



Appeal Decision

Site visit made on 5 March 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/G1630/W/23/3327802

Orchard Bank, Bushcombe Lane, Woodmancote, Cheltenham GL52 9QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mark Anderson of Orchard & Banks Ltd, against the decision of Tewkesbury Borough Council.
 - The application Ref is 23/00498/FUL.
 - The development proposed is extensions to replace existing attic conversion and install new roof.
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Decision

1. The appeal is allowed and planning permission is granted for extensions to replace existing attic conversion and install new roof at Orchard Bank, Bushcombe Lane, Woodmancote, Cheltenham GL52 9QJ in accordance with the terms of the application, Ref 23/00498/FUL, dated 19 May 2023, subject to the conditions in the Schedule to this decision below.

Preliminary Matters

2. I have taken the description of the proposal from the appeal form, as this more clearly describes the proposal. I am satisfied that no prejudice would be caused to any party by this. The appeal results from the failure of the Council to determine the application within the prescribed period and so there is no formal decision notice.
3. The Council has confirmed that it would have granted planning permission had it been empowered to do so. This is based on a plan different to that originally submitted by the appellant with the appeal. The appellant has nevertheless confirmed that they are content for the appeal to proceed using this revised plan. Representations were made about the proposal. Therefore, in the interests of natural justice, I have sought further comments on the revised plan, including from local residents, and I have taken these into account.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area and
 - the living conditions of the occupiers of Well House with regard to privacy, outlook and noise.

Reasons

Character and Appearance

5. Bushcombe Lane is at the edge of a built-up area and properties hereabouts are fairly large. The area has a degree of spaciousness resulting from the gaps between dwellings and their positions behind front gardens and driveways. Orchard Bank is a modest detached dormer bungalow situated between two-storey dwellings either side, at Well House and Harewood Grange.
6. Planning permission (the 2022 consent) has already been granted¹ for single-storey side and rear extensions to the dwelling, and a roof-top garden. A subsequent proposal for two-storey extensions across the building and a new ridge height was dismissed at appeal². The proposal before me effectively seeks to combine the previously approved development at ground floor level with a revised scheme at first floor level. It includes the creation of a full height first floor, projecting front gable and an overall increase in the ridge height.
7. The proposal would result in sizeable alterations to the existing property, significantly changing its character. Nevertheless, it would be well proportioned and of a similar scale to others in the row. The single storey side extensions would retain space between the neighbouring properties either side. As such, the proposal would not appear excessively dense or over-developed.
8. The proposal includes a glass balcony. The Woodmancote Neighbourhood Plan (NP) made June 2023, states that such balconies are a negative feature in the area. The proposal would therefore conflict with the NP in this respect. However, in this case, the enlarged roof garden and side balcony would not appear particularly out of place in the street scene. Moreover, a balcony has already been approved under the 2022 consent and so could be constructed regardless of my decision. Consequently, I give limited weight to the conflict with the NP.
9. For the reasons given above, I consider that the proposal would have an acceptable effect on the character and appearance of the area. Although it would conflict with the NP, I give greater weight to its compliance with Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS), adopted December 2017, and RES10 of the Tewkesbury Borough Local Plan (TBLP), adopted June 2022. These require the design and scale of a proposal to respect the site and its surroundings.

Living Conditions

10. The roof top garden is proposed to be located on the side of the property adjoining Well House. This is a two-storey dwelling set at a higher ground level to the appeal site. Well House has side and rear patios and a large back garden. The proposed roof-top garden would be surrounded by a balcony with glazed panels. A condition could be imposed requiring the panels to be obscure glazed and fixed shut. On that basis, and given their tall height, the panels would prevent occupiers of the balcony, or of the rooms served by the first-floor doors and bifold windows, from obtaining views into the side and rear outdoor spaces of Well House.

¹ LPA references 22/01189/FUL and 23/00470/NMA

² LPA reference 22/00373/FUL, PINS reference APP/G1630/D/23/3314038

11. A first-floor side window serving a bathroom is proposed to face towards Well House. This window is shown as being obscure glazed and fixed shut. For the same reasons as the balcony, a condition can be used to ensure that this remains the case in perpetuity. On the basis of these conditions, the proposal would not unduly harm the privacy of the occupiers of Well House.
12. The proposal including the roof-top garden and balcony would add to the mass and scale of the existing property when viewed from the side and rear of Well House and its garden. However, it would face a flank wall of Well House, which has only a secondary obscure glazed window within it. Furthermore, the balcony would not protrude significantly beyond the rear elevation of Well House.
13. Therefore, whilst the proposal may somewhat reduce the light and openness of the side patio at Well House, it would not be particularly oppressive or unacceptably harm the outlook from that property. I have no reason to believe that noise generated from the proposal would be materially different from that already approved, or greater than normally expected for a residential area.
14. Accordingly, I find that the proposal would not unduly harm the living conditions of the occupiers of Well House with regard to privacy, outlook or noise. It would therefore comply with JCS Policy SD14 and TBLP Policy RES10, both of which require no unacceptable impact on the amenities of the occupiers of neighbouring properties.

Conditions

15. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. A condition requiring adherence to the approved plans is necessary for certainty. It is also necessary to require samples of the external walling material, to ensure that it is sympathetic to the character and appearance of the area. For the reasons I have already given, conditions to require that the balcony panels and en-suite window that would face Well House are obscure glazed and fixed shut are necessary.

Conclusion

16. For the reasons given, I conclude that the appeal should be allowed.

O Marigold

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: PDF title '1179406-2 full V4.2 master amended-with window', received by the Inspectorate on 5 March 2024.
- 3) Building operations in respect of the development hereby approved shall not commence until samples of the walling materials to be used in the construction of the external surfaces have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved samples.
- 4) The roof-top garden hereby permitted shall not be brought into use until the glass panels within the balcony walls to the side and rear of the roof-top garden have been installed and fitted as non-opening panels and with obscured glazing to Level 4 Pilkington. They shall thereafter be retained as obscured and non-opening in perpetuity.
- 5) The en-suite serving Bathroom Three shall not be occupied until the window serving it has been installed and fitted as non-opening and with obscured glazing to Level 4 Pilkington. The window shall thereafter be retained as obscured and non-opening in perpetuity.

End of Conditions