



Appeal Decision

Site visit made on 5 June 2024

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 JUNE 2024

Appeal Ref: APP/Y3615/D/24/3336783

1 Castle Hill, Guildford, Surrey GU1 3SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Carlisle against the decision of Guildford Borough Council.
 - The application Ref is 23/P/01075.
- The development proposed is described on the application form as 'implementation of a roof terrace following permitted roof works'.
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Decision

1. The appeal is dismissed

Main Issues

2. The main issues are the effect of the proposed development on:
 - (a) the living conditions of occupiers of 3 Castle Hill with particular regard to privacy; and
 - (b) the significance and setting of various heritage assets, namely Guildford Castle Scheduled Monument; the Grade I listed building known as The Castle Keep; the Grade I listed building known as Remains of Shell Keep at Guildford Castle; the Grade II listed building known as The Chestnuts; Guildford Town Centre Conservation Area; and the non-designated heritage asset known as 1 Castle Hill.

Reasons

Living conditions

3. The appeal site at 1 Castle Hill comprises a large two-storey property with lower ground floor below and loft space above, hard landscaping and stairs at the front, and a garden to the rear. There are two small and narrow flat-roof dormers in the front and rear roof slopes. Immediately to the south is 3 Castle Hill, a three-storey property with mostly hard landscaping at the front and garden to the rear. No 3 is set back further from the road than No 1, but the rear building line of each property is broadly similar. Both rear gardens rise from the back of each property.
4. No 3 has a recently constructed rear extension close to the shared boundary with No 1, which is an open-sided conservatory or veranda with a glazed roof. Due to the change in topography, the sitting out area within the extension is raised above the adjoining ground level. There is screening along the shared boundary including fencing and vegetation. However, there are gaps in planting even in the summer and it is still possible to see the rear roof at No 1 from within the garden at No 3, particularly from the upper parts. It is also possible

to see the nearest corner of the roof at No 1 from the sitting out area of the new extension at No 3.

5. The proposed development would remove the existing rear dormer at No 1 and create a large indent and terrace in the roof slope. This would provide a balcony with outdoor seating and dining space. Metal balustrades around 0.6 metres tall would line the edge of the indented area.
6. The appellant has provided drawings showing 3D lines of sight from the proposed roof terrace towards No 3. It indicates that existing trees and the new rear extension would block most of the overlooking to the property and garden at No 3. However, the drawings show that there would be overlooking of part of No 3's new extension, which confirms my observations on site. Moreover, given the gaps along the boundary, it is very possible that overlooking could also occur within the garden, including to the upper parts. Due to the width and openness of the proposed indent, this would be greater than any overlooking that currently occurs from the narrow rear dormer.
7. The overlooking of the new extension would be particularly intrusive given the shorter distances involved but would also result in negative effects on privacy elsewhere in the garden. Although the balcony and seating/dining space would not be used all year round or in all types of weather, it would likely be used during warmer summer months and lighter evenings when the occupiers of No 3 are also likely to be outdoors. Therefore, the proposed development would have an unacceptable effect in terms of privacy.
8. The proposed development would also create some noise and disturbance from people sitting and eating outside, along with the use of any external lighting. However, this is an urban location with noises and artificial lighting from the nearby streets and public gardens. Such elements are not uncommon with any domestic outdoor space in warmer summer months. There is no detail of any external lighting, but it may be possible to control via a condition or separate application. Thus, the proposed terrace would not have an unacceptable effect in terms of noise and disturbance.
9. Concluding on this main issue, the proposed development would have an unacceptable effect on the living conditions of occupiers of 3 Castle Hill with regard to privacy. Therefore, it would not accord with Policy D5 of the Guildford Local Plan Development Management Policies 2023 (LPDMP) which, amongst other things, seeks to avoid unacceptable impacts on the living environment of existing residential properties in terms of privacy and overlooking. Significant weight can be afforded to this negative effect and policy conflict.

Heritage assets

10. The appeal property at 1 Castle Hill is an attractive red-brick house with a low-pitched hipped slate roof and sash windows that merits its identification as a non-designated heritage asset. It is located within Guildford Town Centre Conservation Area, a large conservation area that contains multiple historic buildings and spaces. The area either side of the High Street is very urban, busy and commercial. In contrast, to the south of Castle Street, the area around Guildford Castle is quieter and contains more green space and fewer buildings. Thus, the appeal property makes a positive contribution to the character, appearance and significance of the conservation area.

11. The appeal property is also located within Guildford Castle Scheduled Monument which includes the motte and bailey with its moat, the upstanding remains of two different keep buildings, the curtain wall, gateway, and ruined residence within the bailey area. The ground below is also scheduled. The Castle Keep and the remains of the Shell Keep are both listed Grade I as different phases of medieval castle architecture.
12. The significance of the scheduled monument and the two listed buildings are greatly influenced by their rich and important archaeological, architectural and historic interest in their role in the evolution of castle construction and use. The significance is also informed by their setting, which includes the immediate castle grounds that provide a green and landscaped area within which to appreciate the assets, but also the adjoining streets and buildings.
13. Castle Street to the north is the more urban edge of the commercial centre of Guildford, whereas Castle Hill to the south contains large detached historic properties or flats. From the listed castle and shell keeps and from elsewhere within the scheduled castle grounds, it is possible to see the side and rear of the appeal property with its distinctive roof and brick elevations. As part of the historic backdrop to the castle, the property makes a positive contribution to the setting of the scheduled monument and listed buildings and thus informs their significance.
14. The Chestnuts at 3 Castle Hill is listed Grade II and is like the appeal property in terms of its architectural design and materials including the low pitch of its hipped slate roof. The main part of the building is largely symmetrical and, due to the overall height, has a striking presence on Castle Hill. Its significance is informed by its architectural and historic interest as a 19th century residence that was once the home of the author Lewis Carroll. The appeal property due to its proximity and similar character and appearance makes a positive contribution to the setting of The Chestnuts and so informs its significance.
15. The proposed development would considerably alter the shape and appearance of the rear roof slope by creating a large indent. There are no visible nearby examples of any domestic roof terrace like this. The Ivy restaurant on Castle Street has terraced dining at first floor and roof level, but this is to the north of the castle and part of the commercial centre. The alterations, including the balustrade, would look overly modern and out of keeping with the design of the appeal property as a non-designated heritage asset. The development would be highly visible and incongruous from the listed castle and shell keeps and the scheduled castle grounds looking south to the appeal property and The Chestnuts. In turn, it would be visible and out of place when viewed to the rear of The Chestnuts. Moreover, it would not respect the historic designs of properties in this part of the conservation area.
16. As a result, the proposed development would cause harm to the significance of the scheduled monument, the three listed buildings, the conservation area, and the non-designated heritage asset. It would not preserve the special interest or setting of the listed buildings or the character and appearance of the conservation area having regard to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, the proposal would not accord with Policies D1 or D3 of the Guildford Local Plan Strategies and Sites 2015-2034 or LPDMP Policies D18, D19, D20, D21 and D23. Amongst other things, these policies require policies to achieve high quality design, and

conserve and enhance the historic environment including the significance and setting of designated heritage assets, listed buildings, conservation areas, scheduled monuments and non-designated heritage assets.

17. The harm would be less than substantial, but paragraph 206 of the National Planning Policy Framework (NPPF) states that any harm should require clear and convincing justification, with NPPF paragraph 205 stating that great weight should be given to the conservation of designated heritage assets irrespective of the harm. NPPF paragraph 208 states that less than substantial harm should be weighed against the public benefits of the proposal. NPPF paragraph 209 states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgment will be required having regard to the scale of any harm and the significance of the heritage asset. These balances are carried out below.

Planning balance

18. The proposed development would cause an unacceptable effect on the living conditions of occupiers of 3 Castle Hill in terms of privacy and less than substantial harm to the significance of several designated heritage assets as well as harm to the significance of a non-designated heritage asset.
19. The appellant has secured a certificate of lawfulness for proposed development (ref 23/P/00225) to establish whether the removal of a dormer window, a replacement window, and roof alterations would be lawful. Based on the plans submitted (of which I only have extracts in the appellant's statement of case), the Council determined that the proposal would be lawful as it would fall within Schedule 2, Part 1, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The extracts show an indent like that proposed albeit extending all the way to the eaves and with no balustrade or balcony, dining, or seating area.
20. The appellant argues that this represents a fallback position with a real prospect of being implemented. It certainly appears to be the case that the removal of the dormer and the alterations to form an indented roof are permitted development. Therefore, the negative visual impact of these elements on the significance of the above heritage assets would occur if the permitted development was implemented.
21. However, development is not permitted by Class C of the GPDO if, amongst other things, the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof. Class B of the GPDO also says that development is not permitted if it would consist of or include the construction or provision of a veranda, balcony or raised platform.
22. Consequently, planning permission is required for the appeal proposal as the balustrade would extend more than permitted beyond the roof slope and a balcony area would be created. The balustrade is necessary for safety reasons to allow people to use the balcony. The permitted development seems unlikely to be implemented as it would not allow anyone to use the roof alterations. Even if it was implemented, the effects would be less harmful than the proposed development as there would be no balustrade or overlooking. Therefore, I do not consider there is a real prospect of the fallback position

being implemented, but even if it was, I give little weight to it in terms of justifying the proposed development.

23. The visual impact of the balustrade alone on the significance of the above heritage assets would be minor but still cause less than substantial harm due to its incongruous nature. Furthermore, the use of the balcony with the balustrade in place would cause harm to living conditions as outlined above. The appellant suggests the balustrade could be moved back from the eaves by 0.5 metres, but this would make little difference in terms of the harms identified.
24. The fallback position carries little weight, and I have not been presented with any meaningful public benefits or other material considerations to outweigh the harm to the heritage assets or living conditions. Therefore, the proposed development would conflict with the development plan and would also fail to adhere to NPPF paragraphs 205, 206, 208 and 209.

Conclusion

25. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR