



Appeal Decision

Site visit made on 20 August 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/Y2810/D/19/3230665

Trinity Haven, 23 Drayton Park, Daventry NN11 8TB

- 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 Joseph against the decision of Daventry District Council.
 - The application Ref DA/2018/1081, dated 30 November 2018, was refused by notice dated 4 April 2019.
 - The development proposed is extensions and alterations.
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Decision

1. The appeal is allowed and planning permission is granted for extensions and alterations at Trinity Haven, 23 Drayton Park, Daventry NN11 8TB in accordance with the terms of the application, Ref DA/2018/1081, dated 30 November 2018, subject to the conditions set out in the Schedule at the end of this decision.

Procedural matters

2. The description of development in the heading and formal decision above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The Council has referred to policies from the emerging Settlements and Countryside Local Plan (Part 2) for Daventry District 2011-2029 (SCLP) which is scheduled to be examined in 2019. Given the stage of the plan preparation, these policies have only limited weight. Nevertheless, they are broadly in line with the adopted development plan policies on which the Council also rely.

Main Issue

4. The main issue is the effect on the living conditions of the occupiers of 21 Drayton Park (No 21) in respect of any overbearing effect

Reasons

5. The appeal property is a detached dwelling house set off the side boundary with No 21. Both properties have rear elevations facing in roughly the same

direction towards sizeable back gardens. A low fence, hedging and various mature trees lie on the common boundary.

6. The proposed extension would be part single, part 2 storeys high and would be mainly built off the rear elevation of the appeal property. A small 2 storey element including dormer with windows would project to the side and would be closer to the boundary with No 21 than the flank wall of the existing house.
7. Whilst projecting some distance into the back garden, the proposed extension would comply with the 45-degree line advice as set out in the Council's Designing House Extensions Supplementary Planning Guidance (HESPG), suggesting it would adequately protect the living conditions of the occupiers of the neighbouring properties. Furthermore, the mature boundary trees and hedging are tall and already create a degree of overshadowing and overbearing effect onto No 21. Despite being closer to the boundary than the existing house, the extension would be behind and partially screened by the boundary vegetation when viewed from No 21 and so would not result in any significant additional overbearing effect.
8. Unlike the HESPG, the referred to Drayton Park, Daventry Residential Plots Development Brief 1989 (DPDRPDB) provides no design guidance specifically on household extensions and consequently is of less relevance in the determination of this appeal. The proposed extension would go against the DPDRPDB guidance in terms of proximity to the boundary, however this fails to override or affect my opinion that the proposal would avoid a significant overbearing effect onto No 21.
9. For the reasons outlined above, I conclude that the proposal would not significantly harm the living conditions of the occupiers of No 21 by reason of overbearing effect. Consequently, and in this regard, the proposed development would accord with saved policies GN2 and EN42 of the Daventry District Local Plan 2007, policy ENV10 of the emerging SCLP and the National Planning Policy Framework (the Framework) which all aim, amongst other things, to create places with a high standard of amenity for occupiers of property. The appeal proposal would not accord fully with the DPDRPDB, however, the other considerations set out above are of sufficient strength to outweigh that non-compliance such that planning permission should be granted.

Other Matters

10. I note the various concerns raised by interested parties. For the reasons already provided in respect of overbearing effect, the proposed extension would not cause significant overshadowing to No 21. There would be no direct view of No 21 from the proposed balcony and unacceptable overlooking from the proposed first floor side windows could be avoided by obscure glazing.
11. On the other side, the rear extension would be single storey, would comply with the 45-degree code and so would avoid unacceptable loss of light or overbearing effect on 25 Drayton Park. Furthermore, the roof of the single storey extension would prevent unacceptable overlooking from the proposed balcony or first floor side windows facing this neighbouring property.
12. The proposed extension would not significantly impinge on views of the reservoir from No 21 and the adjacent footpath as intervening trees already

obscure views. There is no evidence to demonstrate the proposal would harm the tranquillity of the reservoir, or cause noise nuisance and air pollution to the detriment of the occupiers of nearby residences. The proposed development would generate limited construction traffic for a temporary period and so cause no significant harm by reason of disturbance or to highway safety. There is no evidence to show the proposal would cause water supply or flood risk concerns.

13. The proposed extension would be sizeable but being mainly to the rear it would not be widely visible. It would be set off the side boundaries and the appeal site would be large enough to avoid it appearing unduly cramped. Attractive architectural features are proposed that would respect and add interest to the appeal property. The removal of 2 small hedges would have no marked effect on the overall tree and vegetation cover and a condition could be imposed that protects retained trees during construction. There is no substantive evidence to show the proposal would have an unacceptable impact on the well-being of trees to be retained. For all these reasons the proposed development would reinforce local distinctiveness.
14. In the absence of any substantive evidence to dismiss the appeal on any of the above grounds or complaints, the concerns raised do not override or affect my conclusions on the main issue.

Conditions

15. I have considered the planning conditions put forward by the Council having regard to the tests set out in the Framework. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved plans and for the avoidance of doubt. A condition relating to the materials is necessary to ensure the satisfactory appearance of the development. To prevent unacceptable loss of privacy, first floor windows facing No 21 should be obscure glazed. Tree protection measures are necessary to prevent harm to landscape features that make a positive contribution to the character and appearance of the area.
16. Conditions restricting the future use of permitted development rights rarely pass the necessity test. Those suggested by the Council would place extensive restrictions on future alterations and are unnecessary to make the proposed development acceptable.
17. Where appropriate, I have amended the wording of the suggested conditions for reasons of precision.

Conclusion

18. For the reasons given above, and taking into account all other matters raised, I allow the appeal as set out in the formal decision above.

Jonathan Edwards

INSPECTOR

Schedule of Planning 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 plans: J19-20A, J19-21.
- 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.
- 4) The extension hereby permitted shall not be occupied until the proposed windows at first floor level in the side elevation facing 21 Drayton Park have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before any of the windows are installed and once installed the obscured glazing shall be retained thereafter.
- 5) All the trees and hedges shown on the Greenwood Arboriculture tree protection plan numbered 406 as not to be removed shall be protected by strong fencing, in the location as shown on plan numbered 406 and of a type as described in the Greenwood Arboricultural Impact Assessment dated 25 February 2019. The fencing shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 6) Ground protection measures in accordance with the details set out in the Greenwood Arboricultural Impact Assessment dated 25 February 2019 shall be installed before any equipment, machinery or materials are brought onto the site for the purposes of the development. The ground protection measures shall remain in place until all equipment, machinery and surplus materials have been removed from the site.