
Appeal Decision

Site visit made on 28 March 2017

by Beverley Doward BSc BTP MRTPI

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

Decision date: 7 April 2017

Appeal Ref: APP/A1015/D/17/3169582

47 Tapton View Road, Chesterfield, Derbyshire, S41 7JY

- 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 Mrs Yasmin Shafiq against the decision of Chesterfield Borough Council.
 - The application Ref CHE/16/00648/RET, dated 15 September 2016, was refused by notice dated 30 November 2016.
 - The development proposed is described as "single storey extension. It is a play/study room for my children. I have 6 children so we require extra space. It is around the existing kitchen."
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant indicates that she was advised by her initial builder that the single storey extension did not require planning permission. However, this is not a matter for me to determine in the context of an appeal made under Section 78 of the Town and Country Planning Act 1990. It is open to the appellant to have the matter determined under Sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.

Main Issue

3. The main issue in this case is the effect of the single storey extension on the living conditions of the neighbours at No 45 with regard to outlook, perception of privacy and light.

Reasons

4. The appeal site is a semi-detached dwelling in a residential area. The single storey flat roofed extension has been built. It projects about 6.1m from the rear wall of the dwelling alongside the boundary with the adjoining property at No 45 filling the space between the boundary fence and an existing two storey rear extension. It projects beyond and wraps around the two storey extension to extend across the entire width of the appeal property.
 5. At my site visit I had the opportunity to view the extension from the ground floor kitchen window of No 45 and its rear garden. The proximity of the extension to the boundary with No 45 coupled with its length and the topography of the area, the rear garden of No 45 being set at a lower level
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than its neighbours, means that the extension appears an imposing structure which is oppressive and overbearing when viewed from both the ground floor kitchen window of No 45 and from its rear garden thereby compromising the living conditions of the neighbours at No 45.

6. The extension has three high level horizontal windows in the eastern side elevation facing No 45. The windows are visible above the boundary fence between the properties and although they do not impact on the privacy of the neighbours at No 45, being obscure glazed and fixed non-opening, due to their very immediate relationship to the garden area of No 45 they result in an increased sense of overlooking to the detriment of the living conditions of its occupiers.
7. The orientation of No 45 is such that its kitchen window is likely to have previously had a somewhat dark aspect. However, it seems to me that this will have been exacerbated by the position of the extension which fails the 45 degree test which, as indicated in the Council's Successful Places: Place Making Principles Supplementary Planning Document 2013 (SPD), serves as a guide as to whether a window affected by a side extension is likely to experience a significant reduction in daylight.
8. Having regard to the above therefore, I conclude that the single storey extension causes material harm to the living conditions that the neighbours at No 45 might reasonably expect to enjoy by way of outlook, perception of privacy and light. Accordingly, it fails to comply with policies CS2 and CS18 of the Chesterfield Borough Council Local Plan: Core Strategy 2011-2031 (2013) which taken together seek to ensure that, amongst other things, new development has an acceptable impact on the amenity of users and neighbours. In addition it fails to comply with the advice contained in the Council's SPD in relation to daylight. The development is also contrary to the core planning principle of the National Planning Policy Framework that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings.
9. The appellant indicates that the adjoining neighbours did not object to the extension at the time it was being built. However, concerns were raised at the planning application stage regarding privacy and overshadowing. In any event it is incumbent upon me to consider the proposal on its merits having regard to the specific context of the site and its surroundings and the relevant development plan policies. The appellant also indicates that the extension is necessary to provide extra space for her family. However, I have found above that the proposal would cause material harm to the living conditions of the occupiers of the neighbouring property at No 45 and I am satisfied that the legitimate aim of granting planning permission in accordance with the development plan and planning policies which require buildings not to be harmful to neighbouring living conditions can only be adequately safeguarded by the refusal of permission. I consider that the dismissal of the appeal would not have a disproportionate effect on the appellant or her family.
10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Beverley Doward INSPECTOR