



Appeal Decision

Site visit made on 7 March 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/E3715/D/22/3313277

95 McKinnell Crescent, Rugby, Warwickshire, CV21 4AU

- 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 Mrs Dianne Woolman against the decision of Rugby Borough Council.
 - The application Ref R22/0609 dated 21 June 2022, was refused by notice dated 26 September 2022.
 - The development proposed is retrospective application for a single-storey rear extension to the property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.

Main Issues

3. The main issues are the impact of the proposal upon i) the original dwelling and ii) the residential amenity of neighbouring occupiers with regard to sense of enclosure and overbearingness, loss of privacy and loss of light.

Reasons

Original Dwelling

4. The appeal site is a semi-detached bungalow with the proposal seeking retrospective permission for the erection of a single storey rear extension. The appeal site originally benefitted from prior approval for a larger home extension (R21/0630) which is noted to have not received any objections from the adjoining properties at 93 and 97 McKinnell Crescent respectively. The application determined that prior approval was not required for a proposed six-metre-long extension off the rear elevation of the host dwelling.
5. The extension, which is the subject of this appeal, does not comply with the General Permitted Development Order 2015 (GDPO) for reasons which I note are set out within the Council's delegated report. Most notably the eaves of the proposed extension are greater in height than the eaves of the original dwelling, a new raised platform (new patio area) is erected to facilitate the extension and the extension extends out by around 8.75 metres from the original rear elevation of the dwelling. The proposal before me is not, therefore, borderline as to potential to come under permitted development. It

is wholly outside the scope of permitted development for rear extensions as a result of the issues identified. It falls to assess it as it now stands before me.

6. The extension would extend 8.75 metres off the original rear facing wall and 5.6 metres off the original wing. Whilst the flat roof extension itself may have a height in the region of 3 metres, this height is not from original ground level as, to accommodate the extension, the ground levels have been changed to create a raised platform. The land levels of the site slope downwards from the public highway through to the rear of the garden, which means that I find the proposal presents as prominent due to massing added to the rear of the dwelling on top of a raised site level.
7. The proposal is, mainly, to the rear of the dwelling but it does extend out to the side elevation of the original dwelling by a width of around 1.5 metres. Whilst this is visible from the front of the dwelling, from the street-scene, due to the set back and general site setting I do not find this element to be a particular issue. The overall size of extension is disproportionate to the host dwelling and the site of the extension does not appear subservient to the host dwelling as a result of floor plan size. The proposal would not impact upon the street-scene however, it would be uncharacteristic when considering surrounding properties when viewed from their corresponding garden areas.
8. The appellant does not dispute that the extension is significant in terms of the footprint, however, for the reasons outlined above, I do find the proposal gives rise to a level of harm to the host dwelling and locality that warrants refusal. The appellant's assessment regarding visibility, particularly from the street-scene, is noted but the assessment fails to consider that character and appearance are separate matters. It should be kept clearly in mind that appearance is the outward, visible qualities whereas character is the sum of the all qualities which distinguish an area. In this case, even if the proposal had been found to have a limited impact upon the appearance of the area this does not change the assessment as to character.
9. Based upon the evidence before me I find that an extension of this size is uncharacteristic for dwellings in the area and would not respond to the area within which it is situated. Limited visibility does not prevent impact upon character. Furthermore, regardless of visibility, the scale and massing of the extension is not subordinate to the original dwelling as a result of the additional floor area provided. This is an incongruous and unsympathetic development when considering the size of the host dwelling. Overall, based upon the evidence before me, I find that the proposal completely dominates and overbears the host dwelling, meaning that the host dwelling is essentially unrecognisable from the rear elevation.
10. The proposal would be contrary to Local Plan (2019) (LP) Policy SDC1, which provides that development should only be supported where it is of scale and density that responds to the surrounding area in which it is situated. The proposal would also be contrary to the Sustainable Design and Construction Supplementary Planning Document (2012) which further confirms that the general principles for all extensions should be assessed on the effect that the extension has on the scale of the existing building. Extensions which are too large in relation to the host dwelling can have a detrimental impact on the character of the host building and the surrounding area which is the impact I have identified for the proposal before me.

