
Appeal Decision

Site visit made on 17 December 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2020

Appeal Ref: APP/W4325/W/19/3238800

99 Egerton Street, New Brighton, Wirral CH45 2LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Steve Jones against Wirral Metropolitan Borough Council.
 - The application Ref APP/19/00795, is dated 29 May 2019.
 - The development proposed is described as: 'Erection of a two-storey extension at the rear of the premises (resubmission of APP/19/00580)'.
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Decision

1. The appeal is dismissed and planning permission for the erection of a two-storey rear extension is refused.

Procedural Matter

2. The appeal is against the failure to give notice within the prescribed period of a decision on an application for planning permission. Following the lodging of the appeal, the Council indicated in its Statement that they would have refused the application. I have dealt with the appeal on this basis.

Main Issue

3. As outlined in the Council's Statement, the reason for refusing planning permission would have been regarding the effect of the proposed development on the living conditions of neighbouring occupiers. I have formulated my main issue on this basis.
4. According, I identify that the main issue on this appeal is the effect of the proposed development on the living conditions of neighbouring occupiers at No 101 Egerton Street and No 58 Tollemache Street, with particular reference to dominance and privacy.

Reasons

5. The host dwelling is a mid-terraced property located between No's 97 and 101 Egerton Street, which are different in design and appearance to the appeal site. Due to the topography of the road No 101 is located on a lower level when compared to the site. Like many of the properties on Egerton Street, the host dwelling benefits from a rear garden of modest depth. To the rear of the garden area is an alleyway that also serves properties located on Tollemache Street, whose rear gardens also back onto the alleyway. The scheme would project approximately 2.3m from the existing rear wall at the host dwelling with a flat roof and would extend the full width of the property, comprising a

- kitchen / dining room at ground floor and a bedroom and bathroom at first floor.
6. On the first-floor side elevation of the original dwelling there would be an obscure glazed window installed serving the en-suite to the proposed bedroom. Due to this arrangement, I find that there would be no significant harmful effects on the living conditions through loss of privacy to any neighbouring occupiers, particularly those facing at No 101. However, whilst the proposed extension would be sited close to the shared boundaries with both No's 97 and 101, No 97 has a 2-storey outrigger present that extends beyond the existing rear building line of the host dwelling. This would provide sufficient mitigation to the occupiers of No 97 to ensure that no harmful effects would result from the proposed development.
 7. However, with regards to No 101, I find that there is no such mitigation present. No 101 occupies a similar rear building line to the host dwelling, albeit extending marginally further towards the rear boundary. Consequently, I have concerns over the height of the proposed 2-storey rear extension which would sit very close to the shared boundary with No 101. I consider that in this case the combined height, depth and proximity of the proposed development would create an unacceptable sense of enclosure. I note that the nearest windows on the rear elevation of No 101 at first floor are obscure glazed and at ground floor there is a kitchen window and rear door present.
 8. In this instance, I have found particular harm to the private amenity area of No 101, especially the area directly outside its rear door. Whilst a small shed is located in this area there was also domestic paraphernalia and I have little doubt that this area is used regularly by its occupiers, given the domestic items present. Additionally, in the case of No 101, the lower land level it occupies compared to the host dwelling further compounds this issue. I therefore find that the proposed development would result in an unacceptable level of dominance on the occupiers of No 101 to the detriment of their living conditions.
 9. The distance between the existing rear elevations of the host dwelling and No 58 is listed as 14.2m by the Council. This is not disputed by the appellant. On the rear elevation of the proposed development there would be 3no. windows and a set of patio doors installed. I do not find any adverse issues arising from the window / doors proposed at ground floor or the bathroom window at first floor, as it is likely to be obscure glazed. However, I do have concerns with regards to the proposed window that would serve Bedroom no.2. I acknowledge that the existing separation distance between the rear elevations of the host dwelling and No 58 is already below the 21m requirement contained in the Council's Supplementary Planning Guidance – House Extensions 2004 (SPG).
 10. However, whilst the rear extension would project a modest 2.3m from the existing rear elevation of the host dwelling, it would nevertheless further reduce the separation distance between the facing rear elevations of the host dwelling and No 58, which is already below the Council's specified requirement. In addition, No 58 is located on a lower level than the host dwelling, which in conjunction with a unsatisfactory separation distance between the properties, would result in a significant loss of privacy to the occupiers of No 58, to both their habitable room windows and their rear garden area. Consequently, given

my findings on the details before me, I do not consider that otherwise unacceptable development could be made acceptable through the use of planning conditions in this instance.

11. For the above reasons, I therefore conclude that the proposed development would significantly harm the living conditions of occupiers of No 101 and No 58 through dominance and loss of privacy respectively. This would be contrary to the amenity aims of Policy HS11 of the Wirral Unitary Development Plan 2000, guidance contained in the SPG and the requirements of the National Planning Policy Framework.

Other Matters

12. I have also had regard to various other matters raised by the appellant, including the desire to enhance the property for his family, and that no objections have been received from neighbouring occupiers, but on the evidence before me this is not a reason to grant permission in the face of the harm identified. Additionally, I note the suggested condition by the appellant regarding a "Green Roof", but this would not overcome the adverse effects on the living conditions of the occupiers of No 101 and No 58 that would occur directly from the scheme, which would not be outweighed as a consequence.
13. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, but this does not affect the planning merits of the case. Furthermore, I note reference to several 2-storey extensions that have been approved by the Council, but no specific examples have been provided or the relevant planning backgrounds. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

14. Taking all relevant matters into account, the appeal should be dismissed.

W Johnson

INSPECTOR