



Appeal Decision

Site visit made on 26 November 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/A1015/D/19/3236133

74 Wain Avenue, Chesterfield, Derbyshire S41 0FB

- 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 Preston against the decision of Chesterfield Borough Council.
 - The application Ref CHE/18/00754/FUL, dated 19 October 2018, was refused by notice dated 8 August 2019.
 - The development proposed is a rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the adjoining occupants at 72 Wain Avenue, with reference to outlook and light.

Reasons

3. The appeal site is a semi-detached dwelling with a flat rear elevation similar in design to that next door at No 72. A full width extension of approximately 6 metres in depth is proposed. It would have a flat roof at 3 metres in height which would become a sloping roof of some 1.5 metres in length at a 35 degree angle on the side facing No 72, such that the eaves on the boundary would stand at 2 metres, similar in height to the existing solid timber fence.
4. The appeal property benefits from a long garden presently hard landscaped to include a central pond and rear seating area. The garden of No 72 is considerably shorter due to the presence of a block of three detached garages to the rear, the solid gable end of which forms the rear wall of the garden.
5. The proposed addition would extend most of the length of the shared boundary between the properties and would form a prominent structure when viewed from the neighbouring ground floor windows and garden. I recognise that the existing fence forms an enclosing structure, and the boundary line angles slightly away from the neighbouring windows. However; the fence is of a standard height, it does not rise above the height of the ground floor windows, and the absence of an extension provides a clear sense of openness above the fence. Whilst the sloping roof section would reduce the height on the boundary itself, it would still form a solid and highly visible structure above the fence.
6. This visible height and massing of the extension, when combined with the proposed depth, would create an excessive and overbearing structure which

would largely enclose the neighbouring garden on this side, adding to the enclosure already created by the garages at the rear. As a result, the garden would be surrounded on three sides by tall, solid structures which would reduce outlook significantly for the neighbouring occupants to the detriment of their enjoyment of their dwelling and garden.

7. The Council also points to its Supplementary Planning Document 'Successful Places: A guide to sustainable housing layout and design' (2013) which sets out a 45 degree test to assess the potential for loss of daylight. A proposal would fail if the midpoint of the adjacent window would be covered by 45 degree lines drawn from the end of the extension in plan and the eaves in elevation. It is evident from the depth of the extension that it would breach the 45 degree line by a significant margin when measured on plan, though I do not have definitive information as to whether the proposal would breach the 45 degree line in elevation, as the appellants' diagram shows a 25 degree line. Even if passed in elevation, which appears marginal at best, the extent of the breach in plan indicates to me that there would be a noticeable reduction in daylight to the ground floor rooms of the neighbouring property.
8. Although a harmful loss of sunlight is not explicitly alleged by the Council, the proposed extension would be located to the south of the neighbouring windows and given the proximity of the roof of the extension to those windows, it seems to me likely that some reduction in either the length or strength of sunlight reaching these windows would occur, whilst also increasing the extent of shadowing to the garden area given the massing of the structure.
9. Therefore, I find that the adverse effects on outlook and, to a lesser extent, daylight and sunlight, resulting from the scale and massing of the proposed extension would unacceptably harm the living conditions of neighbouring occupants of No 72. As such, there would be conflict with Policies CS2 and CS18 of the Local Plan Core Strategy 2011–2031 (July 2013), which respectively require development to have an acceptable impact on the amenity of users or adjoining occupiers, taking account of, amongst other things, appearance, shading and other environmental and social impacts. The proposal would also conflict with Paragraph 127 of the National Planning Policy Framework, which requires developments to create places with a high standard of amenity for existing and future users.

Other Matters

10. I note the appellants' reference to conflicting advice provided by the Council, and to issues raised by an interested party concerning the accuracy of the boundary line on the ground relative to that shown on the title deeds. However, neither of these matters are determinative in my consideration of the appeal, which I have judged solely on its planning merits.

Conclusion

11. The proposal would result in conflict with the development plan which is not outweighed by other material considerations, including the benefits to the appellants of additional living space. Therefore, I dismiss the appeal.

K Savage

INSPECTOR