
Appeal Decision

Site visit made on 15 May 2017

by Elaine Benson BA (Hons) DipTP MRTPI

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

Decision date: 09 June 2017

Appeal Ref: APP/C1760/D/17/3171282

12 Jubilee Road, Romsey SO51 8FU

- 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 and Mrs T Rees against the decision of Test Valley Borough Council.
 - The application Ref 16/02665/FULLS, dated 11 October 2016, was refused by notice dated 20 December 2016.
 - The development proposed is a two-storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed extension on the living conditions of neighbouring occupiers at 6 Malmesbury Road (No 6) by reason of its proximity.

Reasons

3. It is proposed to add an extension to the side of the appeal property (No 12) which is an end semi-detached house close to the junction with Malmesbury Road. The house has a wide side garden and a smaller, roughly triangular back garden. No 6 is set at an angle to No 12 and has a short back garden, with more land on the side. Its kitchen and a bedroom window look onto the side elevation and back garden of No 12. The proposed extension would be almost as deep as No 12 and would therefore also extend along the width of No 6, including its well-used patio area. The extension would stand in close proximity to the boundary fence between the 2 houses and would significantly reduce the distance between the 2 elevations. The relationship with No 6 is the crux of this appeal.
 4. In determining acceptable distances between existing and proposed development, the Council refers to the *Technical Guidance for Permitted Development for Householders* (DCLG 2014). I am informed that this document states that where the extension or enlarged part of the house has more than one storey, it must be a minimum of 7m away from the boundary of the land surrounding any house opposite. I consider this guidance helpful, but this decision has been made based on the evidence and my observations made at the site visit.
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5. The appellants consider that the issue of assessing whether a proposed development would be overbearing is subjective, weak and hard to demonstrate quantifiably. I acknowledge that it is subjective. However, my assessment is based upon my professional judgement and experience. Having considered all of the evidence put forward and my observations made at both properties, I conclude that the side of the proposed extension would be too close to the neighbouring No 6 and would create an overbearing relationship which would harm the living conditions of its occupiers. The resulting relationship that I describe above is not, in my view, one typically found where one street meets another at a right angle as the appellants suggest. The fencing and conifers along the common boundary do not adequately ameliorate the identified loss of amenity and do not therefore affect my conclusions.
6. The scheme of recently built retirement apartments visible on the opposite side of Jubilee Rd from No 12 does not have the same relationship with the appeal site as that between No 12 and No 6. Due to the entirely different contexts and the greater distances between No 12 and the recent development opposite, the schemes are not comparable. Nonetheless, I note that the appellants consider that this scheme is overbearing, although it is significantly further away from No 12 than No 12's extension would be from No 6.
7. There is a professionally prepared daylighting and sun study which demonstrates that the extension would not result in an unacceptable loss of sun light to the neighbouring house or garden, nor unacceptable overshadowing. The Council states that the study corresponds with shadow diagrams prepared by the case officer and does not object on these grounds. There are no convincing reasons to disagree and I find that in respect of these matters there is no conflict with Policy LHW4 of the Test Valley Borough Revised Local Plan (2016) (LP), although they do not affect my concerns set out above.
8. The appellants refer to the effect of the Council's decision on their Human Rights. They state that they have been denied the right to enjoy a family life by the Council's decision to refuse to allow additional accommodation to enable family members to look after them due to their failing health. This statement must necessarily also apply to this appeal decision. The appellants' personal circumstances have been taken into account but there is insufficient evidence of any current need for care for the appellants to enable significant weight to be given to this matter. On the other hand, I give significant weight to the impact of the proposal on the living conditions of the adjoining occupiers. The individual circumstances of an appellant have to be balanced against the interests of the general population. In this case I have found that the proposal would fail to conserve the living conditions of the occupiers of a neighbouring property and I am satisfied that this legitimate aim can only be safeguarded by the refusal of planning permission. This decision is proportionate in the circumstances of the case.
9. To conclude on the main issue, the space between the side elevation of the appeal proposal and the rear elevation and private garden area of No 6 would be significantly reduced. The proximity, height and depth of the extension would create an unacceptably overbearing effect on the living conditions of the neighbouring occupiers. For this reason the proposal is contrary to LP Policy LHW4. Among other things this policy allows development which provides for

the privacy and amenity of adjoining residents and does not reduce levels of daylight and sunlight to below acceptable levels.

10. In terms of other matters raised, there are no objections to the design of the extension or its impact on the streetscene and I concur. I note that if the appellants' family were to move into the proposed development with the appellants that this would free up a family home to the housing rental market elsewhere. However, this does not outweigh the concerns I have identified. The neighbours' are concerned about construction noise and disturbance. However, this would be temporary and would not justify dismissing the appeal, notwithstanding that much development has occurred in the locality in recent months.
11. For the reasons given the appeal should be dismissed.

Elaine Benson

INSPECTOR