
Appeal Decision

Site visit made on 26 September 2016

by Rachel Walmsley BSc MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st October 2016

Appeal Ref: APP/X3405/W/16/3145458

Land to the rear of 58 Brownhills Road, Norton Canes, Cannock WS11 9SE

- 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 Trevor Bartlett against the decision of Cannock Chase District Council.
 - The application Ref CH/15/0396, dated 28 September 2015, was refused by notice dated 17 February 2016.
 - The development proposed is a new 2 bed dwelling and associated amenity.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appellant submitted a revised plan¹ showing possible alterations to the roof. In the absence of any consultation on this plan, to accept it at the planning appeal stage would prejudice the interests of local residents and other interested parties. For this reason, therefore, I have not accepted the plan. This appeal, therefore, is determined on the drawings² considered by the local planning authority at the time it made its decision on the planning application.

Main Issue

3. This is the effect of the proposal on the living conditions of the occupiers of No 1 Ivy Gardens, with particular regard to outlook and daylight.

Reasons

4. The appeal site extends across the rear garden boundary with No 1 Ivy Gardens. A fence, approximately 2 metres high separates the appeal site from the garden of No 1. Within the rear elevation of No 1 and facing the appeal site is a window to a kitchen, and adjoining the rear elevation, a conservatory which is used for dining. Within the garden of No 1 is a shed and part of an existing garage.
5. The proposed dwelling would be within a direct line of vision from the kitchen window at No 1. Along a direct line taken from the window to the side elevation of the new dwelling, the development would be over 10 metres away.

¹ Consultation drawing Plan No: 0398-40.

² Planning Permission Application, Plan No: 0398-30B & 0398-31B.

Whilst the SPD³ concerns residential extensions, it also refers to design standards which are applicable to residential development as a whole. A distance of over 10 metres would meet the guidance set out in paragraph 3.10 of the SPD and therefore the development would not dominate the outlook from the kitchen.

6. However, from within the field of vision from the kitchen window and from the conservatory at No 1, the two storey element of the new dwelling would be visible above the existing garage which extends into the garden of No 1. This would enclose the views from the kitchen window and the conservatory, creating a sense of enclosure and resulting in these spaces feeling oppressive to their occupants. As a result the development would have an unacceptably overbearing visual impact on No 1, contrary to Policy CP3 of the Local Plan⁴ and the SPD which require development to protect the amenity enjoyed by existing properties.
7. The SPD recommends that there is not an obstruction of light above a vertical angle of 25 degrees and within a horizontal sweep of 45 degrees of the windowpane. The new dwelling would be within the 25 degree angle and therefore would limit levels of daylight into the kitchen space at No 1. This would create a darkened space for its occupants which in turn would be harmful to their living conditions.
8. I appreciate the work that has been undertaken to address concerns raised in a previous planning appeal⁵. Nevertheless, I have found that the development as proposed would be harmful to the living conditions of the occupiers of No 1 Ivy Gardens with regards to outlook and daylight and therefore would be contrary to Policy CP3 and the SPD.

Other matters

9. I have considered the appellant's suggestion of securing the revised drawing (Plan No: 0398-40) by condition. However, to do so would deprive interested parties the opportunity to comment on the revised details. A condition to this effect, therefore, would not meet the tests set out in paragraph 206 of the National Planning Policy Framework.

Conclusion

10. For the reasons given above, the proposed development would be contrary to the development plan and therefore the appeal is dismissed.

R Walmsley

Inspector

³ Cannock Chase Council, Residential Extensions Design Guide.

⁴ Cannock Chase Local Plan (Part 1) 2014.

⁵ APP/X3405/W/15/3003346