The Planning Inspectorate

Appeal Decision

Site visit made on 5 November 2019

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/K2420/D/19/3238824
48 Leicester Road, Hinckley, LE10 1LT

- 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 M Cordingley against the decision of Hinckley and Bosworth Borough Council.
- The application Ref 19/00726/HOU, dated 28 June 2019, was refused by notice dated 6 September 2019.
- The development proposed a side and rear extension, porch and internal alterations.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring occupiers with particular reference to outlook and daylight.

Reasons

3. The appeal property is a detached dormer bungalow in a residential area. The proposal includes a two storey rear extension which would project some 4.95 metres back from the rear elevation of the host property for its full width of 13.2 metres. It would replace an existing single storey lean to structure and would have a hipped roof which would be 3 metres high to the eaves and 6 metres high to the ridge.

4. The proposed extension would be positioned on the boundary with neighbouring No 50, a detached dormer bungalow which is set at a lower level to the appeal property. No 50 has a window on its rear elevation which is the primary window to a single storey kitchen offshoot. There is an existing high wall on the boundary which forms the flank elevation of the existing single storey rear lean to extension at the appeal property. The Council estimates that the proposal would extend some 4 metres beyond the rear of No 50 which is set off the boundary by a distance of around 1.2 metres (as estimated by the occupiers of No 50) or 2 metres (as estimated by the Council).

5. The Council confirms that a 45 degree angle from No 50's kitchen window would not be infringed by the proposal. I note the appellant's view that the use of the 45 degree rule is a long established and well understood planning principle. However, I have not been made aware of any local or national guidelines or policies which include this as a particular standard.

6. In any event, despite meeting the 45 degree rule, it seems to me that the proposal would be highly conspicuous from No 50's kitchen window as well as from those parts of its rear garden and patio area close to the rear of the house. Despite its hipped roof form, due to its overall bulk and considerable height, the proposal would be very large and dominating in relation to its more modest neighbour. It would project well above and beyond the existing boundary wall and introduce a considerable mass of two storey development on the boundary.

7. As such, it would be seen at rather close quarters from No 50's kitchen window and rear garden as an unduly tall and imposing structure that would be appreciated as an oppressive and overbearing feature. It would also result in some loss of light to the kitchen window which would make this room gloomier. Consequently, I consider that the proposal would have an unsatisfactory enclosing effect on No 50's kitchen and rear garden and give rise to an unacceptable loss of outlook and light for the occupiers there. That the rear gardens of the properties in this part of Leicester Road face west does not alter my view on this matter.

8. The hip to gable extension which also forms part of the proposal would be on the south side of the property adjacent to neighbouring No 46. I accept that it would bring development at first floor level closer to the flank of No 46 where there are two first floor and two ground floor windows facing the appeal property. That said, the Council estimates that the proposed gable end would be some 9.5 metres away from No 46. Whilst the Council indicates that the separation distance between primary windows and any other built form should be 14 metres, I have not been provided with the source of any such standards. In any case, given the generous separation distance that would be retained, along with the existing vegetation on the boundary which would remain, in practical terms, I am not persuaded that any undue loss of outlook or light would occur to the occupiers of No 46 as a result of the appeal proposal. However, my findings in relation to this element of the scheme do not alter my conclusions in relation to the two storey rear extension set out above.

9. I therefore conclude on the main issue that the proposal would be harmful to the living conditions of neighbouring occupiers with particular reference to outlook and daylight. This would be contrary to Policy DM10 of the Hinkley and Bosworth Borough Council Site Allocations and Development Policies Development Plan Document which is permissive of development providing it would not (amongst other things) have a significant adverse effect on the privacy and amenity of nearby residents (criterion a). Furthermore, it would be at odds with paragraph 127 (f) of the National Planning Policy Framework which advises that decisions should ensure that developments provide a high standard of amenity for existing and future users.

Other matters

10. The appellant refers to a fallback position whereby a hip to gable extension could be constructed under permitted development rights. However, I have found this element of the proposal to be acceptable, and in any event such a fallback position does not justify the harm that would arise from the two storey rear extension.

11. I appreciate that the appellant's architect deals regularly with the Council and is knowledgeable of the local policy context. I also note that he discussed the proposal with the Council during its consideration of the planning application and amended the scheme to take on board comments made with reference to other development in the local area. However, these are not reasons to allow development that would be harmful.

Conclusion

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

Elaine Worthington

INSPECTOR