



Appeal Decision

Site visit made on 24 January 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/W4515/D/22/3309346

2 Boulsworth Road, North Shields, North Tyneside NE29 9EN

- 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 Steve Nelson against the decision of North Tyneside Council.
 - The application Ref 22/01547/FULH, dated 16 August 2022, was refused by notice dated 11 October 2022.
 - The development proposed is a gable extension over existing garage to form new utility & GF WC with new bedroom & ensuite over.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development upon the living conditions of the occupiers of 45 Malvern Road, with particular regard to their privacy, light and outlook.

Reasons

3. 2 Boulsworth Road is a 2-storey house located on a corner plot within a residential area. Properties within the area are generally set within spacious plots. The host property is served by a single storey garage and utility outrigger. 45 Malvern Road is the adjoining property to the north, its rear garden is separated from that of the host property by a fence. Adjacent to this fence No 45 is served by a decked area with external seating, accessed via a set of French doors within the rear elevation of the house. Above these French doors is a large first-floor window serving a bedroom. Both the French doors and bedroom window above are situated close to the common boundary with No 2.
4. Though the proposed first floor extension would be set-in from the common boundary with No 45, it would nevertheless be situated quite close to it. The first-floor window proposed within the rear elevation would be set-off the existing gable elevation. Due to this positioning, clear views would be available through this proposed window over the garden and decked area of No 45. Albeit the angle would be quite acute, views would also be available into the first-floor bedroom window of No 45. By reason of the positioning of the first-floor rear elevation window, the proposed extension would unacceptably reduce the levels of privacy that the occupiers of No 45 presently experience.
5. At well over 4m in depth, the proposed first-floor extension would project significantly from the existing gable elevation. Although a gap would remain to

the garage at neighbouring 4 Boulsworth Road, the first-floor extension would run alongside the garden at No 45 for the majority of the garden's depth. The extension would have a roof ridge that would be lower than that of the existing property, but it would nevertheless be of significant height, with a matching eaves level and a dual pitched roof. Therefore, in the proposal, a large two storey mass would be created which would run closely alongside the garden of No 45 and past the French doors and first-floor bedroom window of that property.

6. I accept that the more deeply situated within the rooms of No 45 an occupier is positioned, the less imposing the proposed extension would be. Nevertheless, there would be many occasions where the significant mass of the proposed extension would be clearly apparent when said occupier was going about their day-to-day activities within those rooms. Furthermore, this would have no bearing upon the effects of the proposed extension on the garden.
7. Although in urban situations it may not be uncommon for neighbouring occupiers to have views directed towards two storey extensions, in this case, due to its size and proximity the proposed extension would create a harmful dominating effect. The development would, therefore, unacceptably reduce the levels of outlook presently available from the garden, bedroom and room served by the French doors.
8. The orientation and layouts of the host property and No 45 will collectively cause some reduction in sunlight entering the garden and rooms at the rear of No 45. Nevertheless, No 45 is situated to the north of the appeal site and the sun will appear to move in an arc in the southern sky. Due to its length, height and proximity the proposed extension would be likely to cause additional shading during the afternoon with the decked seating area, adjacent French doors and first floor bedroom window likely to be most affected. It has not been shown to me that this additional shading would not be significant.
9. Running alongside the southern boundary of No 45, I accept that the proposed extension would have lessened effects upon the more northerly sections of the garden and the windows farthest from the common boundary. Despite this, the effects I have identified above would, nevertheless, be unduly harmful. The appellant has put to me that, in the proposal, No 45 would still receive adequate daylight and given factors such as the size of the windows which serve the property this may be the case. However, on the basis of the evidence before me, it is the effects upon sunlight that are of the greater concern to the Council, and I have found that these effects would be harmful.
10. The consultation exercises in respect of the development may have only resulted in a single objection. However, for the above reasons the occupiers of that property would be adversely affected and the absence of a greater number of objection letters does not in itself render the scheme more acceptable.
11. Consequently, the development would cause unacceptably harmful effects upon the living conditions of the occupiers of No 45 by reason of a loss of privacy, sunlight and outlook. The development would therefore be contrary to Policies DM6.1 and DM6.2 of the North Tyneside Local Plan, 2017 (LP) and the Design Quality Supplementary Planning Document, 2018. In summary, and amongst other matters, those policies and provisions seek to ensure development of a high standard of design, which provides a good standard of amenity for existing residents.

Other Matters

12. The appellant has referred to permitted development rights, specifically Schedule 2, Part 1, Class AA, as a fall-back position but I have no substantive evidence before me to suggest this option would be pursued. Moreover, the permitted development rights provided for through Class AA require, before beginning the development, the developer to apply to the Council for prior approval including in respect of the impacts of the development upon any adjoining premises. Therefore, and even in a scenario whereby Class AA permitted development rights were exercised by the appellant, this would be subject to consultation and a living conditions assessment by the Council.
13. The development would provide for enlarged and more flexible accommodation. In so doing, the development would make use of brownfield land and I am mindful of the support for the use of such land and using land more effectively within both Policy S1.4 of the LP and the National Planning Policy Framework (the Framework), including at paragraph 120. However, in finding that the appeal scheme would cause harm to living conditions, it follows that the proposals would not represent effective use of land. I also have very limited detail on precisely what the needs or requirements of the appellant may be and, therefore, these matters are of little weight in my decision.
14. The effects of the development upon the character and appearance of the area may be acceptable whilst the development may also result in no adverse transport, ecological, flooding or heritage related effects. However, the absence of harm in relation to these matters is neutral in the planning balance and does not outweigh the harm I have identified in respect of the main issue.
15. I note the appeal that was allowed at nearby 90 Malvern Road¹. However, unlike in this scheme, the development at No 90 involved an extension being formed to the north-east of the adjoining property whilst the matter of privacy was not a key consideration at all. Given such differences, the appeal allowed at No 90 is not a determinative factor in my decision.
16. Finally, the appellant has referenced paragraph 11 d) ii of the Framework and put to me that any adverse impacts that would arise from the development must be shown to significantly and demonstrably outweigh the benefits of the scheme. However, the development plan contains relevant policies which I have no reason to conclude are out of date, and with which I have found conflict. Therefore, the development does not benefit from the presumption in favour of sustainable development.

Conclusion

17. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

H Jones

INSPECTOR

¹ Planning Appeal Decision Ref APP/W4515/D/21/3282862