



Appeal Decision

Site visit made on 22 July 2024

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/M2270/D/24/3343811

The Coach House, High Street, Bidborough, Kent TN3 0UP

- 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 & Mrs G Smith against the decision of Tunbridge Wells Borough Council.
 - The application Ref: 23/03443/FULL.
 - The development proposed is the construction of two-storey extension with single-storey element, increase patio area to level throughout, alter existing walls to match appearance of extension, installation of approved bedroom window with different location, removal of existing balcony & installation of full height window, installation of air con unit, timber wall on boundary.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two-storey extension with single-storey element, increase patio area to level throughout, alter existing walls to match appearance of extension, installation of approved bedroom window with different location, removal of existing balcony & installation of full height window, installation of air con unit, timber wall on boundary at the Coach House, High Street, Bidborough, Kent TN3 0UP, in accordance with the terms of the application dated 19 December 2023, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: (i) Block and Location Plan Drawing No. 1911 13, (ii) Proposed Ground Floor Plan (As Built) Drawing No. 1911 01A, (iii) Proposed First Floor Plan & Elevations (As Built) Drawing No. 1911 02A and (iv) Proposed Roof Plan & Elevations (As Built) Drawing No. 1911 03A.
 - 2) The patio area and its structure hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 90 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for permanent screening to the southern boundary of the patio which shall include the precise location, design, dimensions and materials for the screening, shall have been submitted for the written approval of the local planning

authority and the scheme shall include a timetable for its implementation.

- ii) If within 12 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- v) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained and retained.
- vi) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Preliminary Matters

- 2. I observed on my site inspection that the development has started albeit did not appear to be completed and, therefore, partly retrospective. I have assessed the appeal on this basis.
- 3. I am aware of the planning history of the site, which includes planning permission being granted for a double storey side extension that included a smaller rear patio Ref: 22/00315/FULL than is before me in this appeal. I am also aware that Planning permission was granted for a similar proposal to that before me under Ref: 23/03450/FULL, with the only difference being the size of the patio. It is evident from the information before me that the size of the patio is the only matter in dispute between the parties, with all other parts of the development before me having been granted planning permission through decision Ref: 23/03450/FULL, which remains an extant consent.

Main Issues

- 4. The main issue is the effect of the development on the living conditions of the neighbouring property Deacon House with specific regard to overlooking and privacy.

Reasons

- 5. The appeal site is a detached dwelling set back from the highway part way down a private road. The appeal property is identified by the Council as a non-designated heritage located within the Bidborough Conservation Area. The adjacent property is Deacon House, a Grade II listed building, that forms a detached dwelling set within spacious grounds.
- 6. The development at the site has commenced with the patio area subject of planning permission Ref: 23/03450/FULL substantially completed. I saw on my site visit that the structure and foundations for the extended patio had been constructed but not yet finished with patio tiles.

7. I also observed that there are clear and unobstructed views of the neighbouring garden from the patio area that has been completed and approved through the extant planning permission. The impact is exacerbated by the patio appearing to be on higher ground than the adjacent property's garden area.
8. I understand that there was previously mature hedging in place along the boundary with Deacon House that provided screening. This was a significant factor in the grant of planning permission under Ref: 22/00315/FULL, the original scheme and patio area. This has, however, since been removed and no longer has any material weight in subsequent decision making. Notwithstanding what boundary treatment used to be in place, without any screening yet installed, it is clear that the unobstructed views from the reduced patio area have a significantly harmful and intrusive impact on the rear garden of Deacon Cottage.
9. Planning permission Ref: 23/03450/FULL includes a condition that requires boundary treatment to be installed around the perimeter of the approved patio's southern boundary. This is to specifically address this issue and to mitigate the impact of overlooking and privacy on Deacon Cottage. Evidently, this condition has not yet been complied with as screening had not been installed at the time of my site visit. I noted that there could be some practical difficulties in erecting the screening on the reduced patio area as its southern edge ends in the middle of one of the ground floor windows.
10. I also observed on my site visit that the proposed extended patio subject of this appeal, whilst closer to the boundary with Deacon Cottage, included a series of mature planters along its edge. These planters provide screening along the appeal site's boundary that are effective in ameliorating overlooking and loss of privacy to an acceptable level. This is in contrast to the approved part of the patio that does not yet have its boundary treatment erected.
11. It is evidently unsatisfactory, however, for any mitigation to comprise temporary and moveable planters as they exist on the site at present. The appellant has confirmed in their statement that they would accept a condition to provide permanent boundary treatment to ensure any harmful effects from the extended patio in terms of overlooking and loss of privacy are mitigated. The Council has not commented on this in their submission other than to confirm in their appeal questionnaire, wording for a draft condition to secure boundary treatment in the event of the appeal being allowed.
12. Having reviewed the proposed plans, I find that they demonstrate that it would be possible for permanent boundary treatment to be installed around the edges of all of the patio area as required, or alternatively in conjunction with sections of the site boundary, to provide the necessary mitigation to Deacon Cottage. The specific details and location of the boundary treatment would need to be secured by condition and retained in perpetuity, as was the case with planning permission Ref: 23/03450/FULL.
13. Subject to the imposition of a suitable condition, which I discuss further in the following section, I am satisfied that there would not be a materially greater impact or significant harm on the living conditions of Deacon Cottage than the patio approved under planning permission Ref: 23/03450/FULL. To conclude, I find that the development with conditions accords with policy EN1 of the

Tunbridge Wells Local Plan 2006 and guidance contained within the Alterations and Extensions Supplementary Planning Document (SPD), which amongst other things requires development to not result in significant harm to the residential amenities of adjoining occupiers in terms of privacy.

Other Matters

14. I noted on site that there were a set of steps from the extended patio area leading down to the garden, which are not shown on the proposed plans. I can only judge what is before me on the submitted plans and any discrepancies that exist are a matter for the appellant to resolve with the Council separately. Notwithstanding this, as set out above, the plans before me with conditions are acceptable and capable of being completed in full.
15. The site is in the Bidborough Conservation Area (the CA) and falls within the setting of Grade II listed Deacon Cottage. The duties under Sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require that special regard be paid to the desirability of preserving listed buildings, their settings, and any features of special architectural or historic interest that they possess, and that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
16. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The Framework also advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account when making decisions. From the information before me, I am satisfied that the proposal's design is not dissimilar to the host building and that its impact on the adjacent listed building, the CA or non-designated heritage asset would be no greater in heritage terms than the previously approved applications at the site.
17. I am aware that a number of other objections were raised during the planning application regarding fire risk to Deacon House, drainage, harm from noise, smell and vibrations from the workshop, impacts on views from neighbouring properties, harm to trees and the overall appearance of the proposal. Having reviewed them, I agree with the Council's conclusions on these other issues and find that they are not of sufficient weight to change my conclusions set out above.

Conditions

18. I have reviewed the Council's suggested conditions and agree that a condition that specifies the approved plans is necessary to ensure clarity and precision. As the development has been started it is not necessary to include the standard time limit condition. I have not included the plans that show the overlay against the previously approved scheme 22/00315/FULL. The reason being is that they only show the difference in scale between the two proposals and also don't include all the details shown on the proposed plans, which could cause ambiguity if both sets were listed as approved.
19. As set out, it is necessary to include a condition to secure boundary treatment that provides sufficient mitigation to prevent overlooking and loss of privacy from the patio area to Deacon House. I have reviewed the Council's suggested

condition for this and have made some changes to make it more precise and enforceable. Given the development is retrospective it is also necessary to include provisions within the condition to require the patio area to be removed should the required screening details not be approved once submitted. This will place the onus on the appellant to submit screening details to the required design standards as soon as possible. I have included a three-month time limit for the screening details to be submitted and then a 12 month time limit for any required appeal process to have taken place if that is required. I have also included a requirement for a timetable to be submitted for when the approved screening details will be erected, which once completed will need to be retained in perpetuity.

Conclusion

20. For the reasons given above, the development subject to conditions is consistent with the policies of the development plan as a whole and there are no material considerations that would lead me to a different conclusion. I therefore conclude that the appeal should be allowed.

N Perrins

INSPECTOR