



Appeal Decision

Site Visit made on 5 January 2021 by Mr John Gunn DipTP Dip DBE MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/T3725/D/20/3260450

2 Penns Close, Cubbington, CV32 7LX

- 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 Richard and Carol Hyam against the decision of Warwick District Council.
 - The application Ref W/20/0420, dated 02 August 2019, was refused by notice dated 25 August 2020.
 - The development proposed is described as landing and steps to facilitate access to the rear garden.
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Decision

1. The appeal is allowed, and planning permission is granted for landing and steps to facilitate access to the rear garden at 2 Penns Close, Cubbington, CV32 7LX in accordance with the terms of the application, Ref W20/0420, dated 02 August 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 development hereby permitted shall be carried out in accordance with the following drawings: Drawing Nos 5478.LP, 5478.01.

Appeal procedure

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

Applications for Costs

3. An application for costs was made by Mr and Mrs Hyam against Warwick District Council. This application is the subject of a separate Decision.

Procedural matter

4. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has changed, and a different wording has been entered. The appellant has provided written confirmation there was no formal agreement to amend the application description. Accordingly, I have used the one given on the original application.

Main Issue

5. The main issue in this case is the effect of the proposal on the living conditions of the occupiers of No 3 Penns Close having particular regard to its effect on privacy.

Reasons

6. The host property sits approximately 1 metre higher than its rear garden. The proposed development would provide access to the rear garden from the utility room and the kitchen/dining room via a landing and steps. The development as proposed seeks to reduce the size of the existing landing (decked area) and steps.
7. The new decked area is shown to have a rearward projection of just over a metre from the rear of the house. Users of the decked area would be able to see into part of the rear garden of No 3, but such views would however be limited given the presence of a tall boundary fence, and the existing building at No 3 on the boundary with the host property, which provides a degree of screening to the garden. Moreover, the views that could be obtained from this area would be very similar to that which is achieved from the existing fenestration on the rear of the host property.
8. Furthermore, given the limited depth of the decked area and the presence of doors opening out on to it, there would be a high probability that the area would primarily be used for access purposes as opposed to sitting out on or being used for outdoor dining or entertaining. As such it would be unlikely that users of the deck would be using the area for long periods of time such that the occupiers of No 3 would consider that the privacy of their rear garden was being compromised.
9. Given the above I conclude that the proposal would not result in harm to the living conditions of the occupiers of No 3, in accordance with the aims of Policy BE3 of the Warwick District Local Plan 2011-2029 which, amongst other things, seeks to protect the amenities of neighbouring properties by ensuring that new development does not result in loss of privacy.

Other Matters

10. Given the oblique angle from the landing decked area towards the rear of No 1, I find that views into the master bedroom would be unlikely. Accordingly, the privacy of the occupiers of No 1 would not be harmed by the proposal. Furthermore, views from the area into the rear garden of No 1 would be limited because the existing fencing on the common boundary would provide a degree of screening. Consequently, I do not consider that the proposed development would harm the living conditions of the occupiers of No 1 by reason of overlooking or loss of privacy. There would be no conflict with the aims of Policy BE3 of the WDLP in this regard. It is noteworthy that the Council did not raise harm to the living conditions of the occupiers of No 1 as a concern in its report or refusal reason.

Conditions

11. The Council has suggested conditions it would wish to see imposed in the event that the appeal was allowed. I have considered these against the guidance on

conditions set out in the National Planning Policy Framework and the Planning Practice Guidance.

12. In order to ensure that the development is undertaken as approved, a condition referring to the approved plans is necessary.

Conclusion and Recommendation

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to the conditions set out above.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed with the recommended conditions.

RC Kirby

INSPECTOR