



Appeal Decision

Site visit made on 15 March 2023

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/E2205/D/22/3313061

40 Foxglove Green, Willesborough, Kent TN24 0RJ

- 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 Chris Price against the decision of Ashford Borough Council.
 - The application PA/2022/2163, dated 3 August 2022, was refused by notice dated 10 October 2022.
 - The development is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Issue

2. I have adopted the description of development as it appears on the Council's decision notice, as that more succinctly describes the development the subject of this appeal, than that which is shown on the application form.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring residential properties.

Reasons

4. The appeal property comprises a two storey terraced house located on the eastern side of Foxglove Green. It has no direct vehicular access, although there is parking provision in the form of surface and garage court parking a short distance to the north, and has pedestrian footpaths to front and rear. At the rear, there are two single storey flat roof extensions. Both span the full width of the property, with the first extension extending some 2.5 metres in depth, and the second and more recent extension, a further 2.5 metres in depth. The combined depth is thus 5.09 metres according to the submitted plans. It is the second extension which is the subject of this appeal and which permission is sought to retain.
5. The appellant points to the fact that the extension is single storey and flat roof and that there is good separation between windows of adjoining properties. It is also argued that the extension complies with the 25 degree code shown in the Council's Supplementary Planning Guidance 'Domestic Extensions in Urban and Rural Areas' (SPG). Collectively, it is argued these factors demonstrate that there is no harm to residential amenity.

6. However, I noted that the rear gardens of these properties are relatively small and enclosed, and also drop in level towards the rear where some, including the appeal property, are stepped down at the end. This effectively restricts the usable garden space. The adjoining property to the north, No 41 Foxglove Green, has a large patio door to a living area immediately adjoining the two extensions, whilst on the opposite side, No 39 has a large kitchen window slightly set in from the rear common boundary and a patio door beyond that.
7. I do not consider there is likely to have been any significant loss of sunlight to adjoining properties, because of the relatively open aspect at the rear. However there is likely to have been some impact on natural light reaching the rear living room of No 41 in particular, because of the extensive depth of the combined extension. I also consider that the impact of walls of just over 5 metres in depth along both common boundaries, is overbearing in relation to such small and enclosed rear gardens. Consequently, I agree with the Council that there has been an adverse impact upon the amenities for both occupiers of adjoining properties which causes harm as a result. Although I note that there were no objections from those occupiers, that in itself does not make an otherwise unsatisfactory form of development acceptable, and does not alter my view in terms of my findings on site.
8. With regard to the appellant's reference to the SPG, I note in passing that the guidance makes it clear that the 25 degree code should be used in combination with the 45 degree code. With regard to the latter, the depth of the extension and proximity of neighbouring windows would mean that it would be unlikely to comply. There is also nothing in the guidance to say that the codes should not apply to single storey extensions as the appellant suggests. In any event, the SPG makes it clear that it is for guidance only rather than hard and fast rules, and that much depends upon the individual circumstances. Similarly, therefore, it does not persuade me to reach an alternative view.
9. Although I note that the Council raises some concerns about the visual appearance of the extension, given that it is visible from the access road and footpath to the north, it is seen in the context of other flat roof extensions. I also agree that had I been minded to allow the appeal, a condition could have been imposed to require a suitable external finish rather than the unpainted render that is currently the case.
10. I acknowledge the appellant's reference to similar extensions elsewhere in the neighbourhood and I looked at some of these at my site visit. The site histories and any particular site circumstances are not before me. However, the detailed site relationships were often quite different with larger plots or different designed houses. I also noted that although there were other single storey extensions along the rows of similar terraces and small gardens to the south of the appeal property, i.e. Nos 25 – 41 Foxglove Green, there were no examples of a combined extension of the depth that is under consideration in this case.
11. I note that the appellant has some concerns about informal discussions with officers of the Council. However, that is not a matter for me to consider in the context of this appeal and the appellant would need to take that issue up direct with the Council if need be. Finally, I am sympathetic to the appellant's desire to increase living accommodation to cater for working needs and a growing family. However, personal circumstances change over time whereas built

development and its physical impact does not. In this instance I have given greater weight to the harm that has resulted to residential amenity.

12. Having regard to the above, the extension is contrary to Policy HOU8 of the Ashford Local Plan 2030, in that it has materially harmed the living conditions of adjoining residents.

13. Accordingly, the appeal should be dismissed.

Kim Bennett

INSPECTOR