



Appeal Decision

Site visit made on 24 January 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2019

Appeal Ref: APP/D3640/D/18/3217666

39 Frimley Road, Camberley, Surrey GU15 3EL

- 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 Ian Russel against the decision of Surrey Heath Borough Council.
 - The application, Ref. 18/0663, dated 16 July 2018, was refused by notice dated 14 September 2018.
 - The development proposed is a dormer side extension to the existing roof.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The dormer side extension has been constructed and is already in use, at least to some extent. The appeal application is therefore for retrospective permission.

Main Issues

3. The main issues are (i) the effect of the dormer on the character and appearance of the host dwelling and its surroundings, and (ii) the effect on the living conditions for the occupiers of No. 41 Frimley Road as regards privacy and outlook.

Reasons

4. On the first issue, I saw on my visit that Frimley Road has a varied street scene in terms of both house types and sizes and their positions on their plots. No.39 is on a narrow plot and occupies most of its width to bring it close to both of the side boundaries. It is closest to No. 37, with which it shares a front building line, but because of the presence of large evergreen trees along the front boundary of that property the appeal dwelling is read mainly with No. 41 in the street scene.
 5. The main part of No. 41 is two storey and set away from the boundary with No. 39, this space being occupied by an attached pitched roof single storey building tight to the shared boundary and extending from its recessed position at the front to project beyond the rear elevation of No. 39. The front elevation of the appeal property includes a full height gable set back from the front of No. 41 by several metres.
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6. The tile clad flat roofed dormer, which with its 9m length along the side elevation and more than 3m height, occupies the great majority of the roof plane on this side of the appeal dwelling to a depth of 3.2m. The Council's Residential Design Guide SDP 2017 ('the Council's Design Guide') says in 'Principle 10.5' that dormer windows should not occupy more than half the width and depth of the roof slope, and the extension in this case easily exceeds those limits. Furthermore, in addition to being disproportionate, the dimensions are such that it is a very large extension in absolute terms.
7. In views from Frimley Road, there is a sufficient gap at roof level between Nos. 39 and 41 for the extension's length, height and depth and therefore overall scale to be clearly seen. In addition, the flat roof forms the skyline to this side of the building, which when read in conjunction with the apex of the front gable gives further emphasis to the dormer's size.
8. The Council says that the dormer unsympathetically dominates and overwhelms the host dwelling and also undermines the streetscape through damage to its spacious and open character. However, the grounds of appeal argue that because the building form in the road is mixed with many different forms of architectural styles, the dormer is of a scale and design appropriate in the context of the street and its surroundings.
9. This is not a matter on which I can be easily persuaded by either party, as it is inevitably a matter of planning judgement from my own objective assessment on a first and only visit to Frimley Road and the property, albeit supplemented by all I have read in this appeal. In forming that judgement, I conclude that through a combination of its poor design, large size and prominent position the dormer is harmful to the character and appearance of the host dwelling. As such, it is highly likely to draw the eye to passers-by in Frimley Road, especially to those travelling north westwards or joining the road from Alexandra Avenue almost opposite. Having caught attention, I regard it as equally probable that the dormer would be perceived negatively by anyone who lives close by or who otherwise takes an interest in the character and appearance of their surroundings.
10. In fairness, the harmful impact is to some extent mitigated by the fact that No. 39 is in a set back position relative to No. 41, but this is insufficient to avoid my conclusion that the harm caused would be in clear conflict with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies Document 2012; the relevant 'Principles' in the Council's Design Guide, and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018 ('the Framework').
11. Turning to the second issue, the Notice of Refusal refers to the opening windows in the dormer causing a '*loss of privacy and overlooking*' for occupiers of No. 41 (this is in fact a tautology because it is the overlooking that causes the loss of privacy). From my internal inspection of No. 39, I saw that the three windows concerned (the middle one to a bathroom and those on either side to two more rooms capable of habitation rather than just storage) are obscure glazed. There is no view at all through this glazing, but the windows are currently openable to an extent that does give a direct birds eye view of a large part of No. 41, including some windows, and its rear garden. I consider that the height and the flank position of these openable windows at No. 39 results in

views far more intrusive than those that are available from the rear elevation of the house, and accordingly there is an unacceptable loss of privacy.

12. Both the Council and the appellant refer to the imposition of a planning condition that could require the windows to be permanently fixed shut at a height of 1.7m above the internal floor area. And together with the retention of the opaque glazing this would satisfactorily resolve the actual loss of privacy and also the perception of being overlooked. This is provided that the occupier of No. 41 is informed of the situation and that in the event of any breach of the condition the Council uses its enforcement powers to remedy the breach.
13. However, I also consider that there is a further issue, namely the effect of the dormer on the outlook from No. 41. The officer's report considers this in some detail and concludes that because the external amenity areas of No. 41 are further away from the dormer than the single storey element of that dwelling (between 4m and 9m further), the structure is *'not considered to be adversely overbearing'*.
14. Because of this finding, the grounds of appeal have seen no need to address the matter, and I do not necessarily find any fault in that. Nonetheless, the opinion of the occupier of No. 41 is very much that the dormer is in fact overbearing and dominating in relation to her garden area, and for this reason the matter is also before me in this appeal.
15. I accept that because of its greater proximity, the dormer's effect on the outlook from No. 41 would be greater if it was possible to stand where the single storey side extension is located, albeit there are still some views of it from inside this and other parts of the house. However, I share the opinion of this neighbour that from almost any vantage point in the fairly modestly sized garden, but particularly from the patio near the conservatory (arguably the most used part of the garden for sitting out on fine summer days and evenings), the dormer is a looming, dominating and oppressive feature.
16. I have not been informed whether the planning officers, or indeed the appellant and his planning consultant, have seen the dormer from outside the rear of No. 41. But having done so at my visit I was left in no doubt that the dormer is reasonably perceived as having altered the skyline in the outlook from the garden to a degree that substantially reduces the level of amenity that the occupiers of No. 41 would have enjoyed before its construction.
17. For this reason, I conclude on the second issue that the appeal scheme has an unacceptable effect on the living conditions in terms of outlook (as well as privacy until such time as the windows are altered) for adjoining occupiers. This would be in harmful conflict with principle (iii) of the aforementioned Policy DM9 and paragraph 127f) of the Framework.
18. The grounds of appeal refer to the Certificate of Lawful Development of 2011 and the procedural anomaly whereby had the dormer been built pursuant to that, and before other extensions to the property, it would be lawful. This is unfortunate for the appellant and I also accept that there was never any intention to construct an unlawful addition to the property.
19. I have had regard to the 'fallback' position whereby the dormer could be retained by the demolition of the two storey side extension built under

permission reference 16/0956 to allow the dormer to be ascribed permitted development rights. The demolished extension could then be re-built under the terms of its permission.

20. However, whilst I accept that having regard to Case Law this is a material consideration in this appeal, it is not one to which I afford significant weight. It is a particularly contrived, difficult and expensive solution that I consider unlikely to be adopted. Moreover, I also take the view that it would not be in the public interest for me to conclude in an appeal decision that the possibility the fallback would come about should be allowed to outweigh my conclusion as to the actual harm caused in respect of the two main issues in this appeal.
21. For the reasons explained, the appeal is dismissed.

Martin Andrews

INSPECTOR