

Appeal Decision

Site visit made on 13 December 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 16th January 2017

Appeal Ref: APP/U4230/D/16/3158538
72 Ellesmere Green, Eccles, M30 9EZ

- 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 Jason Capps against the decision of Salford City Council.
 - The application Ref 16/68135/HH, dated 26 April 2016, was refused by notice dated 22 June 2016.
 - The development proposed is single-storey rear extension to existing residential property to form family room.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of No 73 Ellesmere Green with regard to loss of sunlight and overshadowing.

Reasons

3. The appeal property is an end terrace house fronting onto Ellesmere Green. The extension has been constructed and is approximately 3.5 metres in depth. It is in close proximity to rear patio doors and a decking area in the neighbouring garden of No 73 Ellesmere Green, which is located to the north.
 4. The flank wall of the extension runs along the shared boundary with No 73, and is significantly higher than current the boundary fence. By virtue of its size and position, it significantly overshadows the part of the garden closest to the house, including the decking area. As the garden to No 73 is located to the north, the extension will block sunlight and cause overshadowing throughout the day. Whilst the layout of the surrounding properties may allow a small amount of additional light to reach the rear of the terrace, this does not offset this harm.
 5. A smaller single storey extension of 3 metres in depth could be built under permitted development. However, the appellant states that ground conditions and infrastructure prevent an extension of 3 metres in this case, and that a smaller extension would not meet their requirements. I cannot therefore be certain that this represents a realistic alternative. In these circumstances I must assess the impact of the development as a whole.
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6. An extension of up to 6 metres in depth is allowed under permitted development, in the absence of objections, via prior approval. However, there is no provision for a retrospective application for prior approval in Part 6 of the General Permitted Development Order 2015. This route is therefore not available to the development. This would have been the case regardless of whether an objection was received.
7. The appellant states that a Council Officer indicated that the application would receive a favourable outcome during onsite discussions. However, I do not have the Council Officer's version of events, and informal discussions are not binding on the Council in any case.
8. I conclude that the development is unacceptably harmful to the living conditions of the occupiers of No 73 Ellesmere Green with regard to loss of sunlight and overshadowing. It is therefore contrary to Policy DES 7 of the Salford Unitary Development Plan (2006), and guidance contained in Policy HE 5 of the House Extensions Supplementary Planning Document (SPD) (2006). This policy and guidance seek to ensure a satisfactory level of amenity for adjacent occupiers.
9. In coming to that view, I have had regard to the appellant's contention that the House Extensions SPD is now out of date in light of changes to permitted development. However, I have found that the development has a harmful effect on the living conditions of No 73, which justifies withholding permission in this case.

Other Matters

10. Whilst the extension respects the character and appearance of the area, and makes use of matching materials, these are ordinary requirements for new development.
11. Party wall and leasehold matters are not part of the planning regime and so are not relevant to my decision.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR