



Appeal Decision

Site visit made on 24 February 2020 by S Watson BA(Hons) MSc

Decision by Kenneth Stone BSc(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 8 April 2020

Appeal Ref: APP/E3715/D/19/3242365

35 Cedar Avenue, Ryton On Dunsmore, Coventry CV8 3QB

- 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 Szubart against the decision of Rugby Borough Council.
 - The application Ref R19/0986, dated 21 June 2019, was refused by notice dated 30 September 2019.
 - The development proposed is a two storey side and rear extension and single storey front extension.
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Decision

1. The appeal is allowed, and planning permission is granted for a two storey side and rear extension and single storey front extension, at 35 Cedar Avenue, Ryton on Dunsmore, Coventry CV8 3QB, in accordance with the terms of the application R19/0986, dated 21 June 2019 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) 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.
 - 3) The development hereby permitted shall be carried out in accordance with the approved plan: 23/1/19-02 Rev D

Appeal Procedure

2. The site visit was carried out by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this case are the effect of the proposal on the:
 - character and appearance of the building and Cedar Avenue; and,
 - the living conditions of neighbouring occupiers at No 16 Lea Walk, with particular reference to outlook.

Reasons for the Recommendation

Character and Appearance

4. The appeal site is accessed from Cedar Avenue by a shared driveway which also serves No 33, both are on the south side of the driveway, with an area of mature vegetation to the north. The appeal site contains a two-storey detached dwelling in an 'L'-shape. There is a gable end over the front two-storey projection and a hipped roof which extends over the single-storey side garage. The surrounding area is residential and features a number of repeating styles, although from my visit it appeared that there were only a few properties of the same style as the appeal property. Predominantly the houses are detached and have gabled roofs.
5. The proposal includes a first-floor side extension with a hipped roof over the existing garage. The garage would also be extended forward, and a porch created. The side extension would connect to the two-storey rear extension which would replace the existing conservatory. Collectively these extensions would result in a noticeable change to the appearance of the building, especially the rear where the design is currently very plain. However, the resultant design would be coherent and the loss of the original appearance of the host dwelling would not be unacceptable. Moreover, the changes would also respect the character of the dwelling, in part by retaining such features as the hipped roof and the 'L'-shaped form. Nevertheless, the site is set away from the road and views are limited by the intervening development between the site and road. As such, the dwelling is not read as part of the street scene and the alterations would not harm its character and appearance by way of the substantial change in its appearance.
6. Moreover, the proposals would retain space between the dwelling and the site boundaries, and would not be disproportionate to the host dwelling. As such I find that the scheme would not be excessive or overdevelopment of the site.
7. In light of the above I conclude that the proposed development, would suitably respect the character and appearance of the host dwelling and Cedar Avenue, and as such would comply with Policy SDC1 of the *Rugby Borough Council Local Plan* (LP) which requires development to be of a high quality design; and the character and appearance aims of Section 12 of the National Planning Policy Framework (the Framework). The proposed extensions would also comply with the guidance contained within the *Sustainable Design and Construction Supplementary Planning Document* (SPD) which, amongst other matters, makes recommendations on the scale and design of extensions.

Living Conditions

8. No 16 Lea Walk is the immediate neighbour south-west of the appeal site. The two properties both face north-west although they are not quite parallel to each other. At the rear of No 16 are three first-floor windows, two ground-floor windows, and a set of glazed sliding doors. The closest of these to the appeal site are the first-floor window which serves a bedroom and the sliding doors which serve the dining room. Both windows have an open outlook across the garden towards the south-east. Given the distance and relationship between the other windows and the appeal site these windows would not be unacceptably affected by a loss of outlook or light.

9. The sliding doors are large and fully glazed, providing an important outlook over the garden and a sense of openness within the dining room. Close to them is the boundary with the appeal site, formed of a solid fence with some planting on No 16's side. The fence was noticeable from the dining room and, to a limited degree, reduces the outlook towards the east. Given this, and the otherwise open outlook towards the south-east, I find that the scale of the extension, and its relationship with the neighbouring property, are unlikely to unacceptably impact on the outlook.
10. Likewise, the first-floor bedroom window would also not be unacceptably affected by the proposed extension due to its scale and positioning relative to the window. Although I acknowledge that the outlook to the east is currently open, the first-floor extension is much shallower, than the ground-floor, and any views of it would be at an oblique angle. Moreover, the outlook from the garden would also not be unacceptably affected by the extension which would have a very limited visual impact. The first-floor extension would also comply with the 45° guideline set out in the SPD, whilst this is only guidance it supports the conclusion that I have reached below.
11. Given the orientation of the appeal site and two neighbouring properties, Nos 33 Cedar Avenue and 16 Lea Walk, as well as their relationship with each other, I find that the proposal would not result in a significant or unacceptable loss of light to either properties. I acknowledge that No 33 is likely to be more affected, but any direct sunlight lost would be for a relatively short period in the evening, and it would not have an unacceptable impact. Furthermore, although the extension would be angled towards No 16, this is only slight, and would not result in an unacceptable impact.
12. In all I find that the bedroom, dining room and garden would not become less pleasant places as a result of the proposed extension and as such that the proposal would not result in an unacceptable impact on the living conditions of the occupiers at No 16 Lea Walk. It would therefore comply with Policy SDC1 of the LP, and Section 12 of the Framework which, amongst other things, seeks for development to safeguard the living conditions of existing and future neighbouring occupiers. The proposal would also comply with the SPD which includes guidance on light and overbearing.

Conditions

13. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. I have considered the suggested conditions against the advice on conditions set out in the Framework and the Planning Practice Guidance. I have amended some of the suggested wording to reflect this advice.
14. To ensure clarity, a condition is necessary requiring that the development is carried out in accordance with the approved plans. In the interest of the character and appearance of the street scene, a condition is necessary controlling the external materials of the development.
15. The Council has suggested a condition restricting any side windows being formed without agreement. However, there is already a condition stating the development must accord with the approved plans, which do not show side windows, and thus the proposal should be built without any. Moreover, it is up to the Council whether they should approve any non-material amendment.

However, should the Council have wished to restrict permitted development rights, the condition should have been worded to do so. As the removal of these rights are not referred to it would fail the test of precision in this regard. Nevertheless, Paragraph 53 of the National Planning Policy Framework requires that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. In this case there is no clear justification given. In light of the above I find it unnecessary to attach this condition.

Conclusion and Recommendation

16. For the reasons given above I recommend that the appeal should be allowed with the suggested conditions.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be allowed with the conditions set out above.

Kenneth Stone

INSPECTOR