
Appeal Decision

Site visit made on 17 November 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 December 2020

Appeal Ref: APP/R3515/D/20/3249109

44 Byland Close, Ipswich IP2 9BQ

- 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 Chapman against the decision of Ipswich Borough Council.
 - The application Ref IP/19/01136/FUL, dated 19 December 2019, was refused by notice dated 18 February 2020.
 - The development proposed is erection of two-storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two-storey rear extension at 44 Byland Close, Ipswich IP2 9BQ in accordance with the terms of the application, Ref IP/19/01136/FUL, dated 19 December 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Layouts and Elevations Drawing No 19-086-PL-01; and Proposed Layouts and Elevations Drawing No 19-086-PL-02.
 - 3) 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.

Procedural Matter

2. The appellant submitted a plan with his appeal statement that the Council had not seen when it determined the planning application. The plan and the appellant's statement of case sought to demonstrate how the appeal scheme could be compared to development that may be allowed under permitted development rights. The Council was given the opportunity to comment on this evidence and the appellant the opportunity to respond. I therefore consider that no party is prejudiced by my taking it into account in my decision.

Main Issues

3. The main issue is the effect of the proposal on the living conditions of the occupiers of No 42 Byland Close with particular regard to daylight and sunlight.

Reasons

4. The appeal site is an end of terrace, two storey dwelling. Its rear elevation is staggered such that part of it is in line with the rear elevation of the attached neighbour, No 42 Byland Close (No 42) and the remainder projects approximately a further 2.4 metres from the common plane. The road is on a gradient such that the appeal site is set at a slightly lower level than No 42.
5. The proposed part single and part two storey rear extension would align with the original two storey projection at ground floor level and would project approximately 1.7 metres from the common plane at first floor. The two storey element would have a flat roof, minimising its height and maintaining the existing style for this part of the building. The ground floor element would have a lean-to style roof. Although the proposal would extend to the shared boundary with No 42 there is already a tall, lap-panel timber fence along this boundary. Therefore, only a modest amount of roof and side wall of the proposed extension would appear above the height of the existing fence.
6. The combination of these factors would limit any loss of light that would be experienced by the occupiers of No 42 through their patio doors, which are close to the shared boundary. The appeal site lies to the south of the No 42. However, no sun trajectory information has been provided to demonstrate the effect of the proposal in relation to sunlight. In addition, I acknowledge that the proposal would not conform with the application of the '45 degree rule' as set out in the Ipswich Space and Design Guidelines Supplementary Planning Document 2015 (SPD). Nevertheless, given the existing situation, along with the staggered height and overall modest scale of the proposed development, I am satisfied that it would not result in a material loss of daylight or sunlight penetration to the neighbouring dwelling.
7. Consequently, I conclude that the proposal would not cause unacceptable harm to the living conditions of the occupiers of No 42 Byland Close with regard to daylight and sunlight. Thus, it would comply with the amenity requirements of Policy DM12 of the Ipswich Borough Council Local Plan Core Strategy and Policies Development Plan Document Review 2017 and the SPD.

Other Matter

8. The appellant suggests that the property benefits from permitted development rights to construct a single storey extension which would, by virtue of its potential depth and height, result in a more detrimental impact than the appeal proposal. The Council does not dispute the assertion that this permitted development right exists. However, given my conclusions above, although I have taken account of the fallback argument, it is not one that has been determinative in this case.

Conditions

9. I have considered the conditions suggested by the Council. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. A condition relating to external materials is also necessary in the interests of the character and appearance of the area.

Conclusion

10. For the above reasons the appeal is allowed.

S Tudhope
Inspector