



Appeal Decision

Site visit made on 30 August 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref: APP/N1160/D/19/3233755

67 Eggbuckland Road, Plymouth PL3 5JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs J Smith against the decision of Plymouth City Council.
 - The application Ref 19/00530/FUL, dated 1 April 2019, was refused by notice dated 28 June 2019.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 67 Eggbuckland Road, Plymouth PL3 5JR, in accordance with the terms of the application Ref 19/00530/FUL, dated 1 April 2019, subject to the conditions below.

Preliminary matters

2. The proposal was amended during the Council's determination of the application, entailing a slight reduction in height via the removal of a parapet wall originally proposed.¹ Reflecting changes in ground and floor level, the proposed extension comprises three sections which step down relative to one another northwards. The Council's officer report details the effect of those revisions in relation to the height of the proposal, as measured from the lower ground level of the plot of neighbouring No 69.²
3. I was unable to access No 69 or its outside space during my site visit, notwithstanding the photographs before me from that perspective. Nevertheless I assessed the implications of the scheme from No 67 and its plot. I also accepted additional representations from the neighbour at No 69, in respect of which the main parties have had the opportunity to comment. That is a suitable evidential basis upon which to take a decision.

Policy context

4. Each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. The development plan includes policies of the Plymouth and South West Devon Joint Local Plan (adopted 26 March 2019, the 'JLP'). I have also had regard to various other material considerations including the National Planning Policy Framework ('NPPF'), the Planning Practice Guidance ('PPG'), and the Council's

¹ The superseded plans are EXT.04/2018/06, EXT.04/2018/07, EXT.04/2018/08 and EXT.04/2018/09.

² Around 3.8m for the first metre, then 3.25m for a length of 4.8m, and thereafter 3.2m for some 4.1m.

Development Guidelines Supplementary Planning Document (adopted in reviewed form in May 2013, the 'SPD').

5. In brief, as with NPPF paragraph 127(f), and amongst other things, JLP policies DEV1 and DEV2 set out that development should ensure appropriate living conditions for those nearby. Criterion 1 of the former explains, notwithstanding the metrics in the SPD, that 'unacceptable impacts will be judged against the level of amenity generally in the location'. SPD paragraphs 2.2.35 to 2.2.[3]9 are cited in the Council's decision notice. They explain how an imaginary 45 degree guideline drawn from an existing ground floor window related to a habitable room, if transgressed by development proposed, may assist in determining whether natural light would be unacceptably reduced.

Main issue

6. The main issue is the effect of the development proposed on the living conditions of the occupants of No 69, the attached neighbouring property to the east, in respect of outlook and natural light.

Reasons

7. As are neighbouring properties, No 67 is a late nineteenth century terraced dwelling. It is set in a plot of substantially greater length than width extending to Higher Compton Road. There are comparatively few other dwellings with such extensive plots nearby; those along Reservoir Road and Widey View off Higher Compton Road are markedly shorter. The façades of Nos 67 and 69 are parallel with Eggbuckland Road. However rear gardens are slanted rather than in line with party walls. By consequence the rear elevations of No 69 face towards the boundary with No 67 at an acute angle.³
8. Eggbuckland Road is elevated relative to the rear gardens of properties here, which decline further in level towards Higher Compton Road and beyond. There are therefore expansive views through first and second floor rear-facing windows towards the northern periphery of Plymouth set within the rolling topography. An extensively-glazed single-storey addition to No 69 has previously been created. That has effectively infilled the area between a centrally-located two storey outrigger, potentially an original element, and the boundary with No 71.⁴ In design, and being at the widest point of the plot furthest from the boundary with No 67, that extension has evidently been arranged so as increase outlook and natural light within the property.
9. Notwithstanding revisions to the scheme, the proposal would result in an increase in height by the common boundary between Nos 67 and 69. The relationship of the proposal to the existing boundary wall, and brick outbuilding within the plot of No 69, is shown on plan EX.04/2018/04 B. Comparing the annotated ground levels on that plan with the figures given in the Council's officer report referenced above, the increase in height resulting from the proposal would be between roughly 1.4m closest to the rear elevation, reducing to some 0.6m around the brick outbuilding next to the existing boundary wall.⁵

³ The origins of that arrangement is unclear, albeit potentially by consequence of differing historical ownership of land which is now occupied, in part, by Nos 52 to 60 Higher Compton Road.

⁴ The two storey projecting rear elements of Nos 67, 69 and 65 appear to be referred to as tenements in the evidence before me, albeit that there is no indication that those properties are subdivided into separate units.

