



Appeal Decision

Site visit made on 22 September 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Appeal Ref: APP/Q3060/W/22/3298963

142 Staverton Road, Nottingham NG8 4EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Miss Lucy Greenop against Nottingham City Council.
 - The application Ref 22/00256/PFUL3, is dated 6 February 2022.
 - The development proposed is described on the application form as a side extension on house for home salon downstairs and master bedroom upstairs.
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Decision

1. The appeal is dismissed and planning permission for a side extension on house for home salon downstairs and master bedroom upstairs is refused.

Preliminary Matters

2. The Council's view is that the appeal should be treated as one against a refusal of planning permission. However, I have considered the appeal on the basis of a failure to give notice of a decision within the prescribed period. Based on the submitted information, including the timeline of the application, the appeal was made prior to the Council issuing its decision on the application, notwithstanding that the appellant may have thought that the Council had determined the proposal. I have had regard to the Council's position set out in its officer report, the decision notice that was subsequently issued following the appeal submission, and statement of case in formulating the main issues and in reaching my decision.

Main Issues

3. The main issues are the effects of the proposed development on the living conditions of residents of 14 Burnside Road with regard to light; and neighbouring residents with regard to disturbance.

Reasons

Light

4. The appeal property is a two storey semi-detached dwelling located on a corner plot between Staverton Road and Burnside Road within a mainly residential area. The proposed development would comprise the construction of a two storey side extension to the property, with a single storey garden store attached. A front porch is also proposed.
5. The proposed two storey extension would extend towards the shared boundary with 14 Burnside Road, also a two storey semi-detached dwelling. Its rear

garden adjoins that of the appeal property. A close boarded fence separates the two gardens. The back garden of no. 14 is not large, and is of an irregular shape, with its width increasing from the rear to where it meets the dwelling. Based on the information in the Council's officer report, the width of the proposed two storey side extension would leave an approximate 0.8 metre separation distance between its rear and the boundary with no.14, at its closest point.

6. During my site visit, which took place mid-morning, I observed some overshadowing of the back garden of no. 14 from the close boarded fence. There may also be some overshadowing of the back garden from the existing dwelling at no. 142, especially during the winter months, and by the dwelling at no. 14 in the afternoon. However, due to its orientation, height, and projection close to the shared boundary, the proposed extension would likely result in a significant increase in the degree and duration of overshadowing of the back garden of no. 14, adversely affecting its use and enjoyment by its occupants.
7. I appreciate that no. 14 also has a front and side garden. However, these areas are more open to the street and do not therefore offer the same private outdoor amenity space as the rear garden. It may be the case that the current occupants of no. 14 do not use the back garden. Nevertheless, I am required to consider the proposal over its lifetime, and there could be no guarantee that future occupants would not want to use the back garden.
8. For the reasons given, and with the lack of evidence to demonstrate otherwise, I conclude that the proposed development would have an unacceptable effect on the living conditions of residents of 14 Burnside Road with regard to light. Consequently, it would conflict with the residential amenity requirements of Policy 10 of the Aligned Core Strategies Part 1 Local Plan adopted 2014 (the ACS) and Policy DE1 of the Local Plan Part 2 – Land and Planning Policies Development Plan Document adopted 2020 (the LAPP).

Disturbance

9. Reason for refusal number one on the Council's decision notice relates to the intention to use the ground floor of the proposed extension for a home-based hair salon. The Council has not specifically identified what harm it considers would be caused to nearby residents from the home-based hair salon. However, such uses in residential areas have the potential to increase noise and disturbance, such as from vehicle movements and customer comings and goings.
10. The Council considers that a limited operation over part of the week with a small number of clients per day and no employees other than the appellant may not require planning permission. The submitted plans show a separate external door that would lead directly into the proposed extension. The Council's position is that, due to this separate external door, the hairdressing business would not be considered as an ancillary use to the residential property, and a business use in this location would have an unacceptable effect on the amenity of neighbouring occupiers.
11. The Council's position appears to be that it is the presence of a separate external door leading to the home salon area that would take it from being ancillary to the main residential use of the property to that of a material

change of use. However, in my view, what determines whether a material change of use would take place is more related to whether the nature and/or scale of the business would cause a material change to the character of the residential use of the property. The presence of a separate external door would not, in itself, necessarily create a business use not ancillary to the main use of the dwelling as a residential property. On the basis of the information that is before me, I am not persuaded that the presence of a separate external door would amount to a material change of use of the property.

12. On this basis, I therefore conclude that the proposed development would not cause unacceptable harm to the living conditions of nearby residents with regard to disturbance. Accordingly, I find no conflict with the residential amenity requirements of Policy 10 of the ACS and Policy DE1 of the LAPP in this regard.

Conclusion

13. The proposed development would conflict with the development plan taken as a whole. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR