



Appeal Decision

Site visit made on 10 January 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2023.

Appeal Ref: APP/W3710/W/22/3305476

18 Bracebridge Street, Nuneaton CV11 5PA

- 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 Muhammed Badat against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 038371, dated 17 September 2021, was refused by notice dated 24 May 2022.
 - The development proposed is part single storey, part two-storey rear extension to house and existing outbuilding, including installation of dormer to the outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for part single storey, part two-storey rear extension to house and existing outbuilding, including installation of dormer to the outbuilding, at 18 Bracebridge Street, Nuneaton CV11 5PA, in accordance with the terms of the application Ref 038371, dated 29 September 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application form described the development as 'first floor extension to rear and over existing outbuilding'. The development is more fully described in the decision notice and the appellants appeal form as 'part single storey, part two-storey rear extension to house and existing outbuilding, including installation of dormers to the outbuilding'. For clarity, I have used this description.
3. Permission has previously been granted for extensions to the house and outbuilding at the site. However, the development has not been built in accordance with the approved drawings. The application subject to this appeal sought to resolve this. At the time of my site visit, works were underway at the site, but the development did not accord with either the previously approved drawings, or the drawings proposed in the application subject to this appeal.
4. Notwithstanding what has been erected on site, this appeal has been determined on the basis of the submitted drawings. The material differences between the previously approved drawings and the drawings considered under the application subject to this appeal relate to the outbuilding. The height to the eaves and ridge has been increased and 4 windows have been added to the side elevations, 3 at ground floor level and 1 at first floor.
5. The outbuilding was granted permission in 2016 for a use falling under Class D1. The use would now fall under Class E(f) creche, day nursery or day centre, of the Town and Country Planning Use Classes Order (as amended).

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of the occupants of the dwellings either side of the appeal site, with regard to privacy and outlook.

Reasons

7. 18 Bracebridge Street is an end of terrace house, in a street of similar dwellings. There is a large outbuilding to the rear with access along the side of the house.
8. Policy BE3 of the Nuneaton and Bedworth Borough Plan 2019 (BP), amongst other things, seeks to secure development designed to a high standard, with key characteristics to review including residential amenity. Information on how to comply with the policy is set out in the Sustainable Design and Construction supplementary planning document (the SPD).
9. The outbuilding spans the width of the site so the side elevations form the boundary with the gardens of the dwellings either side of the appeal site. The proposed windows at ground floor in the outbuilding would therefore face directly into neighbouring amenity space at close quarters. However, the ground floor windows are proposed to be high level¹, non-opening and obscurely glazed, which could be secured by condition. While I acknowledge the Council concern regarding a sense of perceived overlooking, the location and design of the windows would be sufficient to ensure that actual direct overlooking did not occur and hence neighbour privacy would be maintained, while allowing light into the ground floor of the outbuilding. The first floor window in the outbuilding would not be at such close quarters to the garden, so provided it was non-opening and obscure glazed, it would not create privacy issues².
10. The side elevations of the outbuilding run directly along the boundary with the neighbouring garden to each side, for most of the length of the gardens. However, a large outbuilding is a long standing feature of the site and permission has already been granted to extend it. Consequently, the outbuilding is, and has for some time been, a dominant element in the outlook for neighbours and inevitably creates a sense of enclosure in the gardens. The drawings proposed under this appeal include a modest increase³ in the height to the eaves and ridge of the outbuilding, over and above what has previously been approved. Given the permission already in place, which would be a valid fallback position, the modest height increase would not significantly exacerbate the impact of the outbuilding on the outlook from neighbouring dwellings and gardens.
11. I conclude that the proposed development would not cause significant harm to the living conditions of the occupants of the dwellings either side of the appeal site, with regard to privacy and outlook. Consequently, the development would not conflict with Policy BE3 of the BP and the SPD in that amenity levels would remain acceptable.

¹ Approximately 1.65m from the floor to the bottom of the window.

² The Council state that this first floor window has subsequently been approved under a separate application.

³ The Council state that the proposal includes a height increase from 2.7m to 3.15m (0.45m) to the eaves and from 5.78 to 6.28 (0.5m) to the ridge.

Other Matters

12. I have been presented with no substantive evidence that would lead me to conclude that the proposal would significantly reduce light into habitable rooms, over and above the scheme that has already been approved. A change of use of the building has already been approved and the amendments proposed under this appeal would not result in additional demand for parking. Matters such as property values and damage to surrounding property during works are not for me to consider under the provisions of a Section 78 planning appeal and are covered by other legislation not under my remit.

Conditions

13. The Council have suggested conditions, which the appellant has been made aware of. I have considered the suggested conditions and amended them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.
14. The development has already started so a commencement timescale condition is not necessary. A condition specifying the approved plans is necessary to provide certainty. In the interests of the character and appearance of the site and surrounding area, a condition is necessary to ensure the use of appropriate materials in the external surfaces of the development. A condition to secure the fixed and obscure glazing of the side windows and restrict any additional windows is necessary to ensure neighbouring privacy.

Conclusion

15. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, the appeal is allowed.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following drawings – Location plan; Site plan; Proposed floor plans & elevations Sheet 2 of 2 08/02/2022 (received by the Council on 8/2/2022).
- 2) The development hereby approved shall not be carried out other than in accordance with the materials schedule contained on the approved drawings.
- 3) The side facing windows at ground and first floor of the outbuilding, as shown on the approved drawings, shall not be fitted or subsequently maintained other than in obscure glazing (level 5) and shall be fixed (non-opening). The windows shall remain as such for the lifetime of the development. No window or opening shall be provided at ground or first floor level other than those shown in the approved drawings.

*****End of Conditions*****