⁵ Using ground level measurements by No 69, albeit that plan is marked as indicative, and the Council's officer report cites fractionally higher figures (potentially as a result of the inclusion of a parapet wall).

10. There are two partially-glazed ground floor doors at No 69 between the rear elevation of the outrigger and boundary with No 67, and also a northwards-facing window. I am told that window serves a living room which benefits from relatively poor natural lighting, in respect of which there are photographs. The development would appear to transgress a 45 degree splay drawn from that window by some margin, with reference to SPD diagram 2.6. Even relatively minor alterations to the built environment may be perceived as significant, and I accept that the proposal would result in some degree of change.
11. However the extent of that change compared to present would be highly limited. The majority of the extension would project around a metre, or less, higher than the existing boundary wall. Aside from a short element, the extension would be around 3.2 to 3.25 metres high at the boundary. Rear extensions with an eaves height of up to three metres, albeit subject to other requirements including in respect of length, generally do not require specific planning permission.⁶ Moreover the proposal is within a surrounding context of substantial properties, many of which have two-storey outriggers. Ground levels change between properties, with angled gardens of far greater length than width typically bounded by traditional stone walls. Those features, in my view, result in a notable sense of enclosure around the rear elevations of properties. There appeared to be no significant outlook through the doors or window referenced above at No 69. In respect of the latter, that window faces towards the boundary with No 67 and also a shed and brick building close by.
12. Given the scale and form of properties and their outriggers, and the step-down in level from Egguckland Road to rear gardens, and from the existing ground level of No 67 to that of 69, the extension would similarly have little appreciable effect in relation to natural light. Being to the west of No 69 in that context it is unlikely that the proposal would have any substantive effect on sunlight reaching the patio here (with the potential exception of a limited period later in the day principally during summertime). Moreover the plot of No 69 is substantially wider than that of No 67, and also that of Nos 65, 63 and 61, such that any effects would relate to a relatively small proportion of outside space. No 69 also benefits from outlook from a ground floor extension and from a number of other windows which face along the garden and, at first and second floor, afford relatively expansive views given the atypical length of gardens and surrounding topography.
13. Whilst the proposal would appear to transgress the 45 degree guideline in the SPD, paragraph 2.2.39 of that document explains how that approach may be relaxed where there is site-specific justification. Potential considerations in that regard are given as orientation, differences in ground levels, or where there is a high boundary wall between two properties. In this instance, and as reasoned above, all those factors are relevant and would collectively serve to moderate the effects of the proposal to an acceptable level.

⁶ Schedule 2, Part 1, Class A(A.1)(i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO'). I also note that the figures referenced above, notwithstanding slight variances, are relative to the ground level by No 69, which plan EXT.04/2018/04 shows as not insignificantly lower than that by No 67. Article 2(2) of the GPDO indicates that where the level of the ground is not uniform, 'the level of the highest part of the surface of the ground adjacent to it' applies.

14. I therefore conclude that the scheme would not give rise to undue effects to the living conditions of the occupants of No 69 in respect of outlook or natural light compared to the prevailing amenity in this location. Given the particular nature of the proposal and its context, no conflict arises with the relevant provisions of JLP policies DVS1 and DVS2 or of NPPF paragraph 127(f) as detailed in paragraph five above.

Conclusion

15. For the above reasons, having considered the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Conditions

16. In addition to requiring commencement within the relevant statutory period, I have imposed conditions requiring compliance with the supporting plans, that matching materials are used in the extension as in the existing building, and withdrawing certain permitted development rights so as to ensure that visually and in respect of safeguarding the privacy of those nearby, the proposal is acceptable. That is with regard to the JLP policies cited above, NPPF paragraph 127, and is justified given the potential for new openings to adversely affect privacy by facing towards No 69 from an elevated perspective. In imposing conditions I have had regard to the relevant provisions of the NPPF, the PPG and of statute. In that context I have amended the wording of certain conditions proposed without altering their aims.

Thomas Bristow
INSPECTOR

SCHEDULE OF CONDITIONS

- 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 plans: EXT.04/2018/06 A, EXT.04/2018/07 A, EXT.04/2018/08 A, EXT.04/2018/09 A, EXT.04/2018/10 (and EXT.04/2018/04 B in so far as the red dashed line on that plan illustrates the proposed extension relative to existing circumstances).
- 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 (other than as shown on the approved plans).
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other order amending, or revoking and re-enacting that order with or without modifications) no windows or glazed openings shall be created in the side (east) elevation of the development hereby permitted.