Residential amenity of neighbouring occupiers

11. The proposed extension spans a length of around 8.75 metres directly along the boundary line between the appeal site and adjoining 97 McKinnell Crescent (no.97). The height of the extension is around 3 metres when measured from the original level outside the rear elevation of the property but overall, it is constructed upon a raised platform/amended site levels to accommodate the extension due to the sloping land levels onsite. The ground level of the extension is around 0.45 metres above the garden level to no. 97. This results in the extension exceeding 3 metres in height, when viewed from within no. 97, due to the original sloping topography of the gardens of the appeal site and no. 97 being largely the same pre-construction.
12. The proposal results in an overbearing and enclosing impact for neighbouring occupiers at number 97 due to an 8.75m extension, at seemingly increasing height due to the difference in site levels, extending down a large proportion of the shared boundary. I note from my site visit that this raised site level means that the standard boundary fencing, that was originally in place, is only a marginal height over the new ground level. I also noted the temporary privacy netting/fencing which has been installed above the original fencing on wooden frames which is a step the neighbouring occupier has stated had to be taken to protect their privacy. The fence contributes to the sense of enclosure but, if it were not for the appeal proposal, it would not be there. I do not find a fence erected by the neighbour, as a clearly a temporary response to protect their position because of the proposal already having been constructed, to be a factor that can be relied upon as mitigation for impacts arising from the proposal.
13. Without the fencing in place, the patio/veranda area which has been constructed would allow a clear view into number 97's garden. The raised platform area produces a significant loss of privacy and amenity due to the additional views which are provided into the neighbouring garden. Whilst there are no side windows in the extension, views would also be available from the bi-fold doors as, without the reactive fencing which has been installed, the existing boundary fence offers little screening which results in an unacceptable views into the garden.
14. No 97 is located to the south of the appeal site which means that impact in terms of sunlight would be limited and supporting documentation supplied by the appellant evidences this further. Natural light is, however, separate to sunlight and the overall size and dominance of the scheme (as a result of height and length along the boundary) would reduce natural light to the property as well as result in a shadowing effect. Despite this, given the number and location of windows I find that it is unlikely that the proposal would result in a reduction in natural light that would warrant refusal on its own. The proposal would also breach the 45 degree line, however, had the proposal been constructed in accordance with the prior approval notification, I acknowledge that this would have been the case for that extension. Despite this, the breach of the 45-degree line in this case would be significant as a result of the cumulative height and length of the extension in question.
15. I note the mitigating factors put forward by the appellant, some of which have already been discussed. I find that the proposal is significantly overbearing and enclosing when viewed from within the private amenity space of the

neighbouring property at no. 97. From the photographs submitted with the appellant's statement, as appendix 1, the photographs show the original fencing as well as the original wing to the host building at the appeal site (which the proposal has essentially replaced bringing built form along the boundary). The proposal may be single storey in terms of built form, however, as outlined changes to the site level to accommodate the overall projection of the extension are notable and contribute to the impact identified.

16. The potential for permitted development fall back, in the form of an extension, is noted, however, this would still not allow a proposal of the scale or projection as before me within this appeal nor is the construction of a raised platform possible within the scope of the GDPO. I would therefore attribute this limited weight due to the limited comparison available as well as this now being no more than a theoretical fallback position. In a similar vein, the appellant references the ability to erect an ancillary building pursuant to Class E of the GDPO. I do not attribute weight to this as I have no evidence before me to suggest that this is more than merely hypothetical and therefore of limited relevance in assessing the proposal as has been built.
17. I do not find that there would be impact to no. 93 due to the separation distance of the proposal to the boundary combined with the existing built form, along the boundary, within the curtilage of no. 93 which controls views from the proposal into their garden. I do not find that there would-be loss of light to no. 93 for the same reasons.
18. Despite this, I find that the proposal results in an unacceptable overbearing impact and sense of enclosure as well as a loss of privacy for the occupiers of no. 97 with specific regard to their amenity space within the garden. The proposal would be contrary to LP Policy SDC1 that seeks to ensure that the living conditions of new and existing occupiers are safeguarded.

Other Matters

19. I note the appellant's submission with regard to the site history and the previous application process with regard to the larger homes application. Despite this the activity or a lack of advice within a previous application does not fall within the scope of this appeal and I have considered this case upon its own merits based upon the evidence before me. I understand that the situation the appellant finds themselves in is likely one which was progressed in good faith, however, I must consider the proposal as is now before me.
20. Objections to the proposal are noted, however, given the main issues within this appeal I have dealt with the main points raised within these submissions within the main body of this decision letter. The appellant references LP Policy GP1, however, this policy is not one referred to or relied upon within the Council's refusal reason and no copy of this policy has been submitted as part of the evidence before me. I can therefore attribute no weight to this policy as I have no information before me.
21. Comments in support of the proposal are noted, however, a lack of objection is a neutral consideration. The starting point for determination is the Local Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004. The proposal is not, in this case, one to be considered on an overall planning balance but even so the proposal would fail to meet the overall objectives of sustainable development as a result of the issues identified with regard to

design in relation to the host dwelling as well as impact upon neighbouring residential amenity. Paragraph 130 of the National Planning Policy Framework 2021 reiterates the requirement for development which is sympathetic to local character and the surrounding built environment with a high standard of amenity for existing and future users.

Conclusion

22. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR