



Appeal Decision

Site visit made on 21 January 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/M0655/D/19/3240010

38 Ellesmere Road, Stockton Heath, Warrington, Cheshire WA4 6DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Miss Hannah Payne against the decision of Warrington Borough Council.
 - The application Ref 2019/35617, dated 12 August 2019, was refused by notice dated 23 September 2019.
 - The development proposed is a single storey, flat roof, rear extension to replace existing conservatory to extend beyond the rear wall by 3.8 metres, maximum height 3.3 metres and height at the eaves 3 metres.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) for a single storey, flat roof, rear extension to replace existing conservatory to extend beyond the rear wall by 3.8 metres, maximum height 3.3 metres and height at the eaves 3 metres at 38 Ellesmere Road, Stockton Heath, Warrington, Cheshire WA4 6DZ in accordance with the terms of the application Ref 2019/35617, dated 12 August 2019, and the plans submitted with it, subject to the conditions set out in Paragraphs A.3 and A.4 of Schedule 2, Part 1, Class A of the Order and the following additional condition:
 - 1) Notwithstanding any details included within the application to the contrary, the development hereby permitted shall be carried out only in accordance with the following approved plans: P01 rev:A (dated 21.06.2019), P02 (dated 21.06.2019), P03 rev:D (dated 08.08.2019).

Background and Main Issue

2. The GPDO grants planning permission for the enlargement, improvement or other alteration of a dwelling house under Schedule 2, Part 1, Class A, subject to limitations and conditions set out in paragraphs, A.1 to A.4. The local planning authority is required to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made in the same manner.

3. The main issue is therefore the impact of the proposed development on the amenity of the occupiers of the neighbouring properties at 37 and 39 Ellesmere Road, with regard to sunlight, daylight and outlook.

Reasons

4. 38 Ellesmere Road is a mid-terrace house, with a two-storey rear outrigger shared with the neighbouring property at No 37. The appellant wishes to erect a single storey extension to replace a conservatory currently attached to the rear elevation, in order to provide more useful space and better living conditions within her home.
5. The appellant is aware of her right to build an extension that extends no more than 3m beyond the rear elevation of the appeal property using permitted development rights under Schedule 2, Part 1, Class A of the GPDO (which I shall refer to as 'the 3m extension'). Such a permitted development extension could have a maximum height of 4m, and furthermore would not require approval from the Council. The 3m extension is therefore a fallback position for the appellant and, given her obvious desire to extend her house and improve the quality of her living accommodation, I consider that there is a strong prospect of the fallback being utilised if this appeal were to fail. Given this, it is a material consideration and it is necessary for me to consider the proposal against this fallback position.
6. The proposed extension would have a flat roof, and would extend approximately 3.8m beyond the rear wall of the outrigger, with an eaves height of 3.2m and a parapet adjoining the boundary with No 37 approximately 3.2m high. It would be around 3.15 metres wide, and built up to the existing brick boundary wall, above which it would rise by around 1.45m. The existing conservatory at the appeal property is approximately 2.8m deep, 2.7m high, with a ridge approximately 2.9m high and an eaves height of around 2.1m. There is also a gap of approximately 0.3m between the conservatory and the boundary wall. The proposed extension would therefore be both larger and closer to the boundary with No 37 than the existing conservatory.
7. The nearest ground floor window in the rear of No 37 serves a kitchen-diner, and is around 0.7m from the common boundary. The proposed extension would result in an increase in overshadowing of this window and, as a consequence there would also be a small reduction in daylight reaching the window. As the rear window faces just east of south, and taking into account the form of the surrounding buildings which would already result in the window falling into shadow during the evening, I consider that any reduction in direct sunlight reaching the window would be limited. Moreover, the 3m extension which could be built under permitted development rights could be taller than that now proposed, and as a consequence would cause overshadowing slightly earlier in the day. With this in mind, when compared with the fallback position I do not consider that the proposed extension would lead to a more significantly harmful reduction in either daylight or sunlight reaching this window.
8. Turning to the effect of the proposal on outlook, the combination of the existing boundary wall, the conservatory at the appeal property, the outbuilding in the rear garden of No 37 and the surrounding housing mean that the outlook from the rear ground floor window of No 37 is already limited to some extent. Consequently there is also a modest sense of enclosure at the rear of that property, and this would be increased slightly by the proposed extension. While

the proposal before me is slightly longer, it is also not as tall as the 3m extension which could be built without notification. Given this, I consider that there would be little practical difference between the appeal proposal and the appellant's fallback position in terms of their effects on outlook from and subsequent sense of enclosure at the rear of No 37. Consequently, I do not consider that the proposal before me would be significantly more harmful to living conditions for the residents of No 37 than the fallback position would be.

9. Any scheme to erect a brick-built extension at the rear of the appeal property would be likely to have an impact on the living conditions of the occupiers of No 37 than the current conservatory, given that it would be both nearer and more solid than the conservatory it would replace. I accept therefore that such a scheme would not be welcomed by the occupiers of No 37. However, taking into account the fallback position of the 3m extension, I consider that the proposal would not result in significantly greater material harm to the living conditions of the occupiers of No 37 in respect of daylight, sunlight or outlook.
10. No concerns have been raised in respect to the effect of the proposed development on the living conditions of the occupiers of No 39 Ellesmere Road. From my observations during my site visit, and as that property has a greater separation from the proposed extension, I do not disagree.
11. While there is no statutory requirement to determine the application in accordance with the development plan, in coming to this conclusion I have taken into account Policies CS1, QE6 and QE7 of the Local Plan Core Strategy as well as the guidance in the Council's Supplementary Guidance 'Householder Extension Guidance' and the relevant parts of the National Planning Policy Framework referred to in the Decision Notice. Together these policies and guidance seek, among other things, to ensure that development protects the living conditions of neighbouring residents.

Conclusion

12. For the reasons above I find the proposal would not have an unacceptable impact on the amenity of any adjoining premises when considered against the appellant's legitimate fallback position which would be the permitted development 3m extension. Consequently, I conclude that the appeal should be allowed and prior approval should be granted.

Conditions

13. Any planning permission granted under Schedule 2, Part 1, Class A of the GPDO is subject to the condition that the development must be carried out in accordance with the approved details. However, as amended plans were submitted during the application process, I consider that for reasons of certainty and clarity it is necessary to impose an additional condition that specifies the approved plans.

M Cryan

Inspector