The Planning Inspectorate

Appeal Decision

Site visit made on 10 December 2019

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/Y3805/D/19/3240616
45 Herbert Road, Sompting BN15 0JT

- 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 Jonathan Pavey against the decision of Adur District Council.
- The application Ref AWDM/0765/19, dated 5 May 2019, was refused by notice dated 14 August 2019.
- The development proposed is infill rear extension and loft alterations.

Decision

1. The appeal is allowed and planning permission is granted for rear extension with lower ground floor accommodation, alterations to existing rear dormer window and new front roof light at 45 Herbert Road, Sompting BN15 0JT in accordance with the terms of the application, Ref AWDM/0765/19, dated 5 May 2019, subject to the conditions in the Schedule to this decision.

Procedural matter

2. In registering the application, the Council amended the description of the proposal to more clearly set out that applied for and used that description on the decision notice. The appellant utilised this revised description on the appeal form. As this more fully and clearly sets out the proposal, I have used this revised description in the formal decision.

Main Issues

3. The main issues are:

   - the effect on the character and appearance of the existing property; and
   - the effect on the living conditions of the occupiers of 43 Herbert Road in terms of privacy, light and overbearing effect.

Reasons

Character and appearance

4. The appeal property is a semi-detached chalet bungalow. It sits in a row of similar properties on the west side of Herbert Road. The land form slopes up from south to north, meaning that the existing property is set at a higher level than the property to the south, 43 Herbert Road. The land form also slopes down quite steeply to the west; that is to the rear of the property. There are existing dormers in both the front and rear elevations of the property.

5. The property has already been extended by a rear extension on the same level as the ground floor; this is predominantly on the northern side of the building. Due to the ground level changes there is also a decking area on the southern side to the rear of the property which also provides access between the house and its garden.

6. The proposal is to extend the rear extension to the southern side, essentially, to provide an extension across the whole of the width of the property. The accommodation at the rear of the extension would be at the same level as the garden so there would be two different levels within the overall built form. However, the difference in levels between the two would not be a full storey in height. There would also be reconfiguration of the windows in the rear dormer and an additional rooflight in the front elevation. While there would be an internal staircase allowing direct access within the extension between its two levels, a new external stairway would be created on the southern side to the garden level from the existing side door.

7. While the proposal would create a proportionately large increase in floor area from the original dwelling, because of the change in levels it would appear subservient to the existing dwelling. The built form continues the existing aesthetic and would appear appropriate in terms of architectural form and height and, subject to appropriate conditions, materials. While there would appear to be two rows of glazing on the rear elevation, together with a return to the side, there would only be a single storey and due to the heights of the windows it would be clear that this would be the case. Overall, the proposal would enhance the existing building and thus the local environment.

8. The Council is concerned that the proposal would set a precedent for large extensions elsewhere. Each case has to be considered on its individual merits. It appeared to me at the site visit in looking around the area that there is significant variation in building form and topography. Therefore, I am satisfied that allowing this proposal would not result in a specific precedent for future developments which would harmfully affect the character and appearance of the area.

9. Overall, the proposal would be in keeping with the character and appearance of the existing property. It would therefore comply with Policy 15 of the Adur Local Plan 2017 (the Local Plan) which requires development to be of high architectural quality, enhancing the local environment by way of its appearance and character. The proposal would also comply with paragraph 127 of the National Planning Policy Framework (the Framework) which indicates that planning decisions should ensure that developments are sympathetic to the surrounding environment.

Living conditions

10. The appeal property is set above the property to the south. Due to the separation between the two properties and the configuration of windows in No 43, the extended property would not be overbearing for the occupiers of that property, nor would it result in a material loss of light for the occupiers of either that dwelling or is garden.

11. In relation to privacy, the proposal would involve the provision of a set of bi-fold doors across the main rear elevation, along with a row of clerestory

windows above. This would also apply at the southeastern corner where the two sets of windows would 'wrap' around the corner.

12. In relation to the lower of these two sets of windows, that is the bi-fold doors and the window at the corner, because the proposal would be at existing ground level the existing boundary treatment would ensure that there was no overlooking leading to harmful loss of privacy to those either living within No 43 or using its garden.

13. The upper of the two sets of windows would give rise a to greater potential for overlooking. However, because the upper, main ground floor of the house would be set back some distance from these windows there would be sufficient distance from where the rear garden of No 43 would be viewed so as to not result in a harmful loss of privacy. Internally the eye would tend to rest on the window rather than provide a view through and beyond.

14. The proposal also would involve the provision of a window in the side elevation at the upper, ground floor level. This would be a subsidiary window to the space to provide light rather than a view. Therefore, subject to this being obscure glazed, I am satisfied that it would not result in a harmful loss of privacy for the occupiers of No 43. The window at the bottom of the stairs in this elevation would be at a level whereby the boundary treatment between the two properties would prevent a loss of privacy and would not need to be obscure glazed.

15. Although somebody walking down the external side steps from the utility room door would be able to see towards the rear garden of No 43, I am satisfied that the nature of the space being created would be narrow and would not be conducive to loitering so that there would not be a harmful loss of privacy.

16. Of greater concern is the potential for overlooking from the residents of the appeal property using the roof of the enlarged rear extension as a balcony, being accessed from the reconfigured first floor since there is a door shown from the dormer. However, the appellant has confirmed that he would not object to this being prevented by planning conditions, which would mean that the rear door would be to a 'Juliet' style balcony (that is with a railing across to prevent access onto the roof), and to prevent the use of the roof as a balcony. Subject to the imposition of appropriate conditions, I am satisfied that the proposal would not result in overlooking leading to a harmful loss of privacy from this area.

17. Consequently, the proposal would have an acceptable relationship so that the living conditions of the occupiers of No 43 would not be adversely affected in terms of privacy, light or overbearing effect. It would therefore comply with Policy 15 of the Local Plan which requires development not to have an unacceptable impact on adjacent properties. It would also comply with paragraph 127 of the Framework which states that planning decisions should ensure that developments create places with a high standard of amenity for existing occupiers.

Conditions

18. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance (the PPG) and the Framework. In addition to the standard timescale condition, I have imposed a

condition specifying the relevant drawings as this provides certainty. I have also imposed a condition requiring external materials to match the existing dwelling in the interests of the character and appearance of the area.

19. As set out above, a condition requiring details of revised rear dormer arrangements is required to ensure that the door to the dormer would not provide access to the flat roof for any purpose other than maintenance, and the flat roof would not be used as a balcony, roof garden or other amenity area.

20. I have also imposed a condition requiring the window in the side elevation and the en-suite at first floor to be obscure glazed in order to protect the living conditions of the occupiers of No 43.

21. The Council requested a condition preventing any additional windows in the side (south) elevation. Although the PPG indicates (Reference ID: 21a-017-20190723) that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity, I consider that additional windows in the side elevation facing No 43 would give rise to overlooking or the perception of overlooking and, therefore, such a condition is necessary in this case to prevent this occurring.

22. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

R J Jackson

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Plan, AP/100/45/19 and AP/101/45/19 Rev C.

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

4) Notwithstanding the approved drawings, no works to the existing rear dormer shall take place on site until revised details of the door in the west elevation of the first floor bedroom showing this amended to prevent access to the flat roof have been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details.

5) The roof area of the rear extension shall not be used as a balcony, roof garden or similar amenity area.

6) The extension hereby permitted shall not be occupied until the windows in the southern elevation at ground floor level and the en-suite at first floor level have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the south elevation.

END OF SCHEDULE