



Appeal Decision

Site Visit made on 23 February 2021

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/D1780/W/20/3256541

61 King Edward Avenue, Regents Park, SOUTHAMPTON, SO16 4DL

- 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 & Mrs S Callaway against the decision of Southampton City Council.
 - The application Ref 20/00338/FUL, dated 6 March 2020, was refused by notice dated 1 May 2020.
 - The development proposed is a proposed two-storey rear extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of 59 King Edward Avenue (No.59) with regard to outlook and light.

Reasons

3. The rear elevation of the appeal property is located around 5 metres further back into the site than the rear of the adjoining property at No.59. The side elevation facing No.59 is predominantly blank save for a first-floor window which appears to serve a staircase. The proposed increase to the depth of the appeal property would mean that the cumulative depth of the rear projection behind No.59 would increase to around 8.3 metres and this would also be at a two-storey height with a hipped roof.
4. This relationship would, due to its height, rearward projection, and proximity to the neighbouring property result in an intrusive, dominant, and overbearing effect on the adjoining property at No.59 which would be harmful to the living conditions of the occupants.
5. It is acknowledged that the plot dimensions mean that the gardens are generous however this does not diminish the effect that the development would have on the living conditions of the occupiers of No.59. I consider the appellants contention that the presence of a flank wall for a small part of the garden would not result in an unduly overbearing impact is unconvincing. This is particularly so given the overall projection behind No.59 which would result coupled with the fact that the extension would be to the south of No.59.
6. I note the appellants comment that the Council's supplementary guidance indicates that the impact of a proposal where a property enjoys outlook in different directions may make this matter less important, though for the reasons given I did not find that to be the case here. The proposed increase in

the depth of the flank wall would increase significantly beyond the rear of No.59 and the existence of a large garden would not overcome the harm which would result.

7. I note that both the appellants and the Council comment that the proposal would not result in a loss of privacy to occupants of No. 59. Moreover, the Council do not mention any adverse impact on outlook, though in these particular circumstances the Council's reason for refusal regarding the proposed extension being overbearing and unduly dominant are, to me, synonymous with an effect on outlook. The expanse of the blank elevation and the dominating effect of it would not be diminished simply because there would be no adverse effect on the privacy of the neighbouring occupants.
8. With regard to the effect on sunlight reaching the garden of No.59 the appellants have provided an overshadowing study undertaken using an approved modelling tool. This shows that the additional effect on sunlight reaching the garden of No.59 would differ only slightly. I am satisfied that there would not be an adverse impact due to unacceptable levels of shading or loss of sunlight. Nonetheless, the issue of an overbearing impact remains.
9. It is not disputed that the existing arrangement between the properties breaches the 45 Degree rule set out in the Councils Residential Design Guide Supplementary Planning Document (September 2006) (RDG) when measured from No.59, however the additional depth of the appeal proposal would exacerbate that relationship and cause a more severe impact on the living conditions of the occupants of No.59.
10. Parts of this guidance seek to ensure that new development does not have any adverse effects on existing occupants in respect of outlook. It also seeks to ensure that residents do not suffer from dominant effects from adjacent development. I give significant weight to that guidance.
11. Taking all of the above matters into account, and notwithstanding my conclusion on there being no adverse effect on the sunlight reaching the garden area of No.59, the proposal would conflict with saved policies SDP1, SDP7, SDP9 of the Adopted Local Plan Review (2015) and to principles contained in the RDG. These policies, amongst other things, seek to ensure that development will only be granted where it does not unacceptably affect the amenity of existing residents; integrates into the local community and respects its surroundings in terms of scale and massing.

Other Matters

12. I have had regard to the appellants comments on what they consider to be the merits of the proposal with respect to long gardens, generous back to back distances between the property and houses in Percy Road though these factors do not diminish my concerns with regard to the effect of the proposed extension.
13. An extension of No.63 King Edward Avenue has been cited by the appellants in support of this appeal. That consent which was allowed following an appeal¹ projects further back from No. 61 however the relationship between the buildings is not the same as that between No.61 and No.59 and the impact on

¹ APP/D1780/D/11/2164723

the living conditions to the neighbouring property is not the same. That decision does not alter my findings.

14. The appellants emphasise that the Council has raised no concerns regarding natural light, outlook, or any negative effect on privacy from inside the property and their concerns relate to the part of the garden immediately outside the property. I also note that both neighbours have written in support of the scheme. However, I have to consider the effect on current and future occupiers. Whilst the views of existing occupiers are important, they do not set aside the policy considerations against which I must assess the scheme. However well accustomed the existing residents may be to the current layout of the buildings or however supportive individual residents may be to the appeal scheme this does not override the conflict I have found in respect of the main issues.
15. The appellants take issue with the Council's reference to other documents including the National Planning Policy Framework, the adopted Core Strategy, and the British Research Establishments guide to good practice as these are not referenced in the reasons for refusal. For clarity I have considered the appeal on the basis of the areas of dispute set down in the reasons for refusal.
16. Wider policy references have also been made in respect of spatial policies and sustainable development however these references speak to a wider planning purpose and the quality of design which are not points at issue in this appeal.

Conclusion

17. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

Janet Wilson

INSPECTOR