
Appeal Decision

Site visit made on 22 August 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 29th August 2017

Appeal Ref: APP/T3725/D/17/3174358

71 Tachbrook Street, Leamington Spa CV31 3BW

- 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 Dal Theara against the decision of Warwick District Council.
 - The application Ref W/17/0173, dated 26 January 2017, was refused by notice dated 24 March 2017.
 - The development proposed is ground floor extension to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The date of the application used above is taken from the appellant's appeal form. While this differs to the date given on the application form submitted, following clarification from the appellant, I am satisfied the date used is correct.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupants of 73 Tachbrook Street, with particular regard to outlook and light.

Reasons

4. The appeal relates to an end terrace dwelling. Access to the rear is through a side passage which runs under the first floor of the house. 73 Tachbrook Street is a semi-detached dwelling, but a flat roof side extension appears to join onto the flank of No 71. The extension would replace a single storey concrete block shed which projects for some distance at the end of the dwelling. However, while the development would not extend quite as far, it would be both taller and wider.
5. There is no dispute between the parties that the extension would breach the 45 degree guideline on the horizontal plane as described in the Council's Residential Design Guide Supplementary Planning Guidance (RDSPG)(2008). The guidance states that when development contravenes this guideline, it may be considered to have an unreasonable effect on outlook and light. Nonetheless, it also states that the individual circumstances of each development will be taken into account and the application of the guideline will not necessarily be the overriding consideration. It is important therefore to

consider whether the result of breaching the 45 degree guideline would lead to harm in this case.

6. The extension would project a considerable length into the garden and would thus be a prominent feature when viewed from any ground floor rear window at No 73. The plans illustrate that the breach of the 45 degree guideline would not be marginal. The length of the extension means that a considerable proportion of the building would encroach into the outlook of the neighbouring property. While the existing shed takes up a similar position, the increase in height and width of the building would result in something with a far greater impact on outlook than what currently exists. The extension would be visible above the garden wall and the narrowing of the existing gap, along with the bringing of development much nearer to the common boundary, would have a particularly negative impact on the existing outlook of No 73. As such, I consider that the extension would result in an overly intrusive and overbearing form of development that would have a significant detrimental impact on the living conditions of those living at this property.
7. The documents provided by the appellant outlining the 25 degree guidelines have not been approved or adopted by the Council. While this means I have given them little weight in relation to the Council's policy requirements, I have still given consideration to whether the relative height of the extension would provide satisfactory mitigation. The development would not breach a 25 degree angle from the nearest neighbouring window. However, this factor alone does not convince me that the overall scale and proximity of the development to the habitable room window, including the degree to which it projects from the rear wall into the garden, would not have an unacceptable effect. The significant extent of the breach of the 45 degree guideline on the horizontal plane, and resulting conflict with the RDSPG, cannot be ignored in this context. I do not consider the height of the extension or use of a pitched roof is sufficient to reduce the intrusive nature of the development to the extent that it would be considered acceptable in this context.
8. The appellant has provided no substantive evidence to demonstrate there would not be a detrimental effect on daylight entering the habitable ground floor rooms of No 73. Again, I have considered the effect of the height and the arguments put forward by the appellant. However, when considering the individual circumstances of the proposal, the proximity of the extension to the window, and the narrowing of the gap between the two dwellings, is such that it is likely to have a negative impact on the ability of daylight to enter the nearest habitable room. This would result in a gloomier environment than what might currently exist. As a result, and without any specific evidence to the contrary, I consider that the development is likely to have an unacceptable impact on existing living conditions.
9. Taking all of the above matters into account, I find that the development would result in an unacceptable impact on the living conditions of the occupants of No 73. Accordingly, there would be conflict with Policy DP2 of the Warwick District Local Plan (2007) and the RDSPG which seek to ensure development will not be permitted which has an unacceptable adverse impact on the amenity of nearby residents.

Other Matters

10. In coming to this conclusion I have noted that there were no objections to the proposal from neighbours. However, this does not outweigh my concerns over the likely negative impacts of the development. While the existing shed does little to enhance the appearance of the dwelling, it is to the rear and is not particularly prominent. Any aesthetic benefits resulting from the development would also not outweigh the harm identified.
11. The benefits of providing student accommodation in the area and improving the living conditions of No 71 are noted, but I do not consider that such benefits should be achieved at the expense of the living conditions of neighbouring residents. Moreover, the appellant has not demonstrated that the ability to use the dwelling for student accommodation as already permitted is not possible without the extension or that the development would be the only way of achieving these objectives.

Conclusion

12. Taking all of the above matters into account, I find that the appeal should be dismissed.

S J Lee

INSPECTOR