
Appeal Decision

Site visit made on 19 May 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th June 2020

Appeal Ref: APP/R1038/D/20/3245969

6 Wellfield Close, Ridgeway S12 3XN

- 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 Andrew Cain against the decision of North East Derbyshire District Council.
 - The application Ref 19/00680/FLH, dated 3 July 2019, was refused by notice dated 8 January 2020.
 - The development proposed is single/two storey front extension, two storey side extension and single storey rear extension with rendering to the external facades of the property.
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Procedural Matters

1. I have removed the words Conservation Area from the description of development as they do not describe development.
2. I note that the Council's decision notice includes reference to plans PL_10 and PL_10 A and does not refer to either plan PL_7 or PL_7 A. Confirmation has been received from both parties that PL_10 A and PL_7 A were submitted as amended plans during the application process. I have made my decision taking account of these plans.
3. I observed that works have been carried out on site and therefore the development is retrospective. I have made my decision on this basis. However, the development has not yet been completed in accordance with the submitted revised plans. In summary, the key amendments to the plans are: i) lowering the parapet wall and ii) inserting glazed panels in front of the French doors on the first-floor rear elevation. I have made my decision based on the revised plans.

Decision

4. The appeal is allowed, and planning permission is granted for single/two storey front extension, two storey side extension and single storey rear extension with rendering to the external facades of the property, at 6 Wellfield Close, Ridgeway S12 3XN, in accordance with the terms of the application Ref 19/00680/FLH, dated 3 July 2019, subject to the following conditions:
 1. The development hereby permitted shall be completed in accordance with the following approved plans: 19_42 PL_05, 19_31 PL_06 B, 19_42 PL_07 A, 19_42 PL_08 C, 19_42 PL_09 B, 19_42 PL_10 A.

2. The materials used on the external surfaces of the development hereby permitted shall be as specified on approved drawing Ref 19-42 PL-09 B.
3. The roof area of the single-storey rear extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions, ie outlook, light and privacy, of existing occupiers, with particular regard to the scale and height of the rear extension.

Reasons

6. The property to which the development relates is a two-storey, semi-detached dwelling. For planning policy purposes, the site is within the settlement development limits of Ridgeway and the Moss Valley Conservation Area (CA).
7. The adjoining semi-detached dwelling, 8 Wellfield Close, is attached to the eastern side of the appeal property. The rear elevations of the properties face broadly south/south-westerly. Excluding roof lanterns, the rear extension would be approximately 4 m high x 3.9 m deep; it is positioned just short of the boundary with No 8 and has a flat roof design with an off-white render finish.
8. The rear elevation of No 8 includes lounge and dining room windows at ground-floor level and 2 No bedroom windows at first-floor level. The main outdoor patio area is located immediately to the rear of the property, the level of which is a little lower than the neighbouring ground level of the appeal site. Given these factors, I conclude that the scale and height of the rear extension does harm the outlook from, and reduces light to, the lounge, and that it is likely to cast a shadow over a large part of the patio area in the evening. In addition, should the roof of the rear extension be used as a terrace/outdoor amenity area, then the privacy of the occupiers of No 8 would also be harmed, as users of the terrace would be able to look into bedroom and lounge windows and overlook the patio area at close range. However, this can be controlled by condition restricting the use of the roof.
9. In light of the above, with regard to the rear extension, I consider the development would not accord with saved policies GS5 and H5 of the North East Derbyshire Local Plan (2005) (NEDLP) or paragraph 127 of the National Planning Policy Framework (the Framework), as they require, among other things, development to protect the living conditions of occupiers of neighbouring properties.
10. Nonetheless, planning legislation requires me to determine the appeal in accordance with the development plan, unless material considerations indicate otherwise.¹ A significant material consideration is the planning permission which has already been granted, Ref 18/00567/FLH, which is a fallback position that the appellants could readily revert to.
11. I acknowledge that for various reasons it may not be possible to make exact comparisons between the approved and the appeal schemes. However, the evidence before me suggests that the rear extension would be approximately

¹ Planning and Compulsory Purchase Act 2004, s38(6).

0.2 m deeper and (excluding roof lanterns) 0.5m higher than the approved rear extension. I consider that these increases in depth and height do not significantly alter the outlook, light or privacy levels for the occupiers of No 8 from those that result from the approved scheme.

12. Therefore, I conclude that the appeal scheme is not materially more harmful to the living conditions of the occupiers of No 8 than the approved, fallback scheme, and I see no reason why the appellant would not implement the approved scheme if the appeal was dismissed. Consequently, I give substantial weight to the fallback position as a material consideration, and it is for this reason that I am allowing the appeal, contrary to the development plan.

Other Matters

13. In addition to the above I note that the two-storey element of the front extension is sited adjacent to the boundary with No 8 and projects forward of the property. The side of the front elevation of No 8 that is closest to the boundary with No 6 has a bedroom window at first-floor level. The centre of this bedroom window is a similar distance from the side elevation of the extension as the depth of the extension itself. The roof of the extension is hipped away from the boundary between the properties. Given these factors, I consider that the front extension does not harm the outlook from the bedroom window, nor would the room receive a reduced level of light that would be harmful to the living conditions of the occupiers of No 8.
14. No 4 Wellfield Close is the immediate neighbouring property to the west of the site. Given the gap between the properties, the increased height of ground and floor levels of No 4, the orientation of the properties and the location of windows and the rooms they serve, I consider that the development would not harm the living conditions of the occupiers of No 4 in respect of outlook and light. However, should the roof of the rear extension be used as a terrace/amenity area, the privacy levels of the occupiers of No 4 would be harmed, though I have noted that this can be controlled by condition.
15. I note that the occupiers of No 8 expressed concerns regarding communications between them and the appellant in respect of the Party Wall Act, and that they consider the development has resulted in some damage to their property. Unfortunately, these are Civil matters that are outside the scope of the appeal.
16. As noted above, the site is located within the Moss Valley CA. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of a CA, which is therefore a matter of considerable importance and weight. In addition, the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I consider that the development would preserve the character and appearance of the CA.

Conditions

17. For the avoidance of doubt, I have attached conditions specifying the approved revised plans, including the approved drawing which outlines the external materials to be used. Although the Council has not suggested a condition

regarding use of the roof of the single-storey rear extension, it is evident that parties discussed this matter during the application process and I have concluded above that use of the roof as a terrace would harm the living conditions of the occupiers of Nos 8 and 4 Wellfield Close. I have therefore attached a condition preventing use of the roof as a terrace/outdoor amenity area, in order to protect the living conditions of the occupiers of these immediate neighbouring properties. As the development has commenced there is no need to attach a condition specifying a timescale for commencement.

Conclusion

18. For the reasons outlined above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR