
Appeal Decision

Site visit made on 22 September 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2020

Appeal Ref: APP/T2405/D/20/3255920
18 Westdale Avenue, Glen Parva LE2 9JP

- 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 Kris Macmahon against the decision of Blaby District Council.
 - The application Ref 20/0451/HH, dated 3 April 2020, was refused by notice dated 5 June 2020.
 - The development proposed is demolition of existing single storey side extension and construction of a single storey rear and two storey side extension.
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Decision

1. The appeal is dismissed

Main Issue

2. The main issue is the effect of the two storey side extension on the living conditions of the occupiers of No 16 Westdale Avenue and the appeal property in respect of outlook and light.

Reasons

3. The appeal property is semi-detached and falls within an established housing estate. The dwelling is set back about four metres from the front walls of the adjacent semi-detached dwellings (Nos 14 and 16 Westdale Avenue) and a similar staggered relationship exists to the rear.
4. The parties have drawn to my attention the fact that planning permission¹ has recently been granted for a two storey side and single storey rear extension at No 16 Westdale Avenue and I have no reason to doubt the Council's comment that *"I have been made aware that a Building Notice application has been made for the proposed works at No 16 Westdale Avenue"*. The existence of the aforementioned planning permission is a material planning consideration to which I afford significant weight as part of the determination of this appeal. Indeed, I was able to observe on my site visit that the two storey side extension relating to the above planning permission appeared to have been constructed.
5. Owing to the scale and position of the neighbouring two storey side extension, it would have an enclosing and dominating impact when viewed from the proposed ground and first floor windows of the appeal side extension and it

¹ Planning permission Ref 20/0163/HH

would lead to some loss of daylight. In addition, if the appeal development were to be allowed it would have a significantly harmful effect on the occupiers of the approved kitchen and bedroom No 4 at No 16 Westdale Avenue in respect of loss of outlook and daylight. The appellant considers that a kitchen is not a habitable room and that a bedroom is not a "*primary room*". I have not been provided with any development plan policies which seek to define what is a habitable room. In any event, I consider that it is very likely that the approved bedroom and kitchen area (which is combined with a family room) would be used regularly by the occupiers of No 16 Westdale Avenue. They should not have to live with a poor level of outlook and daylight as a result of the appeal development.

6. The appellant acknowledges that in respect of the above impacts the proposal would infringe a 45 degree line drawn from the centre of the aforementioned windows. I accept that the Council does not have any adopted policies which refer to the 45 degree line, but nonetheless I consider that this is a useful guide to assist in my determination of this appeal. I have, in any event, also considered the relationship of the appeal development and the neighbouring dwelling house as part of my site visit.
7. Taking into account the development approved for No 16 Westdale Avenue, I therefore conclude that the proposal would cause significant harm to the occupiers of this dwelling and to the occupants of the proposed two storey side appeal extension in respect of loss of outlook and daylight. Consequently, the proposal would not accord with Policy DM1 of the adopted Blaby District Local Plan (Delivery) Development Plan Document 2019 which seeks to improve the design quality of all new developments in the District, or with paragraph 127(f) of the National Planning Policy Framework (the Framework) which states that planning decision should ensure a high standard of amenity for existing and future users.

Other Matters

8. I note the appellant's concern that while the appeal planning application was submitted at the same time as the planning application for No 16 Westdale Avenue, decisions were not made at the same time. He now feels disadvantaged as planning permission has been first approved for the neighbouring property. The timing of the planning decisions is not, however, relevant to the determination of this appeal. I acknowledge that the occupiers of No 16 Westdale Avenue support the appeal proposal. However, I have to also consider the effect of the development on future occupiers of this property in accordance with the Framework.
9. None of the other matters raised by the appellant alters or outweighs my conclusion on the main issue.

Conclusion

10. For the reasons outlined above, the appeal should be dismissed.

D Hartley

INSPECTOR