



Appeal Decision

Site Visit made on 23 February 2021

by Janet Wilson

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2021

Appeal Ref: APP/C1760/D/20/3260921

48 Upton Crescent, Nursling, SOUTHAMPTON SO16 8AB

- 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 D Holt against the decision of Test Valley Borough Council.
 - The application Ref 20/01326/FULLS, dated 18 June 2020, was refused by notice dated 13 August 2020.
 - The development proposed is a first-floor side extension to form bedroom, dressing room and en-suite.
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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 number 46 Upton Crescent (No.46) with regard to privacy, outlook, and light.

Reasons

3. The appeal scheme proposal involves extending the existing hipped roof towards number 46 incorporating a half hip to match that on the other end of the property. The addition of an asymmetrical gable, rising above the existing rearward projection, would incorporate a full height glazed screen across the middle section of the gable which would be around 3 metres in width. This extensive glazing would be located in close proximity to the boundary of No.46 such that it would afford views into the adjacent private garden. The presence of the outbuilding at No.46 would obscure a small part of that view and the positioning of the buildings means that there would only be an oblique view of the patio area at the back of No.46. Even so, though the extent of glazing would not afford a view to the area immediately behind No.46, the proximity would still cause a degree of overlooking to the garden such that the occupiers would experience an unacceptable loss of privacy.
4. The enlargement of the first floor would create a side wall for the full depth of the building. Whilst there would be a half-hipped roof the expanse of side wall at first floor level would create a significantly larger volume to the structure directly on the boundary. This increased height, coupled with the projecting gable, would be obtrusive from the neighbouring property and would have an overbearing effect on the outlook from the gardens and from the living accommodation at the side of the property. The existing vegetation on the boundary provides some screening. However, it screens only the ground floor

and the bulk of the structure would be above that height, such that the boundary fence would not mitigate that impact.

5. A representation points to an adverse effect on light reaching the internal space of the neighbouring property, especially the dining room, which is said to have been caused by the previous extension at the appeal property. This would be further exacerbated by the appeal proposal. Whilst the light reaching the side window of No.46 is partially limited by the existing vegetation and the boundary treatment; the increased bulk and massing of the proposal would significantly increase that effect. Particularly so given the increase in height of the side wall and the bulk of the gabled projection, together with the fact that the extension would be due south of the neighbouring property.
6. The result would undoubtedly increase the impact on the living conditions of the occupants of the neighbouring property causing harm. I do not accept the appellants justification that, as this is a dining room, its use would only be for short periods nor that the impact would be limited. The increased bulk would have more than a marginal impact on the outlook from the dining room and the light which would reach it. For these reasons, the extension would have a material effect on the living conditions of the occupants of No.46 which would be to their detriment.
7. Consequently, the development would conflict with policies LHW4 and COM2 of the Test Valley Borough Revised Local Plan 2016. These policies seek to ensure that development will only be permitted where it provides for the privacy and amenity of neighbouring properties and does not reduce the levels of daylight and sunlight reaching existing properties to below acceptable levels.

Other Matters

8. The appellants draw attention to a planning approval in 2010 for the appeal property which proposed a rear extension with first floor French doors and a Juliette balcony. Details of that application indicate that the first-floor window would have been a greater distance from the neighbour and that the eaves level on the boundary would have been unchanged. Since that time the appeal property has been extended via a 2014 approval which incorporated four dormers. These dormers are further away from the boundary with No.46 such that their impact upon it is significantly less than that proposed in this appeal scheme. Nonetheless, there are substantive differences between the proposals such that the comparisons do not alter my findings.
9. The appellants say that the overlooking of adjacent gardens has been considered in countless appeals, though no specific cases have been quoted. They also point out that the dormer window in the 2014 approval have the same relationship with the property at number 50 Upton Crescent but were found to be acceptable. The positioning and apertures of the two windows referred to are materially different and not directly comparable. In any event, I must determine the appeal on its own merits and I have come to my judgement from the evidence and from what I observed on the appeal site and from the garden of the neighbouring property.
10. The appellants highlight that the neighbouring occupiers do not appear to have made public representations and as such it must be concluded that they do not consider the scheme has any detrimental effect. The Council clarify that an

objection was received and considered by them. I have had regard to this representation in reaching my decision.

11. The appellants have indicated consideration needs to be given to what could be constructed under permitted development rights suggesting the dimensions which could be built either without planning permission or via the prior approval process. There is no detailed evidence before me to demonstrate that a proposal with a similar or greater impact would meet the limitations and conditions set out in the permitted development legislation. As such there is no proven fall-back position on which the appellant could rely and which could be considered material to my findings.
12. General reference has been made to the National Planning Policy Framework (the Framework) in establishing the presumption in favour of sustainable development. Whilst the Framework is not specifically mentioned in the Councils reasons for refusal its principles need to be considered as a whole. Of particular relevance is Paragraph 127 which seeks, amongst other things, to ensure that development safeguards a high standard of amenity and does not undermine the quality of life of existing occupiers.

Conclusion

13. For the above reasons and having taken all other matters into account the appeal is dismissed.

Janet Wilson

INSPECTOR