
Appeal Decision

Site Visit made on 26 October 2021 by G Sibley MPLAN MRTPI

Decision by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2021

Appeal Ref: APP/G4620/D/21/3278705

46 Leacroft Grove, West Bromwich B71 2QP

- 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 Gerald Quinn against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/21/65333, dated 5 March 2021, was refused by notice dated 12 May 2021.
 - The development proposed is double storey extension to the side of the property, with a larger foot print single storey wrap around extension to the ground floor with roof lights.
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Decision

1. The appeal is allowed and planning permission is granted for double storey extension to the side of the property, with a larger foot print single storey wrap around extension to the ground floor with roof lights at 46 Leacroft Grove, West Bromwich B71 2QP in accordance with the terms of the application, Ref DC/21/65333, dated 5 March 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan IDA-1116-01; Proposed Elevations and Perspectives IDA-1116-03 Rev A; Ground Floor Plan (Proposed) IDA-1116-06; First Floor Plan (Proposed) IDA-1116-07; and 3D Views IDA-1116-08.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.
 - 4) The extension hereby permitted shall not be occupied until the two windows on the rear elevation of the extension shown on the approved plan 'First Floor Plan (Proposed) IDA-1116-07' have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

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.

Preliminary Matter

3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). The main parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments received have been addressed in this decision.

Main Issues

4. The main issues are:
 - The effect of the proposed extension upon the living conditions of the occupiers of No 127 Witton Lane and No 1, No 3 and No 4 Edwin Phillips Drive with regard to outlook and overlooking; and
 - The effect of the proposed extension upon highway safety.

Reasons for the Recommendation

Living conditions

5. To the rear of the property are a pair of semi-detached dwellings (No 127 and 129) and, given the limited separation distance, the rear of these dwellings are already overlooked by the occupiers of No 46. To the west of the site is a group of modern dwellings along Edwin Phillips Drive with No 1 located to the north west of the dwelling whereas No 3 and 4 are located the west.
6. Whilst the proposed secondary bedroom window would face to the north, it would be located slightly behind the garden at No 3 and would overlook its rear garden. No 3 and No 4 are built at a higher level and, because of this, the ground level of the gardens is significantly above the ground level at No 46. Consequently, when the occupiers of No 46 would look out from the secondary window they would be at almost the same height as the occupiers using the garden at No 3 and would overlook a garden that is currently relatively well enclosed and private. Whilst this would be a secondary window, this loss of privacy would harm the living conditions of the occupiers of No 3. Given the location of the window forward of the rear garden at No 4, the proposal would not lead to any harm from overlooking there. In light of the above, I have re-worded the suggested condition from the Council that would require this window to be obscure glazed, still ensuring that the privacy of the occupiers of No 3 would be protected. By virtue of being the secondary window, the proposed bedroom would still be adequately served by natural light with a suitable outlook from the primary window on the front elevation of the proposed extension.
7. The flank wall of the proposed first floor of the extension would have a staggered building line and the window in that elevation closest to the neighbouring dwellings to the rear would be obscure glazed in any event, as it would serve only a bathroom. Therefore, there would be no overlooking from this window. Set further back from this would be a smaller secondary window to the proposed master bedroom. This window would be located further away

from No 127 and 129 whilst closer to No 1 but would be obscure glazed which would ensure those properties were not overlooked.

8. As a result of the difference in ground level, the first floor of the proposed extension would be at around the same level as the ground floor of No 3 and 4. The gardens are relatively free from development either side with only No 46 to the rear. Whilst the extension would bring the flank wall closer to those dwellings, the flank wall of the extension is proposed to be staggered with a lower roof height which would break up the flank wall of the dwelling. Combined with the depth of the gardens, this would ensure that the extension would not enclose the rear of those properties to the point where it would create a significantly less pleasant and uninviting place for the occupiers to use. By being located further away from the rear of No 127 compared to the host dwelling, the proposed extension would not appear overbearing to the occupiers of that dwelling. The proposed extension would be built into an area that is currently undeveloped when viewed from the rear of No 1. Nevertheless, the separation distance between the two dwellings as well as the small scale of the proposed extension would not enclose the outlook from the rear of the property.
9. Therefore, the proposed extension would not appear overbearing to the adjoining neighbouring occupiers and, provided the secondary bedroom window was obscure glazed, the privacy of neighbouring occupiers would be protected.
10. Consequently, the proposal would comply with Policy ENV3 of the Black Country Core Strategy (adopted 2011) as well as SAD EOS 9 of the Site Allocations and Delivery Development Plan Document (adopted 2012) which together state that developments should pay particular regard to the nature and height of any buildings and their effect on the surrounding urban area. Additionally, the proposal would comply with paragraph 130 of the Framework which states that developments should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Moreover, the proposal would generally accord with the guidance set out in the Residential Design Guide Supplementary Planning Guidance insofar as it would comply with the rear to flank wall separation distances.

Highway Safety

11. While the Council advises that an additional parking space would be needed due to the increase in the number of bedrooms, it has not provided any policy or adopted planning guidance that supports that approach. In any case, even if the proposal were to increase parking demand as the Council suggests, parking along the road is unrestricted and one additional car parked on the road would not have a severe impact on highway safety. Therefore, the proposed development would not harm highway safety.
12. Consequently, the proposal would comply with the requirement of Policy ENV3 that developments should ensure that urban streets and spaces are designed to provide an attractive, safe and permeable movement network. Moreover, the proposal would comply with paragraph 111 of the Framework which states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

13. Concerns were raised that the single storey element of the extension could be used as a means to enter the properties along Edwin Phillips Drive. The dwelling is overlooked by a number of properties and the area is well served by passive surveillance which would dissuade criminal activity.
14. The structural integrity of the boundary wall is a matter for separate Building Regulations approval.
15. Whilst the extension would be located closer to the shared boundary, the limited height of the extension combined with the difference in ground levels would ensure that adequate amounts of daylight and sunlight would be received by the dwellings along Edwin Phillips Drive.

Conditions

16. In addition to the statutory commencement condition, in the interests of certainty it is necessary to ensure that the development is completed in accordance with the approved plans and for the materials used to match those used in the existing dwelling.
17. It is necessary that the window that would serve the proposed bathroom would be obscure glazed in the interest of the living conditions of the occupiers of No 46. Furthermore, it would be necessary for the secondary window that serves the proposed bedroom to be obscure glazed in the interest of the living conditions of the neighbouring occupiers.
18. The Council has suggested a condition that would restrict new windows at first floor level on the flank wall of the proposed extension. This would not be necessary as permitted development rights would only permit the insertion of windows above ground floor level that are obscure glazed that are either non opening or more than 1.7 metres above the floor level. This would protect the privacy of the neighbouring occupiers.
19. Given that the proposal would not require a change in off-street parking provision, it would not be necessary to include a condition requiring the implementation and retention thereafter of the parking spaces.

Conclusion and Recommendation

20. The proposed extension would not harm the living conditions of the neighbouring occupiers and would not harm highway safety. Therefore, there are no material considerations that indicate that the proposal should be determined other than in accordance with the development plan. For the reasons given above, the proposal complies with the development plan as a whole and, having had regard to all other matters raised, I recommend that the appeal be allowed.

G Sibley

APPEAL PLANNING OFFICER

continued

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree and shall allow the appeal.

B J Sims

INSPECTOR