The Planning Inspectorate

Appeal Decision

Site visit made on 30 November 2022

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 FEBRUARY 2023

Appeal Ref: APP/Q3060/D/22/3306744
459 Aspley Lane, Nottingham NG8 5RU

- 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 Mohammed Liaqat against the decision of Nottingham City Council.
- The application Ref 22/01202/PFUL3, dated 16 June 2022, was refused by notice dated 11 August 2022.
- The development proposed was described as "little enlargement to first floor towards rear, to the granted extension".

Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. Planning Permission Ref 21/02717/PFUL3 was granted on 10 May 2022, for single and first floor rear extensions and a front porch. This appeal relates to an amendment of that permission, which has not yet been implemented. Whilst I have not been provided with a copy of the original planning permission or the approved plans, I understand from the information submitted that the only difference between the approved scheme and the one before me, is that the first-floor rear extension would extend further from the original rear wall of the house, in line with the rear elevation of the existing ground floor extension.

3. In reaching my decision, I have focussed on the enlargement of the proposed first floor extension, given that the proposed front porch and single storey rear extension already have planning permission.

4. The Council's decision notice states that the proposal would not have an unacceptable impact on neighbours, in terms of daylight, sunlight and outlook. Having regard to the Council's case as a whole, including its report and its decision to refuse planning permission, it is clear that the insertion of "not" was an error. I have determined the appeal on that basis.

Main Issue

5. The effect of the proposed development on the living conditions of occupiers of 461 Aspley Lane, with regard to daylight, sunlight and outlook.

Reasons

6. 459 Aspley Lane, is a two-storey detached house with an existing L shaped single storey extension to the rear. It is set within a row of similar detached houses, all of which have south facing rear gardens.

7. I acknowledge that the proposed first floor extension, would project only a short distance further beyond the original rear wall of the house than that already granted planning permission, and that neighbouring properties are separated by a narrow driveway. I also recognise that the rear windows of neighbouring properties would retain a pleasant outlook over their own rear gardens and as they are south facing, they would receive sunlight for much of the day.

8. The direct outlook from the side elevation kitchen window of No.461 appears to have always been that of the two-storey side wall of No.459, albeit with some daylight, sunlight, and an oblique outlook obtained through the gap between the dwellings. However, the extended length and height of this side wall would reduce the amount of sunlight received into the kitchen window in the morning, as well as reducing daylight and the sense of openness, resulting in a more oppressive outlook than that which currently exists and that which already has planning permission.

9. Although I have not been provided with any adopted planning policy or guidance relating to the 45 degree rule, this is a commonly used and accepted standard. The evidence submitted by the neighbour demonstrates that the proposed enlargement of the first-floor extension would breach the 45 degree rule and that in relation to the kitchen window, this breach would be significant. The appellant has not provided any evidence to the contrary.

10. I therefore conclude that the development would result in an unacceptable loss of sunlight, daylight and outlook to the kitchen window in the side of No.461 Aspley Lane, which would be harmful to the living conditions of occupiers of that property. Consequently, the proposal is contrary to Policy 10 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan (September 2014) and Policy DE1 of the Nottingham City Land and Planning Policies Local Plan Part 2 (January 2020), which require new development to have regard to occupiers of neighbouring properties.

Conclusion

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

R Bartlett

INSPECTOR