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## Appeal Decision

Site visit made on 01 June 2022

**by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26TH July 2022**

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**Appeal Ref: APP/C4615/D/22/3296992**

**28 Greenhill Road, Dudley DY3 1XX**

- 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 Z Toufeeq against the decision of Dudley Metropolitan Borough Council.
  - The application Ref P22/0025, dated 20 December 2021, was refused by notice dated 10 January 2022.
  - The development proposed is 'Single storey rear extension, part retrospective'.
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### Decision

1. The appeal is allowed and planning permission is granted for 'single storey rear extension (part retrospective)' at 28 Greenhill Road, Dudley DY3 1XX in accordance with the terms of the application, Ref P22/0025, dated 20 December 2021, subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The description of development on the application form was amended following submission of the application. The amended description better reflects the development proposed. As such, I have referred to the amended description for the purposes of this appeal.

### Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupiers of neighbouring properties; particularly nos. 26 and 30 Greenhill Road.

### Reasons

4. The appeal site is a semi-detached two storey dwelling. Its attached pair is no.26 Greenhill Road. An existing two-storey side extension abuts the boundary with no. 30 Greenhill Road, which is not attached to the appeal site host dwelling. The appeal site aligns with the sides of the two neighbouring properties and neither neighbouring property is extended to the rear.
5. The appeal scheme seeks a single storey rear extension of 4.2m in depth from the rear wall of the existing host dwelling. The extension would have a mono-pitched roof sloping from the rear wall at a height of 3.85m to 2.9m at its eaves. The extension is partially constructed; its walls, roof and windows were in situ at the time of my visit, however, the external walls and interior appeared incomplete.

6. Whilst both the side extension of the host building and appeal scheme extension abut the boundary with no.30 Greenhill Road, no. 30 is itself set away from the boundary by several metres (except for a small single storey side element, which does not appear to function as a main habitable room). The rear garden plots have a generous width and they abut the rear gardens of the dwellings fronting Vicarage Road to the rear. As such, there is a sense of space and outlook created by the existing spatial arrangement. This sense of space and the resulting outlook of the property would not be adversely affected by the appeal scheme extension, due to the gap between the relative buildings and modest overall scale, low mono-pitch roof and limited depth of the appeal scheme. For the same reason, the appeal scheme is unlikely to result in any loss of light into no. 30.
7. There is, however, a notable difference in ground level between the appeal site and no. 30. The appeal site is at the higher point. As such, there is some sensitivity in the relationship between the sites in respect of rear extension. However, the limited depth and limited height of the extension, combined with the mono-pitch style roof prevents any sense of overbearing of no.30, especially given the existing arrangement with boundary fences.
8. No. 26 Greenhill Road is the semi-detached pair, and therefore, the windows to its habitable rooms are in closer proximity to the rear extension. The Council considers that since the rear extension breaches a 45 degree line from the centre of the nearest window on the rear of no. 26, that it must result in significant loss of light into that property and an overbearing effect. The 45 degree line is referred to in the Council's Supplementary Planning Guidance relating to house extensions. Whilst a 45 degree line can provide a helpful guidance, the individual circumstances of the buildings and their arrangement should be taken into account. Due to the orientation of the respective properties, the appeal scheme is unlikely to result in any significant overshadowing of no. 26 Greenhill Road. Moreover, no.26 benefits from the same relatively open outlook and sense of space as its neighbouring properties, affording it plenty of light and avoiding any undue sense of enclosure.
9. Given the limited depth and height of the rear extension, there would be little sense of overbearing of no.26 arising from the appeal scheme, especially given the existing arrangement with boundary fences.
10. For these reasons, the appeal scheme complies with policy L1 of the Dudley Borough Development Strategy, adopted in 2017, as well as the Framework. These seek, amongst other things, development of a high-quality design which does not cause unacceptable harm to the amenities of occupiers of neighbouring dwellings.

*Other considerations*

11. The Appellant has referred to a 2017 Local Development Order (LDO) which allows for larger extensions outside of the criteria of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The Appellant argues that this LDO would allow for the appeal scheme extension or a very similar extension to take place without express planning permission, subject to the Appellant following the requisite procedure. However, the Appellant has not followed such a procedure and the appeal scheme extension in its current form does not comply with the terms of the LDO. As such, the existence of the LDO does not establish a realistic

'fallback position'. Although, it is acknowledged that some extent of development may be achievable under the LDO. However, for the reasons outlined above, I find that the appeal scheme complies with the relevant policies of the Development Plan in any case.

12. Similarly, the Appellant has also referred to the permitted development rights to extend the rear of the property which arise under the GPDO. For the same reasons as with the LDO, the GPDO does not offer a realistic 'fallback position', although some development rights arise under the GPDO, these are not conversant with the appeal scheme. Nonetheless, I find that the appeal scheme complies with the relevant policies of the Development Plan in any case.
13. Third parties have made comments in respect of the scheme relating to the build quality, interaction between plumbing of the various dwellings, access and boundary lines of the appeal site. These considerations do not relate to planning and are subject to other statutory regimes or are otherwise private matters. I have, however, addressed comments in respect of the quality of finish of the scheme and external facing materials by way of a condition, as detailed below.

### **Conditions**

14. The Council has indicated that standard conditions in respect of commencement of development, compliance with approved plans and external materials to match the existing building should be imposed. The Council has indicated that no additional conditions are necessary.
15. I do not find it necessary to impose a condition relating to commencement of development, since the development has already begun. Since the development has yet to be completed, I do consider it necessary and reasonable to impose a condition requiring compliance with the approved plans. For the avoidance of doubt, the plan labelled 'Existing Plans & Elevations' no. CA- 375- 01, dated December 2021, reflects that building works have already been undertaken and thus it depicts the extension as proposed.
16. I also consider it necessary and reasonable to impose a condition relating to external materials, to ensure the appeal scheme integrates well with the host dwelling and does not adversely affect the outlook of neighbouring properties in respect of poor-quality materials on flank walls. To this end, in response to materials not being labelled on the approved plans and the third-party comments that the flank walls appear unfinished in contrast with the rear wall of the extension, I have clarified within this condition that it relates to all the external facing walls, including flank elevation boundary walls and I have imposed a time limit on compliance related to completion of the development.

### **Conclusion**

17. For the reasons given above, the appeal scheme complies with the relevant policies of the Development Plan. Material considerations do not indicate that the appeal should be determined other than in accordance with the Development Plan. The appeal is accordingly allowed.

*Kim Langford Tejrar*

INSPECTOR

**Schedule of Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Plans & Elevations no. CA- 375- 01, dated December 2021 (for the avoidance of doubt, this plan depicts the proposed elevations), Block Plan and Location Plan.
2. The extension hereby permitted shall not be occupied until the external surfaces of the development have been constructed in materials matching those of the existing host dwelling. For the avoidance of doubt, this condition applies to all external surfaces, including flank walls.