

Appeal Decision

Site visit made on 10 December 2020

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2021

Appeal Ref: APP/T3725/D/20/3258979

6 Tithe Barn Close, Hampton Magna, Warwick, CV35 8RU

- 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 Marc Keogh against the decision of Warwick District Council.
 - The application Ref W/20/0992, dated 5 July 2020, was refused by notice dated 28 August 2020.
 - The development proposed is the erection of a rear lounge extension with bedroom/bathroom.
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Decision

1. The appeal is dismissed.

Main Issue

2. There is one main issue which is the effect of the proposed extension on the living conditions of occupiers of 4 Tithe Barn Close with respect to light and outlook.

Reasons

3. The appeal dwelling is a two storey detached property with a single storey rear projection. It is set in a cul-de-sac at the end of a short row of dwellings, beyond which is a parking and turning area. No 4 Tithe Barn Close, a two storey house with a two storey rear extension, is situated on the other side of the appeal dwelling. No 4 has a side window facing the side elevation of the appeal property. It is understood that this window serves a bedroom and is the only window serving the room.
 4. The proposed extension would enlarge the footprint of and provide a first floor above the existing rear projection. It would lie within about 1m of the shared boundary with No 4.
 5. At present, the side bedroom window in No 4 faces directly onto the two storey side elevation of the appeal dwelling but, at a slight angle, it has an open outlook over the existing single storey rear projection. The proposed first floor extension would block this outlook, replacing it with a blank wall that would lie some 2m away. This would result in an oppressive and overbearing effect. In addition, the extension would materially reduce the level of daylight reaching
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the side window which would make the room gloomy and uninviting. However, due to the north facing aspect of the window the effect on sunlight would be limited.

6. It is concluded on the main issue that the proposed first floor extension would have a materially harmful effect on the living conditions of occupiers of 4 Tithe Barn Close with respect to outlook and daylight. In consequence it would conflict with Policy BE3 of the Warwick District Local Plan 2011 – 2029, adopted 2017, and the National Planning Policy Framework. Taken together these expect new development to provide a high standard of amenity for existing and future users and seek to resist development that has an unacceptable adverse effect as a result of, amongst other things, loss of daylight and visual intrusion.
7. The appellant argues that neither the Parish Council nor the neighbour at No 4 has objected to the proposed extension and as the Council's site visit was conducted from land outside the appeal site the position of the side window, opposite the rear chimney at No 6, was not appreciated. However, it is clear that, notwithstanding this location, the window currently enjoys an adequate outlook and satisfactory level of daylight. These would be significantly diminished as a result of the proposed extension and the lack of objection would not alter that.
8. The appellant also suggests that as a result of a pre-application consultation with the Council he was advised to submit a planning application. I have limited evidence of any pre-application advice and no evidence that written advice was provided. If poor advice was given that is regrettable. In any case, in reaching my conclusion I have assessed the proposed development on its own merits.
9. The appellant refers to the 45 degree rule. The Council's delegated report makes clear that this is not breached in this case and the Council's Supplementary Planning Document entitled The 45 Degree Guideline explains that it does not apply at the side of a dwelling. Nevertheless, this would not alter or outweigh my findings regarding the harm to the living conditions of neighbours.
10. Finally, the appellant points out that other nearby dwellings have been significantly extended. That may be so but I have no evidence to suggest that in those cases the circumstances regarding living conditions are comparable.
11. For the reasons set out above and having regard to all other matters raised, including financial loss to the appellant and a possible breach of data protection, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR