The Planning Inspectorate

Appeal Decision

Site visit made on 1 March 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/X1735/D/23/3334836
Spindrift, Ferry Road, Hayling Island, PO11 0DG

- 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 Bruce Battersby against the decision of Havant Borough Council.
- The application Ref. APP/23/00450, dated 14 June 2023, was refused by notice dated 10 October 2023.
- The development proposed is first floor side extension.

Decision

1. The appeal is allowed and planning permission is granted for first floor side extension at Spindrift, Ferry Road, Hayling Island, PO11 0DG in accordance with the terms of the application Ref. APP/23/00450 dated 14 June 2023, and the plans submitted with it and subject to the conditions listed below.

    1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.

    2) 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.

    3) The development hereby permitted shall be carried out in accordance with the following approved plans: 18105-101C; 18105-111A; 18105-420A; 18105-520A.

    4) The flat roof on the first floor front (south) elevation of the development hereby permitted shall not at any time be altered or adapted to form a balcony, roof garden, terrace or similar amenity area without the grant of planning permission from the Local Planning Authority. Access to the flat roof shall be provided only in the case of emergencies and for maintenance purposes.

Preliminary Matters

2. The appeal sites history includes two appeal decisions, one from 2004 and the other from 2019. Extracts from the 2004 appeal decision are included within the Council's Delegated Report (CDR). However, I have not been provided with a copy of this decision or the plans that formed the basis of this decision and I am unable, therefore, to reach any findings on whether it is relevant or in any way comparable to the concerns now raised in relation to the current appeal

proposal. Moreover, I understand that this decision related to a proposal to demolish a chalet building on the site and construct a new two storey house.

3. Since 2004, various planning permissions have been granted to effectively redevelop the appeal site and to extend it further. As such, the planning circumstances that arise in relation to the current appeal appear very different from those that existed in 2004. The same applies in relation to local and national policies, as I allude to further below. For all these reasons, I have attached only limited weight to the Inspectors findings in the 2004 appeal.

4. In relation to the 2019 appeal, copies of both the Inspectors decision and the refused plans have been submitted in evidence. It is clear from these that the current application (appeal) has been submitted in response to this, which proposed a first floor rear, side and front extension that was dismissed on the 30 August 2019 (ref. APP/X1735/D/19/3230346) (2019 Appeal). I have had particular regard to that decision in determining this appeal.

5. The CDR and reasons for refusal both refer to the National Planning Policy Framework, but following the submission of the appeal a revised version of the Framework was published in December 2023. However, the policies that relate to local character and amenity remain unchanged.

Main Issues

6. The main issues are the effect of the proposed development on: (a) the character and appearance of the streetscene, and (b) the living conditions of the neighbouring occupiers.

Reasons

Character and appearance

7. The Council refer to policy CS16 of the Havant Borough Core Strategy (March 2011) (HBCS) which states that planning permission will be granted for new development that is designed to a high standard. Part 1 to the policy lists the criteria against which new development will be assessed including, amongst others, the need to respond to local context, existing features of local character and the characteristics of the locality so as to inform the design of development having regard to matters such as height, massing, building line, materials and proportions.

8. More up to date policies are to be found in the Framework. Whilst paragraph 135 of the Framework refers to new development being sympathetic to local character, it also states that this should not prevent or discourage appropriate innovation or change. The National Design Guide (January 2021) (NDG) reinforces the Framework, for example, at paragraph 44 by emphasising that well designed places do not need to copy their surroundings and that it is appropriate for new development to include innovation and change to reflect how we live today.

9. The Council also refer to the Borough Design Guide Supplementary Planning Document (December 2011) (Design SPD). The latter again predates the policies in the Framework and NDG. Even so, the Council have not drawn my attention to any specific paragraph in this Design SPD that they allege the proposal conflicts with. The only reference in the CDR, is where it states that

the proposal is considered contrary to the Design SPD in terms of the gaps between buildings and the character of the area.

10. Having reviewed the Design SPD, it appears that the relevant advice is at paragraphs 3.37 - 3.38, which requires side extensions to be subservient to the host, set back behind the main building line and with a lower ridge line so that it does not dominate the frontage. The angle or design of the roof should also be similar to existing and a gap retained with neighbouring buildings to help with the pattern of development.

11. The appeal proposal involves the construction of a first floor side extension that would be built above the existing flat roof to the ground floor, on the eastern side of the host property. The size, massing and height of the new extension is, in my view, modest. By incorporating a flat roof the height of the new extension would be restricted to some 2.35 metres. It would be set well back from the main building line to the host and would be tapered and thus narrower towards the rear. The ridge line to the proposed flat roof would sit at a much lower level than the main 'gull wing' roof to the host property, which rises to a peak on the western side of the host's main frontage.

12. Given the above, the proposal would, in my view, be subservient to the host property. I accept that the proposal would be closer than 2 metres to the boundary of the neighbouring property to the east (Sinah House), a distance that is referred to in paragraph 3.38 of the Design SPD. However, I note that the latter distance relates to two storey side extensions. Even so, the purpose of this guidance is to retain appropriate gaps between buildings and to resist development that would have a negative effect on those gaps and the pattern of development. Based on my observations on site and the submitted plans, I am satisfied that the proposal would still retain a reasonable gap with Sinah House and that the new extension would not result in any material harm to the existing pattern of development. As such, the proposal would be broadly in accord with the guidance in the Design SPD.

13. The appeal site forms part of a compact row of five detached houses fronting onto Ferry Road. Whilst the appeal property currently comprises a part two storey and part single storey house, the others in the row are predominantly two storeys, albeit the easternmost house, Windsong, has a second floor within a mansard style roof. All five properties vary in terms of their style, layout, roof forms, massing, materials and appearance. There is no uniform character and a number of the properties extend right up or close to the boundary with their neighbours. Within this context and mindful of the revised design of the proposed extension compared to that in the 2019 Appeal, I am satisfied that it would not appear out of keeping with the existing rhythm of development and would not result in any harm to the spatial characteristics or the setting of the streetscene.

14. I accept that there would be a change to the appearance of the front elevation of the host property, but, even so, the flat roofed design, set back and the use of the same pallet of materials to existing, would enable the proposed addition to integrate well with the design of the host, whilst also being subservient to it, and to its immediate neighbours. Overall, I am satisfied that the impact of the proposal on the streetscene would be modest, that the new extension would sit comfortably on the appeal site and that it would not appear visually prominent or cramped.

15. Turning to the 2019 Appeal, the revised proposal is, in a number of respects, materially different to the scheme dismissed by that Inspector. The proposal before me is set well back from the main front wall to the host, whereas the 2019 scheme was flush with this wall. It is set in marginally towards the rear moving the new extension further away from the boundary with Sinah House at this point. The 2019 scheme included a 'gull wing' roof, whereas the current proposal is for a flat roof, which is, therefore, much lower and subservient to the host. The 2019 scheme also included bi-fold doors and a Juliet balcony on the front elevation, which have been replaced by a much smaller window that further accentuates the subservience and modest scale of the proposal.

16. In view of the above, I am satisfied that the majority of the concerns raised by the 2019 Appeal Inspector, in relation to this issue, have been addressed. The fact that the proposal would promote the effective use of land, in accord with paragraph 123 of the Framework, also lends further support to my findings on this issue.

17. Accordingly, I find that the appeal proposal would not result in any harm to the character and appearance of the streetscene and would comply with policy CS16 of the HBCS, the Design SPD and the policies of the Framework and NDG.

Living conditions - neighbours

18. Whilst the Council refer to policy CS16 of the HBCS, I have assumed that it is part 1 e) that they contend the proposal is in conflict with. This states that new development should not "*cause unacceptable harm to the amenity of neighbours*" through smell, noise, loss of privacy, outlook and overlooking. The supporting text to the policy does not expand on this further.

19. The Council also refer to the Design SPD, but again neither their reason for refusal nor CDR provide any reference to the guidance that they allege the proposal would conflict with. Paragraphs 5.37 – 5.38, referred to earlier, do not include any guidance on the amenity considerations that might arise or any test that should be applied to side extensions.

20. The Design SPD does address issues of loss of light and outlook but only in relation to rear extensions, with paragraphs 5.43 - 5.44 advising that such relationships should be assessed using, in plan and in elevation, the 45^0 test. There is no suggestion from the Council that the proposed extension conflicts with this or any similar test (standard). The SPD also refers to the use of 'Daylight & Sunlight' indicators, but again the Council do not allege that the proposed extension would infringe those standards.

21. The side (west) elevation to Sinah House is stepped, with its main gable ended elevation sited to the east of the host property. The first floor room within this gable end is a bedroom. It is not a long room. Moreover, whilst bedrooms are commonly served by one window, this bedroom is served by two large principal windows, located at either end of the room. The window facing the front (south) comprises three good sized window panes. The window facing the rear (north) is a bay window, with four good sized window panes, as well as side panes, one of which looks towards the host property. As well as these windows, either side of the chimney in the gable end, also serving the bedroom are two small high level porthole windows.

22. Due to the set back of the proposed extension at the front, its tapering towards the rear and as Sinah House angles away from the common boundary with the host, the proposal would not have any material impact of the principal windows to the bedroom. The light, outlook and long ranges views that the occupiers of Sinah House enjoy from their bedroom, through these windows, would not be affected by the proposal. Whilst it would be possible to view the proposal from the side pane to the rear bay window, the new extension would not have any material impact on the light, outlook and long range views from that window.

23. In relation to the high level porthole windows, they are clearly not the main or principal source of light, outlook and views to the bedroom. As they have a high cill level and are small in size, they are, in my view, more of a feature. Whilst they allow light into the bedroom and views of the sky, their amenity benefit is limited by their size and height, and as such their value to the living conditions of this room are significantly less than the principal windows. Even so, as I indicated earlier, material changes have been made to the 2019 Appeal scheme that the Inspector found would be harmful in this respect. The height of the extension has been reduced to include a flat roof, and its side elevation would be tapered at the rear, moving it away from the porthole windows. All of the proposed changes would allow for a higher level of light and outlook to the porthole windows compared to that in the 2019 Appeal scheme.

24. I accept that there would be some impact on the light and outlook from these porthole windows, but for all the above reasons, I am satisfied that the level of impact would be modest and would not be so significant on its own as to justify the refusal of planning permission. In terms of part 1 e) of policy CS16 of the HBCS, the proposal would not result in "*unacceptable harm to the amenity of neighbours*". In reaching that finding, I have attached significant weight to the existence of the principal windows that serve the bedroom to Sinah House. These windows provide, in my view, a very high standard of amenity for the occupiers due to the long range views they afford, their unrestricted outlook and also the significant levels of light that they allow into the bedroom. I have also had regard to Figure 14 in the Appellants Ground of Appeal, as well as the submitted Proposed Site Plan. These show 45^0 and 25^0 angles drawn from the porthole windows to the proposed extension. Such test are commonly used to assess the acceptability of proposed building relationships and impact on light and outlook. Both indicate that the porthole windows would still receive a reasonable level of light and views of the sky.

25. Whilst some of the Inspectors reasoning and concerns in the 2019 Appeal were not, as I have set out above, ones that I fully share, I am satisfied overall that the changes made to the proposed extension address the concerns raised in relation to the impact on the porthole windows to Sinah House, and that for all the reasons set out above the appeal proposal is, in this respect, acceptable.

26. Accordingly, I find that the proposed first floor extension would not adversely affect the outlook and light to the neighbouring occupiers at Sinah House and that the appeal proposal would not result in any significant harm to their living conditions.

27. The proposal would thus comply with part 1 e) of policy CS16 of the HBCS, the Design SPD and paragraph 135 f) of the Framework.

Conditions

28. I have considered the Council's suggested conditions against the advice in the Framework and the Planning Practice Guidance chapter on the use of planning conditions.

29. Conditions requiring materials to match existing and for compliance with the approved plans, are necessary and reasonable in order to secure a high-quality development. I have added a list of approved plans for clarity.

30. I have also added a condition that requires planning permission to be obtained to use the flat roof, on the front (south) side of the first floor, as a terrace or balcony or amenity area, and to only allow access in the case of emergencies or for maintenance purposes . This is reasonable and necessary, in my view, in that it reflects the details shown in the application and is required to protect the living conditions of neighbouring occupiers.

Conclusion

31. For the reasons given above and having taken all the matters raised into account I conclude that the appeal should be allowed.

G Roberts

INSPECTOR