Planning Inspectorate

Appeal Decision

Site visit made on 4 November 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/M3835/D/24/3339829
1 Cissbury Avenue, Worthing, West Sussex BN14 0DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Christopher Barber against the decision of Worthing Borough Council.
- The application Ref is AWDM/1691/23.
- The application sought planning permission for proposed first floor extension to north (rear) elevation, with 1No. high level clear glazed first floor window to existing west elevation and enlarged clear glazed first floor window to existing east elevation, without complying with a condition attached to planning permission Ref AWDM/1787/20, dated 12 April 2021.
- The condition in dispute is No 4 which states that: *The external materials and finishes of the development hereby permitted shall, prior to commencement of use of the additional floorspace thereby created, be completed to match in design, colour and texture those of the existing building unless otherwise approved in writing by the Local Planning Authority.*
- The reason given for the condition is: *In the interests of visual amenity and to comply with policy 16 of the Worthing Core Strategy.*

Decision

1. The appeal is allowed and planning permission is granted for proposed first floor extension to north (rear) elevation, with 1No. high level clear glazed first floor window to existing west elevation and enlarged clear glazed first floor window to existing east elevation, without complying with condition 4 attached to planning permission Ref AWDM/1787/20, dated 12 April 2021, at 1 Cissbury Avenue, Worthing, West Sussex BN14 0DN, in accordance with the terms of the application Ref AWDM/1691/23, subject to the following conditions.

    1) The development hereby permitted shall be carried out in accordance with the following approved plans unless specified otherwise in a subsequent condition imposed on this decision notice: Block plan version 20/66/3, Location plan version 20/66/4, and Existing/proposed plans version 20/66/2.

    2) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification), no windows or other openings shall be formed in the side walls of the extension hereby permitted.

    3) The external materials and finishes of the extension hereby permitted shall match those used in the existing building. This is except for the external walls of the extension, which shall be finished in black 'wood effect' composite cladding.

Preliminary Matters

2. The application form indicates that the development subject of the original permission (ref: AWDM/1787/20) has been commenced. While this development has not yet been completed, I have no reason to doubt that the works that have been undertaken accord with the terms of the original permission, and I proceed accordingly.

3. Within the appeal documentation the appellant has indicated a preference for charcoal cladding, rather than the black cladding that was subject of the application, and upon which the Council's decision was made. Although the proposed change would not result in a form of development that is substantially different from that which was applied for, to accept it would prejudice the Council, who have not had the opportunity to comment on this proposed amendment. Moreover, the Procedural Guide – Planning Appeals – England advises that if an appeal is made, the appeal process should not be used to evolve a scheme. For these reasons, the proposed amendment to the colour of the cladding is not considered as part of this appeal.

4. In the application subject of this appeal, it was not proposed that condition 1 (the plans condition) of the original permission be varied. Although plans have been provided showing the parts of the extension which are proposed to be composite clad, the appeal scheme would not conflict with the plans approved under the original permission. This is because the approved plans do not include details of external materials or finishes. For these reasons, the variation of condition 1 of the original permission is not considered as part of this appeal.

Background and Main Issue

5. The appellant seeks the variation of condition 4 to enable the use of black composite cladding to the exterior walls of the extension.

6. The main issue is the effect that varying the condition would have on the character and appearance of the area.

Reasons

7. The appeal site is located on a fairly short residential street within a built-up area. When viewed from the public realm, the houses at 1-5 Cissbury Avenue (numbers 1-5) broadly resemble each other. This is, in part, due to similarities in their design, scale, layout, external materials and detailing. Nevertheless, several of these houses have been subject of alterations and additions, some of which, such as the dormer window in number 4, have introduced additional features. Furthermore, the apartment building at Cedar House - which is adjacent to the site, as well as other nearby buildings, are much more varied in style and form. For these reasons, the character and appearance of development in the area can reasonably be described as mixed.

8. Although composite cladding is not typical of other exterior materials observed in the houses at numbers 1-5, a large section of the Cissbury Avenue facing gable wall of Cedar House, is timber clad. Furthermore, given that the proposed cladding would have a 'timber effect' finish, it would have a similar appearance to that on Cedar House.

9. Nevertheless, given that the proposed cladding would not match or be similar to the exterior materials found in the host dwelling, it would not accord with the

materials section of the Worthing Borough Council Supplementary Planning Guidance – Extending or altering your home. However, the cladding would be erected on the exterior walls of the extension only. As such, and while glimpses of it would be possible from nearby roads and properties, its dark shade and location to the rear of the dwelling, would prevent it from being prominent or out of keeping in such views. Moreover, and due to the variety in the appearance of development in the area, the cladding would not detract from the collective distinctiveness of the houses at numbers 1-5 or, be incongruous with other development in the wider area.

10. For these reasons, the variation of the condition would not result in a form of development which would cause harm to the character and appearance of the area. Consequently, the development would comply with policy DM5 of the Worthing Borough Council Local Plan 2020-2036 – adopted 28th March 2023. Amongst other things, this policy requires development to be of a high architectural and design quality, and to respect and enhance the character of the site and the prevailing character of the area.

Other Matters

11. Even if extensions to other properties on Cissbury Avenue have incorporated external materials that match the host dwellings, this does not lead me away from my previous findings.

Conditions

12. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 of the of the Town and Country Planning Act 1990 (as amended) should restate the conditions imposed on earlier permissions that continue to have effect.

13. Given that the original permission has been implemented, there is no need to re-impose a condition specifying the time-period for the development to be commenced. The condition restricting the formation of windows and openings in the side walls of the of the extension is re-imposed, as I have insufficient evidence from which to conclude that it no longer continues to be relevant.

14. A condition regarding external materials also continues to be necessary, to protect the character and appearance of the area. That being the case, the materials condition of the original per condition is deleted, and an alternative condition imposed. This alternative condition permits the use of black composite cladding to the exterior walls of the extension, but requires the use of matching materials for other external surfaces.

Conclusion

15. For the reasons given above and having regard to the development plan as a whole and any other material considerations, I conclude that this appeal should be allowed.

V Simpson

INSPECTOR