



Appeal Decision

Site visit made on 22 June 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2021

Appeal Ref: APP/D1835/D/21/3272060

211 Malvern Road, Worcester WR2 4NR

- 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 Andrew Sayers against the decision of Worcester City Council.
 - The application Ref 20/00875/HP, dated 7 November 2020, was refused by notice dated 12 March 2021.
 - The development proposed is two storey side and single storey rear extensions.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers at No. 209 Malvern Road, in relation to outlook from the side facing playroom / guestroom of the property.

Reasons

3. The site is located at No. 211 Malvern Road, directly adjacent to No. 209 Malvern Road, which is the closest neighbouring dwelling. The main built form of the existing dwelling at the site is generally two storeys in height albeit, towards its boundary with No. 209 Malvern Road, steps down to one storey in height wherein lies a side garage.
4. In essence, the side garage provides a low rise buffer between the two storey side elevation of No. 211 Malvern Road and the ground floor side facing playroom / guestroom window of No. 209 Malvern Road. Consequently, during my site visit, a pleasant outlook from the room was apparent, and although the garage and boundary features were in general close proximity, their limited scale preserved a feeling of openness from the side window.
5. It is acknowledged that the design of the proposal has been through multiple revisions in an attempt to mitigate harmful effects on the living conditions of neighbouring occupiers, particularly by setting the side extension back by around 1.2 metres and excluding the use of side facing windows. In addition, the rear extension of the proposal would appear to satisfy the relevant design guidance on degrees of view, pursuant to preserving the outlook from the rear facing habitable room windows at No. 209 Malvern Road.

6. Nonetheless the proposal would provide a substantial side extension, which by reason of increased depth and height, would significantly detract from the outlook currently enjoyed from the habitable room in question. For example, notwithstanding existing boundary features and the garage as previously described, these are around half the scale of what is proposed, and do not impinge on openness in such a harmful way.
7. Consequently, the side extension would dominate the outlook from the habitable room by comparison and replace a feeling of openness with an oppressive expanse of built form. It would therefore be overbearing on the living conditions of neighbouring occupiers. This would not appear to be mitigated by outlook from front or rear windows from this particular room, which does not have any such provision when interior doorways are closed.
8. Even if the rear extension is single storey in height, the two storey side extension in and of itself would still extend a substantial distance along the length of the side elevation of No. 209 Malvern Road. Consequently, the rear extension is limited in mitigating the identified harm.
9. The general principle established is that proposals should respond to and be designed in an appropriate manner to be compatible with existing uses. Consequently, in this case, the habitable room at No. 209 already exists and it is for the appellant to ensure any proposals come forward without impinging on prevailing living conditions enjoyed by the neighbouring occupiers.
10. Overall, the proposal would harm the living conditions of neighbouring occupiers at No. 209 Malvern Road, in relation to outlook from the side facing playroom / guestroom of the property. It would therefore conflict with Policy SWDP21 of the South Worcestershire Development Plan 2016, which among other things requires proposals to come forward in a manner that preserves the living conditions of neighbouring occupiers.

Other Matters

11. The principle of development and the overall massing of the proposal, insofar as it relates to character and appearance, and potential terracing effects, among other things, including effects on protected species, are matters that do not appear in dispute. Consequently, in the absence of clear benefits, these are neutral matters under the appeal.
12. In relation to pre-application advice given by the Council, Planning Practice Guidance¹ is clear that such advice is not binding and does not pre-empt the democratic decision making process or a particular outcome. Any issues raised have been considered under this appeal insofar as they are material to the decision.
13. The Council's administration of the original application is not a matter for me to deal with under this appeal, particularly as it would have been open to the appellant to submit a non-determination appeal if they were aggrieved at the time taken for the Council to make its decision. Matters concerning building regulations in relation to the garage space at No. 209 Malvern Road fall outside the scope of this appeal.

¹ Paragraph: 011 Reference ID: 20-011-20140306 Revision date: 06 03 2014

14. In relation to contentions about unlawful use of the garage space, it would be for the Council to determine whether a breach of planning control has taken place in the first instance and take enforcement action if it proved expedient to do so. There is no evidence that a breach of planning control has occurred in this regard and I have assessed the uses as they appeared on the ground under the appeal.
15. In relation to other examples of side extensions in the locality, although the appellant has provided a limited selection of plans, I do not have the full details in front of me. Consequently, it is not clear whether they are comparable, and I have given them limited weight accordingly.
16. Neighbouring occupiers at No. 209 Malvern Road raised contentions about inaccuracies of the proposal. Some of these issues have been addressed in my decision, as far as they are material to the proposal. Some of the issues raised in support of the neighbouring occupiers' objection are not planning matters, and in any event as I am dismissing the appeal, I have not dealt with these further.
17. Although I acknowledge the appellant's personal circumstances, there is no evidence in front of me that these should form a basis for allowing the appeal. Given the limited scale of development, the additional benefits of evolving the property to improve the housing mix in the area would be similarly limited.

Conclusion

18. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR