
Appeal Decision

Site visit made on 23 July 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2024

Appeal Ref: APP/J1860/W/24/3341156

Conway, Moseley Road, Hallow, Worcestershire WR2 6NH

- 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 Micheal Murton against the decision of Malvern Hills District Council.
 - The application Ref is M/22/00112/HP.
 - The development proposed is described as "single storey side & rear extensions, front dormer window extension & loft conversion side extension & loft dormers permitted development rear 6m extension; prior approval".
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Decision

1. The appeal is allowed and planning permission is granted for front dormer window alteration and pitched roof over garage at Conway Moseley Road, Hallow, Worcestershire, WR2 6NH in accordance with the terms of the application, Ref M/22/00112/HP subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos 22/02-03 and 22/02-04.
 - 3) No development for the construction of the front dormer hereby permitted shall take place until details of the materials to be used in the construction of the external surfaces of the dormer have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the development shall be retained in the approved form thereafter.
 - 4) The external materials of the pitched roof over the garage hereby permitted shall match those used in the existing dwelling.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. The development is described on the appeal form as "Front dormer window alteration and pitched roof over garage." This description is also used on the Council's

decision notice and the Appellant's Statement of Case (SoC) and more accurately reflects what is on the proposed plans. There are no single storey extensions before me and I have therefore used that description in my formal decision above.

3. The planning application was decided on the basis of the drawings 22/02-03 (Proposed Floor Plans) and 22/02-04 (Proposed Elevations). In their Statement of Case the appellant requests that these be considered together with a further amended plan 1680-02 Rev A. It is not open to me to consider plans in the alternative as part of the appeal process. I note however that the Appellant has expressed a preference for amended Proposed Elevations plan 1680-02 Rev A.
4. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
5. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
6. Whilst the amendments include a minor reduction in the size of the dormer, they also incorporate a flat roof porch on the front elevation. This would be a substantial difference to the appeal scheme compared to that upon which the Council made its decision and was not included within the description of the development. Whilst the Council has had the opportunity to comment on the amended plans, accepting these revisions would deprive those who were entitled to be consulted of the opportunity to make any representations as part of an appeal, which, given the nature of the changes, they may have wished to make. Although no specific case of prejudice has been highlighted, to ensure no-one is disadvantaged through the appeal process I have not therefore taken the revised plan into account in my determination of this appeal. On that basis, the necessary tests set out in the relevant case law have not been satisfied and I will not accept the amendments. Accordingly, I have determined the appeal on the basis of plans 22/02-03 and 04.

Main Issue

7. The main issue is the effect of the proposed front dormer extension on the character and appearance of the host dwelling and its surroundings, with particular reference to the effect on the street scene along Moseley Road.

Reasons

8. The appeal site is a detached house set back from the road behind a low boundary wall. Its front elevation comprises a rendered, two storey pitched roofed gable with an integral garage with substantial pitched roof over. There is an existing small dormer and rooflight in the roof adjacent to the gable front. Adjoining the garage was a further structure which at the time

of my site visit did not have a roof but is referred to on the plans of the existing building as a car port.

9. Beyond the site, there is a variety of building styles and designs. Conway is flanked on its south east side by a two storey house which has a substantial two and a half storey residential development opposite it. There are further two storey and one and a half storey houses on the opposite side of the road. On the north western side of the site, the dwellings are predominantly bungalows. As a consequence, although Conway sits within a consistent building line, the variety of dwellings in the road gives it a mixed character and appearance.
10. The Council does not object to the pitched roof over the garage due to its scale and location and I have no reason to disagree. Although not part of the development plan, the South Worcestershire Design Guide SPD 2018 indicates that where dormers are less visible, larger additions may be acceptable although dominant box-like extensions can visually detract from the overall appearance and character of the dwelling. In this instance, the proposed dormer would be in the position of the existing single flat roof dormer but would extend across the front of the dwelling forming part of the proposed roof over the garage. It would be sited in the lower part of the existing roof and align with the eaves of the projecting front gable. As such, it would not be out of scale with the rest of the building and would not dominate it. Its height and massing would not be harmful to the character or appearance of the existing dwelling.
11. The mixed character of the road, particularly at its south eastern end, where there is a mix of building heights and styles including another building with dormer windows and flats with windows interrupting the roof line, means that the proposal would not have an unacceptable impact on its character and appearance. It would not be prominent in the view of the road from the north west as it would be set behind the first floor front gable which projects forward of the garage roof. Whilst visible from the south eastern direction, it would be set back from the road and existing trees and bushes mean it would not be overly prominent. As a consequence, nor would the dormer have an adverse impact on the distinctiveness of its surroundings.
12. The proposal would not have an adverse effect on the character and appearance of the host dwelling and its surroundings. It therefore would comply with South Worcestershire Development Plan 2016 policy SWDP21 which requires development to complement the character of the area; policy HAL3 of the Hallow Neighbourhood Plan 2021 regarding the design of new development; and the policies of the National Planning Policy Framework which promote well designed and beautiful places.

Conditions

13. In addition to the standard commencement condition, a condition requiring compliance with the submitted plans is necessary for reasons of certainty. A further condition requiring the proposed roof materials to match the existing house and further details of the materials to be used in the construction of the dormer are also necessary in the interest of the character and appearance of the area. The submitted bat roost assessment concluded that

no further survey or mitigation for bats is required so a condition requiring bat mitigation measures is not necessary.

Conclusion

14. For the reasons set out above, the proposal would comply with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that a decision should be taken other than in accordance with that plan. I therefore conclude that the appeal should be allowed.

R Kent

INSPECTOR