

Appeal Decision

Site visit made on 20 July 2017

by N McGurk BSc (Hons) MCD MBA MRTPI

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

Decision date: 10 August 2017

Appeal Ref: APP/C4615/D/17/3176529

43 Grange Road, Halesowen, B63 3EF

- 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 Melap Singh against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P17/0343, dated 3 March 2017, was refused by notice dated 28 April 2017.
 - The development proposed is a retrospective application for the retention of the existing raised patio, steps and balustrading to the rear including remedial works.
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Decision

1. The appeal is allowed and planning permission is granted for a retrospective application for the retention of the existing raised patio, steps and balustrading to the rear including remedial works at 43 Grange Road, Halesowen, B63 3EF in accordance with the terms of the application, Ref P17/0343, dated 3 March 2017, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The development the subject of this appeal has already taken place.
3. Planning permissions¹ were recently granted at the appeal property for a single storey rear and two storey front, side and rear extension; and for a two storey side/rear and single storey rear extension with raised patio, fencing and steps, a loft conversion, a new front porch and canopy roof and erection of a detached garden room at rear with patio (part retrospective).
4. The Council confirms that, during the previous application (P16/1368), there were discussions with the appellant's agent to address issues caused by the development of the raised patio and high fencing and that it was agreed that a large rectangular section of the patio adjacent to the boundary with No 45 Grange Road should be removed, the fencing reduced in height and an additional privacy panel added. The Council states that the application was approved on this basis.
5. The appellant confirms that the application the subject of this appeal seeks to retain the patio and fencing in its current position and add an obscure glazed panel to obstruct views over the neighbouring garden.

¹ Ref: P16/1142 and P16/1368.

Main Issue

6. The main issue in this case is the effect of the proposed development on the living conditions of the occupiers of No 45 Grange Road, with regards to privacy and daylight.

Reasons

7. The appeal property is a two storey detached dwelling. It is located in a residential area, largely characterised by the presence of detached and semi-detached dwellings set back from Grange Road, which in this location is a dual carriageway, behind short front gardens and/or parking areas.
8. During my site visit, I noted that the appeal property, like neighbouring dwellings on the same side of Grange Road, has a long garden to the rear. This garden, and those of neighbouring properties to either side of No 43 Grange Road, back on to the rear gardens of properties some considerable distance away. This provides for an attractive, green and spacious environment to the rear of Grange Road.
9. Also during my site visit, I observed the development the subject of this appeal from the rear of both Nos 43 and 45 Grange Road. I noted that, whilst there is some scope for each property to overlook part of its neighbour's garden, this scope is only modest and in general, the rear gardens of both Nos 43 and 45 provide plentiful opportunities for privacy and appreciation of the attractive qualities identified above.
10. As a consequence of this and the topography of the area, the appeal property appears slightly higher than No 45 Grange Road and the development is raised considerably higher than the level of No 45's rear garden. However, the presence of a wall and a carefully considered fence above largely provides for privacy between the development and No 45's rear garden. Indeed, the presence of fencing removes opportunities for direct overlooking from the development into No 45's garden to a significant degree. I note that the condition proposed by the Council and taken into account below, is aimed at securing privacy.
11. Standing at the rear of the development, I observed that there is scope for some, partly obscured views back towards the rear elevation of No 45, but that these are at an oblique angle. Further, the presence of a garage between the development and the main rear windows of No 45 mean that such oblique views from the appeal property towards the rear of No 45 are also from a considerable distance.
12. Taking the above into account, I find that no harm arises from the development in respect of privacy.
13. The fence panels which form part of the development appear as light, modern features, in keeping with the character of the rear of the appeal property. Whilst different to the traditional brick-work of No 45, they do not detract from the appearance of that property (and the Council's reasons for refusal make no reference to impact on local character), but to my mind, provide for a light, modern and clean feature.

14. Rather than cause any degree of overshadowing or loss of light, the fence appears to "lighten" up its surroundings. In this regard, I am also mindful that the development is situated directly to the north of No 45's rear garden and that no substantive evidence has been provided to demonstrate overshadowing, or any loss of daylight.
15. Taking all the above into account, I find that the development is not harmful to the living conditions of the occupiers of No 45 Grange Road and is not contrary to the Framework, to Dudley Borough Development Strategy (2017) Policy L1, and the Council's Supplementary Planning Guidance Note 17 "House Extension Guide" (1998), which together amongst other things, seek to protect residential amenity.

Conditions

16. I have considered the conditions suggested by the Council against the six tests set out in paragraph 206 of the Framework. A condition relating to the relevant plan is necessary for the avoidance of doubt and in the interest of proper planning.
17. A condition controlling materials is necessary to protect local character. A condition controlling the height of privacy panels is necessary to protect local amenity.

Conclusion

18. For the reasons given above, the appeal succeeds.

N McGurk

INSPECTOR

Schedule of Conditions attached to Appeal Decision APP/C4615/D/17/3176529 43 Grange Road, Halesowen, B63 3EF

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: GD1775/02.
 - 3) The materials to be used in the external surfaces of the building shall match those used in the existing building.
 - 4) The raised patio hereby approved shall incorporate privacy panels to a height of 1.7 metres to the southern elevation along the common boundary with No 45 Grange Road and turning the southeast corner of the patio as per the approved plan GD1775/02 and thereafter maintained in this position for the life of the development.
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