



Appeal Decision

Site visit made on 26 April 2019

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2019

Appeal Ref: APP/U3935/D/19/3221841

34a Stapleton Close, Highworth, Swindon SN6 7DR

- 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 Hall against the decision of Swindon Borough Council.
 - The application Ref S/HOU/18/1597, dated 26 September 2018, was refused by notice dated 13 December 2018.
 - The development proposed is retention of a rear infill single storey extension with raised paving down to garden.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application form differs from the decision notice and the appeal form. However both parties agree that the proposal deals with a development which has been completed and is proposed to be retained.
3. The appellant is listed above as Mr Hall as shown in the planning application form. I note that the appeal form lists the appellant as Mr Bradley Quesnel. Further to additional correspondence I am satisfied that the appellant has the authority in order for the appeal to proceed.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupants of number 338 Windrush (no.338) in particular regard to overlooking and overbearing.

Reasons

5. The development is a single storey rear extension, including a raised terrace which sits above the existing garden. The dwelling is a single storey building set on a small plot with a narrow garden. There is a close-board fence and several young trees along the boundary with no.338. The two properties are at an oblique angle to each other which offsets the potential for direct overlooking.
6. The ground slopes sharply downhill from the appeal property to the ground floor level of no.338. At my site visit, due to the significant changes in levels, I was able to see that the first floor rooms of no.338 are at a similar level to that of the terrace and garden room of the appeal property.

7. The parties suggest that the separation between the appeal property and no.338 is between 8m-13m. The Council state that a minimum distance of 21m is required at two storeys as set out in their SPD¹ for a back-to-back relationship. Given the changes in the slope, the guidance recommends an additional 1m separation for every half metre of ground level difference. The Council suggest that the ground level difference is 4m and this is not disputed by the appellant. Therefore, as recommended by the SPD, this would require an additional 8m separation to take into account the change in ground level. Whether using the tests at single storey or two storey, the separation distance clearly fails as assessed against the SPD.
8. Notwithstanding the presence of an intervening fence and vegetation, which mitigate the impact to some degree, the distance between the two dwellings is sub-standard and there is significant potential for unacceptable overlooking and loss of privacy to both properties. I visited the site during the spring and the trees were in leaf. Given the change in levels, the extent of protection offered by the trees is likely to be reduced during the autumn and winter, thus increasing the potential for harmful loss of privacy from overlooking.
9. The appellant confirms that there was a window facing no.338 prior to the appeal development. From the plans before me, this appears to serve a WC. Given the nature of that room, no overlooking would have occurred from that room. Therefore, there is a significant harmful change in the overlooking as a result of the appeal development.
10. The appellant has confirmed that a raised decking area was in situ prior to the garden room and terrace. I am not provided with information about this and as such I have applied little weight in the significance of this. I accept that the garden room may result in similar effects of overlooking compared with the previous decking however I do not have the evidence to demonstrate this.
11. I accept that due to the nature of the different land levels between Stapleton Close and Windrush there may be an element of overlooking between other properties. However the block plan shows that the separation distances between the immediately neighbouring properties are wider and at different angles and as such are not directly comparable.
12. No.338 has a small sitting out area to the rear, with much of the garden in a steep terrace owing to the sharp gradient increase to the boundary with the appeal property. This bank, combined with the fence at the top, creates a sense of the height and significant change in levels between the two properties. If the vegetation at the boundary were to be removed, the garden room would be a tall and dominant feature, creating unacceptable overbearing as seen from the rear facing windows and garden of no.338.
13. I have taken into account the small scale of the development. I acknowledge that the garden room appears to 'infill' a small proportion of the dwelling. However this does not reduce the overbearing impact of the building.
14. I therefore conclude on this issue that the development would materially harm the living conditions of the occupiers of No 338 Windrush with regard to outlook and an overbearing form of development. As such, it would conflict with Policy DE1 of the Swindon Borough Local Plan 2026 (adopted April 2015),

¹ Residential Extensions and Alterations Supplementary Planning Document (2016)

guidance in the SPD, and National Policy in the National Planning Policy Framework which seeks a high standard of amenity for existing and future users.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rebecca Thomas

INSPECTOR