms of the level of private garden space which would be retained.

Reasons

Character and Appearance

4. The proposed extension would provide additional living accommodation to meet the special medical circumstances and future care requirements of one of the appellants.
5. Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031 (2017) (CS), Gloucester City Council Home Extension Guide Interim Adoption Supplementary Planning Document (2008) (HESPD) and

Paragraph 135 of the Framework require development to secure high quality design which responds to the context of a site and its surroundings.

6. Policy A9 of the Gloucester City Plan 2011-2031 (2023) (GCP) seeks well-designed house extensions. It requires that the plot size of an existing property should be large enough to accommodate a proposed extension without resulting in a cramped or overdeveloped site. It also advises against schemes that would result in an inappropriate increase in scale or footprint of the original dwelling.
7. The proposed flat roof rear extension, finished in render and timber cladding, would fail to reflect the pitched roof, brick finish of the host dwelling. Whilst the appellants consider that these differences would create 'a visually pleasing contrast', in my view they would accentuate the significant scale of the structure. Its overly deep footprint would be out of proportion to that of the existing house. It would also occupy a large part of the existing rear garden, significantly reducing the level of remaining private garden space and giving rise to a cramped appearance. Whilst the proposed extension would not be noticeable in the wider public realm, it would be visible from adjacent properties. As such, overall, the proposed extension would be at odds with and harmful to the character and appearance of the house and area.
8. The appellants advise that they could construct a rear extension under permitted development rights which they state would have no greater impact on the surrounding area than the current proposal. They also consider that this alternative scheme would be more visible in the street scene and from the adjacent footpath than the current scheme. However, no drawings of such a proposal have been submitted in support of this. Therefore, I have limited information before me to be able to compare the current scheme against the fallback position.
9. In addition, the appellants acknowledge that the fallback scheme would require prior approval. On this basis, such a proposal would be subject to an assessment and therefore there is no assurance that prior approval for the scheme would be granted.
10. As such, there is no evidence before me to offer certainty that there is a reasonable chance that, in the event of this appeal being dismissed, the appellants would construct an extension which would have a similar or greater impact than the proposal before me. Therefore, I attach limited weight to this fallback position in considering the scheme.
11. Policy F5 of the GCP advises against the enclosure of side gardens that adjoin a footpath link in open plan estates. It states that proposals should not harm the character and appearance or community safety of the area. The scheme proposes the installation of a fence to enclose an area of side garden, which currently provides an open and attractive landscaped setting for the public footpath which runs to the side of the appellants' home.
12. The proposed high wooden fence would sit very close to the boundary of the site and would unacceptably reduce the openness of the pathway. This enclosure would make the footpath feel more enclosed and less safe to use, undermining the contribution this facility makes to the pedestrian permeability of the area and unacceptably harming the character and appearance of the vicinity.

13. I note that the appellant states that the footpath is often subject to anti-social behaviour and littering. However, there is no evidence before me to confirm that this has been a significant problem. As such, this would not outweigh the harm that I have described if this area of garden was enclosed.
14. In view of the above, the proposals are contrary to Policy SD4 of the CS, Policies A9 and F5 of the GCP, the HESPD and the Framework.

Living Conditions of Existing and Future Occupiers

15. The level of private garden space which would be retained within the appeal site would fall short of the level which can be expected for a dwelling of this size. I recognise that the scheme proposes to enclose an area of garden space to the side of the property, which could compensate for this loss of private space. However, as I have described, that element of the proposals is unacceptable as it would unduly harm the character and appearance of the area. As such, the proposals would not provide an adequate standard of living conditions for existing and future residents of the appeal property. Therefore, the proposal is contrary to Policy SD4 of the CS which requires good quality development which includes the adequate provision of private garden space.

Other Matters

16. I recognise that other properties in the area have been extended or erected fences in what would have originally been an open plan development. However, from the limited information before me, the design of the extensions and the site circumstances of these developments generally appear to differ from the appeal site. Notwithstanding, each case must be considered on its own merits. As such, I attach limited weight to these matters in support of allowing the appeal.
17. It is noted that there are special medical circumstances associated with the proposal. I have carefully considered all information submitted, including from medical practitioners, in this respect.
18. Refusal of the scheme would engage Human Rights matters. Having regard to Article 8 and Article 1 of the First Protocol, there would be interference with the occupier's rights in respect of private and family, and the peaceful enjoyment of possessions respectively. However, there is a legitimate aim in protecting the character and appearance of the site and area and the scheme significantly fails short of acceptability in this respect. The harm would be permanent and long standing. Consequently, these personal circumstances do not outweigh the significant harm that I have described. Such a conclusion is necessary and proportionate in this case.

Conclusion

19. I have found the proposal would conflict with the development plan when taken as a whole. There are no other considerations which outweigh this conflict. I therefore conclude the appeal should be dismissed. The proposal would not unacceptably violate the family's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Rebecca McAndrew

INSPECTOR