The Planning Inspectorate

Appeal Decision

Site visit made on 21 December 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 DECEMBER 2021

Appeal Ref: APP/C4615/D/21/3282542
62 Greenhill Road, Halesowen, B62 8EX.

- 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 A Chaudhury against the decision of Dudley Metropolitan Borough Council.
- The application Ref.P21/0925, dated 5 May 2021, was refused by notice dated 21 July 2021.
- The development proposed is a single storey rear orangery.

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's decision notice refers to the conversion of a garage as well as the erection of the orangery, but the former was not part of the scheme described on the application forms. I also understand that this conversion was approved in 2020 under a separate decision. I have therefore not had regard to the garage element.

Main Issues

3. The main issues are the effect of the proposal on:

    - The character and appearance of the host dwelling and wider area; and
    - The effect on the living conditions of the occupiers of the neighbouring properties.

Reasons

4. The appeal site comprises a two-storey semi-detached property which lies in a residential area. The rear garden lies at a slightly lower level than the house and there is a rear facing single storey extension which I understand was added as 'permitted development' although a 6m extension was refused in 2020 under the Prior Notification procedure. The proposed orangery would extend across the width of the plot and would have brick flank walls up to 1.8m high and glazed walls above this up to about 3.2m in height. The orangery would be stepped down from the floor level of the house.

5. In considering the appeal I have had regard to the Council's Planning Guidance Note 17 – House Extension Design Guide and No. 12 - The 45 Degree Code (both undated).

Effect on character and appearance

6. The proposed extension lies at the rear of the property away from the public realm and at the visit I noted that many of the properties in the surrounding area have extensions and outbuilding of an incidental nature. Given the modest size and single storey nature of the proposal, I am satisfied that visually, it would not materially harm the character or appearance of the original property or the wider area of hinterland of rear gardens. The proposal does not conflict with Policies ENV2 or ENV3 of the Core Strategy about being responsive to the character or visual amenity of an area, or the relevant part of Policy L1 of the Borough Development Strategy, particularly the criteria set out in the first bullet point.

Effect on living conditions

7. The Council has adopted a '45° degree rule' as a tool to assess a reasonable balance between the depth of additional space that can be added to a property without materially impinging on the outlook and living conditions of the occupiers of neighbouring property. In this case the submitted existing ground floor plan shows the application of the 45°splay to the bay window of the sitting room to No.63 and windows to No.61. The corner of the existing extension intrudes into the vision splay on both sides of the site. The proposed extension would extent further alongside the party boundary by about 3m and so virtually all of the new building work would conflict with the guidance when considered on a horizontal basis.

8. I have taken account of the difference in the land levels as shown in the plan produced in appendix 7 of the appellant's statement and also had regard to the general provision of 'permitted development' regarding boundary walls and fences. Nevertheless, I find that the proposed further extension would be of a projection, height, and proximity to the party boundary on both sides of the site that would materially restrict the rear facing outlook to both No's 61 and 63 and harm the living conditions of the occupiers of these properties. This harm means that the proposal conflicts with the provisions of Policy L1 particularly as set out in the second bullet point, together with the policy in paragraph 139(f) of the National Planning Policy Framework concerning the need for new development to ensure a high standard of amenity for existing users to promote well-being.

Planning balance and conclusion

9. On the main issues I have found that while the proposed extension would not be materially harmful to the character and appearance of the host property or the wider area, its further projection, height, and proximity to the party boundaries mean that it would harm the living conditions of neighbours. This harm has to be balanced with the benefits of the development including the improvements to the existing property. However, I find than these other considerations do not outweigh the conflict with the development plan, and this indicates that the appeal should not be allowed.

10. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR