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# Appeal Decision

Site visit made on 25 October 2022

**by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI**

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

**Decision date: 04 January 2023**

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**Appeal Ref: APP/T3725/W/22/3298654**

**66 Montrose Avenue, Lillington, Leamington Spa, CV32 7DY**

- 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 T O'Sullivan against the decision of Warwick District Council.
  - The application Ref W/21/1552, dated 13 August 2021, was refused by notice dated 11 February 2022.
  - The development proposed is the erection of two storey, 4 bedroom detached dwelling on land adjacent to 66 Montrose Avenue.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring dwellings.

## Reasons

3. The proposal is to introduce a new detached dwelling into the side garden area of the corner plot house of No 66 Montrose Avenue.
4. The proposed dwelling would be near to the rear corner of No 66. The outlook from the rear windows and garden area of No 66 would be altered with the new dwelling, though there would remain a more open outlook to the south. This would mean that outlook from No 66 would still be at an acceptable level.
5. The proposal would mean that the rear garden for No 66, as host dwelling, would be reduced in size significantly from the existing level, but there would remain sufficient overall external amenity space for No 66. However, the proposed dwelling would result in a substantial increase in overshadowing impact over this remaining area of rear garden, including the patio area, at certain times of the day. This is likely to have a greater impact also in the winter months. This would result in much of the garden area being gloomy with a lack of direct sunshine for a significant period of time.
6. There is still the garden area to the front of the house at No 66, but this lacks the privacy of the rear garden area. As such, the rear garden area is of particular importance and would be impacted to an unacceptable level by the proposed dwelling. This may be the dwelling of the appellant, but it would result in poor living conditions for all future occupiers of No 66 and not just those living in the house currently.

7. The garden to the rear of No 35 St Andrews Road is to the southeast of the site and would not be impacted unacceptably by loss of light. There is also a sufficient gap between the proposed house and the rear of the house at No 35. However, the rear of the proposed dwelling would have first floor level windows with views at close distance of much of the garden of No 35. This would be mainly towards the rear portion of this garden, but there is no substantive evidence that this part of the garden is less important to the occupiers of No 35. The close distance and direct views would result in a greater level of overlooking impact than from existing neighbour windows. As such, this significant reduction in privacy levels for those at No 35 would not be an acceptable impact.
8. There are other detached houses adjacent to corner plots, but my assessment on this main issue is based on the circumstances of this site and the surrounding properties.
9. For these reasons the proposal is contrary to the Royal Leamington Spa Neighbourhood Plan Policy RLS1 and Policy BE3 of the Warwick District Local Plan 2011-2029, which require that development does not have a significant adverse impact on the amenity of adjacent existing and future occupiers and uses, amongst other things.

### **Planning Balance**

10. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I am required to determine appeals in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
11. There are benefits to the proposal. In this case the proposal would provide a dwelling towards housing land supply for the area. There would be economic benefits from the construction of the dwelling, together with the financial boost from future occupiers using local businesses. The proposal could include biodiversity enhancement and sustainable building techniques, and could be considered an efficient use of the site, amongst other potential benefits.
12. However, the proposal would result in significant adverse impacts to the living conditions of neighbours to the site. The harm I have identified above and the conflict with development policies is such that it significantly and demonstrably outweighs the benefits.

### **Conclusion**

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

*Mr S Rennie*

INSPECTOR