



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: 29th March 2023

Appeal Ref: APP/T3725/D/23/3314701

1 Roxburgh Croft, Cubbington, Warwickshire, CV32 7HT

- 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 & Mrs Piers and Hannah Coe against the decision of Warwick District Council.
 - The application Ref W/22/1418 dated 26 August 2022, was refused by notice dated 16 November 2022.
 - The development proposed is erection of a single storey extension to link dwelling to garage.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey extension to link dwelling to garage at 1 Roxburgh Croft, Cubbington, Warwickshire, CV32 7HT accordance with the terms of the application ref: W/22/1418 dated 26 August 2022, subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;
 - 2) The development hereby permitted shall be maintained in complete accordance with the following approved plans: 22-437-03B (proposed floor plan – Aug 2022) and 22-427-04B (proposed site plan, 3D views);
 - 3) The materials to be used within the construction of the external surfaces of the approved extension shall match those utilised in the existing building or shall be as stated on the application form and approved plans.

Main Issue

2. The main issue is the impact of the proposal upon the residential amenity of neighbouring residents with regard to loss of light, outlook and overbearingness.

Reasons

3. The appeal site is two storey semi-detached dwelling which stands in a corner plot and shares elevations with two roads. The appeal site therefore stands with an elevation in the street scene of both Stirling Avenue and Roxburgh Croft. The Council's delegated report states that planning permission is sought for the erection of a single storey rear extension however, at the time of my site visit (and the submitted plans) I note that the property is orientated towards Roxburgh Croft with the front door being in the elevation onto

Roxburgh Croft. Furthermore, the driveway and garage, to the property are also accessed off this Roxburgh Croft. I would consider the front elevation, and address (being 1 Roxburgh Croft, and not numbered to Stirling Avenue), to mean that the proposal is to the side of the host property and not the rear as suggested in some of the submissions before me. For this reason, I have maintained the appellant's description of the proposal.

4. The Council's delegated report refers to impact upon 90 Stirling Avenue, however, the neighbouring property to the appeal site is 86 Stirling Avenue. The Council's refusal reason is largely based upon the fact that Residential Design Guide Supplementary Planning Document 2018 includes the 45-degree guideline which aims to prevent any unreasonable impact on the neighbouring property by reason of loss of daylight or sunlight and by creating an un-neighbourly and overbearing effect. The 45-degree line is, whilst important, still guidance and should be applied as guidance taking into account the actual impact of a proposal based upon its own merits.
5. The appellants have provided an explanation as to what they are trying to achieve as a result of the proposed extension which can be summarised as an extension to a family living area combined with space to work from home. In the event this appeal failed, I believe it is reasonable that the appellants would seek to consider their options through permitted development rights (noted within their submissions) to achieve some extension to the existing living accommodation which is not quite large enough or practical without extension for the appellant's family. I would clarify, at this point, that I am not taking into account the appellant's personal circumstances in this case directly, but rather that I find there is evidence before me that the appellant has genuine intent to extend the property. This intent, or real prospect, is relevant in so far as that in the event this appeal failed, there is a plausible fallback position which would likely be implemented. This is a material consideration.
6. As a side extension, illustrated within the appellant's submissions, the appellant could construct an extension under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GDPO). This could potentially allow an extension, as a side extension, in the region of four metres given the existing building measures in the region of eight metres as originally built. This would, therefore, leave a gap of less than two metres between a GDPO extension and the garage building as a result of implementation of a potential fallback position.
7. Such a proposal would result in the same breach of the 45-degree line as the appeal proposal that is before me. This, in theory, could result in a greater impact than the proposal before me with regard to the 45-degree line as shown on the appellant's drawings within their statement. The additional two metres, to take the extension to the garage as within this proposal, would not result in additional impact which would warrant refusal compared to that which could be constructed under permitted development. The permitted development fallback would have largely the same impact as the appeal proposal.
8. I appreciate that the extension would be on the shared boundary and effectively result in built form being the complete length of the shared boundary up to the existing garage. Despite this, the height of the proposal would be modest as, by proposing a flat roof without overhang or parapet on the neighbour's side, the proposal falls below three metres in height and

around 2.3 metres from the existing door thresholds noting that both the appeal site and 86 Stirling Avenue are built to the same site levels.

9. The Council have, overall, provided limited assessment to the impacts of the proposal beyond the stated infringement on the 45-degree line from number 86. A breach of the 45-degree line does not always necessarily result in impacts upon neighbouring amenity which warrant refusal. Given the height of the proposal, and site factors outlined above, I do not find the proposal would create an un-neighbourly or overbearing effect.
10. Whilst there would be a breach of the 45-degree line, the height means I find that there would not be unacceptable loss of light (as outlined above) and I do not find there would be loss of outlook for number 86 taking into account that there is currently an interwoven timber fence on the boundary between the appeal site and the neighbouring property. The proposal would, of course, exceed this existing fence height which it would replace but I do not find this would impact upon outlook to an extent that would warrant refusal given general views down the garden from number 86 as well as views across the appeal site being partly towards the existing garage building at the side of the garden in any case. A gap of two metres between an extension and the garage, as a result of a proposal compliant within the scope of the GDPO as a fallback, would result in the same impacts.
11. As a result of this assessment, I find the proposal would be consistent with Warwick District Council Local Plan 2017 Policy BE3, which confirms that development will not be permitted that has an unacceptable adverse impact upon the amenity of nearby uses and residents and/or does not provide acceptable standards of amenity for future users and occupiers of the development. The proposal would also be consistent with the overarching objectives of the SPD as, whilst it does breach the 45-degree guideline, it is consistent with safeguarding against unreasonable effect on the neighbouring property.

Conditions

12. The Council have suggested three conditions in the event this appeal is allowed, and I consider them fair and necessary to the permission granted. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A materials condition is required to ensure a satisfactory finish which is consistent with the host building.
13. Whilst not a condition the appellant is advised to re-read the information provided in the Council Ecologist's consultation response with regard to bats, birds and hedgehogs during construction works.

Conclusion

14. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR