

Appeal Decision

Site visit made on 17 January 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 9 February 2017

Appeal Ref: APP/T3725/D/16/3153954

68 Thornby Avenue, Kenilworth, Warwickshire CV8 2DY

- 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 Bhu Sandhu against the decision of Warwick District Council.
 - The application Ref W/16/0429, dated 29 February 2016, was refused by notice dated 28 April 2016.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 68 Thornby Avenue, Kenilworth, Warwickshire CV8 2DY in accordance with the terms of the application, Ref W/16/0429, dated 29 February 2016, subject to the following conditions :
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 8102-01.
 - 3) 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.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the neighbouring occupiers at 66 Thornby Avenue (No 66) with particular regard to sunlight, daylight and outlook.

Reasons

3. The appeal property comprises one of a pair of semi-detached houses located within a mainly residential area. There is an existing single storey extension across part of the rear elevation of the host dwelling but this does not adjoin the boundary with No 66. This extension would be removed and a full width extension across the whole of the rear elevation with a shallow pitch lean-to roof would be built.
 4. There is an existing single storey extension at the rear of No 66 which adjoins the boundary with the host dwelling and there are patio doors in the rear elevation of this extension. The proposal would breach a 45 degree line from the mid-point of these patio doors. Within the Council's Supplementary
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Planning Guidance: '*The 45 degree guideline*' (SPG) it states that where an extension contravenes this line then it may be considered to have an unreasonable effect on the neighbouring property by reason of loss of daylight or sunlight and by creating an unneighbourly overbearing effect.

5. The Council make no differentiation between sunlight and daylight in the Officer's Report. The patio doors in rear elevation at No 66 are approximately north facing and so receive no direct sunlight. I shall therefore concentrate on the effect on daylight. There is a hedge and a boundary fence of around 1.8 metres high between No 66 and the appeal property. The top section of the flank wall of the extension would project above this boundary treatment for a distance of about 1.8 metres beyond the extension at No 66.¹ However, I consider that, given the marginal increase of wall above the fence and the low pitch roof, the appeal scheme would not have a significant shading effect on the neighbouring property. No technical evidence has been submitted, but my assessment of the appeal site and its relationship to the proposed development lead me to conclude that it is likely that the proposal would not significantly reduce the amount of daylight received through the patio doors to No 66.
6. Although the Council refer to outlook in its Office's Report it is not referred to in its reason for refusal. As stated above the flank wall will be visible above the fence but taking into account the limited projection beyond the patio doors and the hedge that is within No 66's garden, on this boundary, any overbearing effect would be appreciably softened. As a result I consider that the extended building would not be experienced by the occupants of No 66 as overbearing from the dwelling or the garden.
7. In conclusion the proposal would not adversely impact the living conditions of the neighbouring occupiers of No 66 with particular regard to sunlight, daylight and outlook. Despite technical breaches of the guidelines in the SPG, the site specific circumstances of this appeal mean that the scheme would still comply with the overall sunlight, daylight and outlook aims, of the guidance. As such the proposal would comply with Policy DP2 of the Warwick District Local Plan which requires that development does not have an unacceptable adverse impact on the amenity of nearby residents.
8. In order to provide certainty as to what has been permitted I have imposed a condition specifying the relevant drawings. In the interests of character and appearance, it is necessary to impose a condition requiring matching materials.
9. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR

¹ Measurement taken from appellant's statement of case