



Appeal Decision

Site visit made on 9 February 2022

by M Clowes BA (Hons) MCD PGCERT (Arch con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/E2340/D/21/3281149

42 Edge End Avenue, Brierfield BB9 0PW

- 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 and Mrs Uddin against the decision of Pendle Borough Council.
 - The application Ref 21/0317/HHO, dated 14 April 2021, was refused by notice dated 8 July 2021.
 - The development proposed is described as double storey side extension and single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter and Main Issues

2. The proposal includes a 2 storey side and rear extension and a single storey rear extension. The Council have raised no objections to the single storey extension. Based on all that I have seen and read, I see no reason to disagree with this point of view. The main issues of this appeal are therefore;
 - i) the effect of the proposed 2 storey side and rear extension upon the character and appearance of the area, and
 - ii) the living conditions of the occupiers of 44 Edge End Avenue, with particular regard to outlook and light.

Reasons

3. The appeal site is a semi-detached, 2 storey dwelling located in a residential area of mixed house types and materials. Dwellings have been built to follow the topography of the land with the appeal property sited higher than the adjoining semi-detached house. Dormer bungalows opposite are also at a higher land level than the road, with steeply sloping front gardens. This adds variety to the character of the street scene.

Living Conditions

4. The Council has drawn my attention to the Design Principles Supplementary Planning Document 2009 (SPD) which sets out advice on extensions to dwellings including maintaining the amenity of neighbours.
5. The 2 storey side extension would extend beyond the house's existing rear elevation. This rear portion of the extension would result in a 2 storey wall positioned close to the kitchen window on the side elevation of 44 Edge End Avenue. The SPD is not entirely clear on whether kitchens without dining facilities are considered to be habitable rooms. Nevertheless, they are rooms where it is possible for occupants to spend extended periods of time for the purposes of cooking and washing. Given that the kitchen window currently has

an open and unobstructed outlook, I find it would be enclosed by the extension to a significant and negative degree. The proposal to erect a 2m high fence along the shared boundary would do little to mitigate or justify the impact of a solid, 2 storey wall in such proximity. Although the neighbour's trailer is parked close to the window this is capable of being portable, unlike a solid brick wall. I find the extension would unduly harm the outlook from the kitchen window.

6. The Council suggests that light to the kitchen window would be lost following a Vertical Sky Component (VSC) assessment, as advocated by the British Research Establishment document, 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice.' However, the Council does not provide any interpretation of their assessment, nor identify the type or amount of light that would be lost. Notwithstanding the Council's assessment, I saw that due to the orientation of the window, it does not receive direct sunlight, only ambient daylight. Whilst the presence of a wall in proximity to the window is likely to reduce daylight to the kitchen window, I cannot be certain from the evidence before me that it would be reduced to an unacceptable degree. In respect of the first floor side window to No 44, I find that outlook and light would not be adversely affected to the detriment of the occupiers, given it serves a non-habitable landing area.
7. Plans have been provided suggesting that other 2 storey side extensions within Edge End Avenue have been granted by the Council, despite proximity to neighbouring windows. The plans indicate 11A Edge End Avenue is a corner property, the extension proposed to 47 Edge End Avenue does not extend beyond the rear elevation, and there is a garage between 73 Edge End Avenue and its neighbour. In respect of the 2 storey side extension to 10 Warwick Drive, the officer's report supplied indicates that the kitchen window to No 8 already had a reduced outlook, given its position directly opposite the side elevation to No 10. The examples are not therefore directly comparable to the appeal site. Although floorplans and elevations have been provided for an extension at 43 Edge End Avenue, I do not have a site plan showing the relationship with the neighbouring property. I cannot therefore be certain that these circumstances are comparable. I note the benefits of modernising the host dwelling and the associated letters of support. However, they do not justify a development that would harm the living conditions of neighbouring occupants.
8. I find that the proposed 2 storey side extension would be harmful to the living conditions of the occupiers of 44 Edge End Avenue, in terms of outlook from the kitchen window. Consequently, conflict is found with Policy ENV 2 of the Pendle Borough Council Local Plan, Part 1; Core Strategy Development Plan Document (2015) (Local Plan, Part 1) and the SPD, which seek the highest possible standards of design whilst maintaining the amenity of neighbours. It would also fail to comply with paragraph 130 of the National Planning Policy Framework (the Framework), which requires new development to have a high standard of amenity for existing users.

Character and Appearance

9. Section 5 of the SPD sets out specific guidelines in relation to 2 storey extensions, including that they should respect the balance and symmetry of semi-detached properties and avoid creating a terracing effect. I saw that there were numerous 2 storey side extensions on semi-detached dwellings within Edge End Avenue, without any set back at ground or first floor level,

even where uniform building lines exist. Here, the extension would not be set back or down from the front elevation or ridge of the roof as suggested by the SPD. However, the position of the host dwelling forward of No 44 and the residual gap between the properties would, along with the position of 40 Edge End Avenue at a lower land level, ensure that a terracing effect would not occur in this instance. Furthermore, the extension would be less than half of the frontage of the original dwelling, and the ground floor forward projection with a lean-to roof, would help to break up the mass of the front elevation. I find that the extension is of a suitable design, and it is appropriate to relax the SPD guidelines as advocated at paragraph 5.3, given the specific site context.

10. I conclude that the 2 storey side and rear extension would not have a harmful effect upon the character and appearance of the area. It therefore accords with Policy ENV 2 of the Local Plan, Part 1, which seeks high standards of design that make a positive contribution to local character, an objective shared with the SPD. It also accords with paragraph 130 of the Framework, which requires high-quality design that is sympathetic to local character.

Other Matters

11. The health conditions of family members are cited as a reason for the proposed extension, along with the need for increased home-working space. In this regard, the proposal would undoubtedly be a benefit to the appellant's family. However, there may be other ways of providing additional accommodation that would avoid the harm that I have found. In this instance therefore, the personal circumstances do not outweigh the harm identified.
12. The appellant cites discrimination by the Council's Planning Committee who they suggest took into account the inability to move house as a consideration for other planning applications, but not their own. I have no information to suggest the other applications referred to related to the same type of development in the same context. Having due regard to the Public Sector Equality Duty contained in the Equality Act 2010, there is no evidence before me that any discrimination has occurred. Reference is also made to positive pre-application advice given by the Council. The Planning Practice Guidance is clear that such advice cannot pre-empt the democratic decision making process, or a particular outcome in respect of a formal planning application. Likewise, concerns over how the Council dealt with the planning application are a matter for the main parties. Such matters do not affect my overall findings.
13. I have had regard to other matters raised by third parties comprising but not limited to, loss of views, property values, subsidence, parking and removal of a party wall. As I am dismissing the appeal on the main issue of living conditions, I have not addressed these matters further.

Conclusion

14. I have found that the proposal would not cause harm to the character and appearance of the area. Nevertheless, this matter does not outweigh my findings in respect of the effect of the proposed development on the living conditions of the neighbouring occupants. For the reasons set out above and having regard to the development plan as a whole and all other relevant considerations, the appeal is dismissed.

M Clowes

INSPECTOR