
Appeal Decision

Site visits made on 19 September and 18 October 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 11 November 2016

Appeal Ref: APP/Z3445/D/16/3157077

16 Yenton Close, Fazeley, Tamworth, Staffordshire B78 3LH

- 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 Darren Brady against the decision of Tamworth Borough Council.
 - The application Ref 0183/2016, dated 28 April 2016, was refused by notice dated 21 June 2016.
 - The development proposed is rear single storey kitchen extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development has already been carried out so the appeal relates to a retrospective planning application seeking to retain an existing single storey rear extension.
3. An additional site visit was made as detailed above in order to view the appeal site from the rear of the neighbouring property at 14 Yenton Close.

Main Issues

4. The main issue is the effect of the development on the living conditions of the occupiers of the adjoining dwelling at 14 Yenton Close, with particular reference to outlook and light.

Reasons

5. The appeal site at 16 Yenton Close comprises a two storey semi-detached dwelling which adjoins a similar dwelling at No 14. Planning permission was granted for a single storey rear extension under planning ref 0518/2015. Construction was commenced but changes to the approved scheme required a further planning application which is the subject of this appeal.
6. The rear extension is 7 metres wide, 4 metres deep and about 3.3 metres high with a flat roof and a render finish to external walls. It occupies much of the width of the existing house, which includes a two storey side extension, and is a relatively substantial structure.
7. The side elevation is, according to the Council, about 2 metres from the mid-point of the habitable room at the rear of No 14, a figure which has not been disputed. That room has sliding patio doors leading into the garden. Though

there is a close boarded fence on the shared boundary about 2 metres high, the side elevation of the extension is significantly higher. Its 4 metre depth means that the side wall occupies the full width of two of the fence panels, the second of which drops in height slightly towards the garden. Furthermore, there is a large unsightly cavity at the top of the side elevation, which feeds into guttering to drain rainwater from the flat roof of the extension. I consider that the scale and size of the extension combined with its close proximity to the shared boundary results in an overbearing effect on the habitable room and garden area to the immediate rear of No 14.

8. Much of the appellant's case relies on the extent of the changes in comparison with the previous granted planning permission. However, the Council have indicated that the decision to grant permission on that occasion was very much on the limits of acceptability. In any event, I am considering the merits of the appeal before me rather than simply comparing it with a previous scheme.
9. The appellant's agent also states that but for an existing two storey side extension at No 16, the rear extension would have fallen within permitted development and seeks to apply dimensions which relate to those rights. Whilst that may be, the fact remains that planning permission is required for the new extension, so I do not give that argument significant weight in reaching my decision. Other comparable extensions in the area are referred to by the appellant but no specific details or locations are provided.
10. The rear of No 14 faces in a north westerly direction. In the absence of any alternative technical evidence and given the acceptance that the 45 degree rule has been transgressed, I see no reason not to concur with the Council's professional judgement that the height and depth of the extension together with its proximity to the shared boundary would significantly reduce light reaching the rear of No 14. Loss of light to neighbouring properties is a legitimate planning consideration and forms part of the rationale for the 45 degree rule already discussed.
11. Policy EN5 of the Tamworth Borough Council Local Plan 2006-2031 Adopted February 2016 (the Local Plan) states that development will be expected to minimise or mitigate environmental impacts on occupants of neighbouring land including a sense of enclosure or loss of light. Whilst a supplementary planning document giving more detailed design guidance has yet to be published leading the appellant to suggest that there is no guidance to follow, the policy clearly states the considerations that should be taken into account. Planning professionals would be aware of the practical implications of such policy considerations and employ conventions such as the 45 degree rule to design appropriate schemes.
12. Overall, the height and size of the extension with a blank render wall close to and rising significantly above the boundary fence has an overbearing and enclosing effect on the rear of No 14. It also has an adverse effect on light reaching the rear area of that property. Consequently, I conclude that the development does significantly harm the living conditions of the occupants of No 14 with particular reference to outlook and light. It follows that the development conflicts with policy EN5 of the Local Plan and the National Policy Planning Framework, insofar as they seek to ensure that development does not have significant adverse effects on the living conditions of occupiers of neighbouring land.

Other Matters

13. Whilst I understand the appellant's desire to continue to improve the quality of accommodation for his family, only limited weight can be attached to such personal circumstances and they are not sufficient to outweigh the harm that I have identified.

Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR