

Appeal Decision

Site visit made on 9 March 2023

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th March 2023

Appeal Ref: APP/C4615/D/23/3313992
12 Grove Road, Stourbridge, DY9 9AD

- 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 Muhammed Azeem against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P22/1161, dated 4 August 2022, was refused by notice dated 25 November 2022.
 - The development proposed is a two storey side/rear extension, single storey front and rear extensions and front canopy (following demolition of existing garage).
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Decision

1. The appeal is allowed and planning permission is granted for a two storey side/rear extension, single storey front and rear extensions and front canopy (following demolition of existing garage) at 12 Grove Road, Stourbridge, DY9 9AD in accordance with the terms of the application Ref P22/1161, dated 4 August 2022, subject to the conditions set out in the attached Schedule to this decision.

Preliminary matters

2. In the interests of accuracy, I have used the Council's description of the proposed development found in its decision notice rather than that seen in the original application form.
3. Arrangements had been made for me to visit 10 & 14 Grove Road, but no-one was at home when I called. However, I am content that I could see everything I needed to see from the appeal property's rear garden to make an appropriate assessment.
4. For the reasons set out in the officer report, the scheme is acceptable to the Council in terms of its effects on the character and appearance of the host property and its surroundings. I have no reason to disagree with the Council's assessment in this regard. However, the Council has other specific concerns, and these are reflected in the main issue identified below.

Main issue

5. The main issue is the effect of the proposed development on the living conditions of the residents of the neighbouring dwellings at 10 & 14 Grove Road (No 10 & No 14) with particular reference to overshadowing and visual impact.

Reasons

6. The appeal property is sited at the end of a modestly sized terrace dwellings in a street comprised in the main of similarly designed properties. The house, along with neighbouring properties, has a generously sized rear garden.
7. No 10 is sited to the north of the appeal property and the Council is concerned that the proposed extension would therefore lead to unreasonable and harmful overshadowing of glazed openings in No 10's rear elevation and part of its garden. The Council has not produced a sun diagram, empirical evidence or other graphic representation which may better illustrate its point. I therefore assume that its objection in this regard is based on a subjective assessment.
8. Taking account of several factors including the orientation of the terrace, which is on a north-south axis; the normal daily path of the sun; the sun's height at different times of the year; the height of the proposed rear extension and its' distance away from the boundary shared with No 10, I do not share the Council's concern.
9. No 10's rear elevation and the closest part of its garden would be cast in shadow all year until midday when the sun was shining, irrespective of whether the extension was built. There would be limited times during the day, at certain times of the year, when the rear extension would cast some shadow over part of next door. But for the most part, any overshadowing which may occur as a result of the extension being built would not be such as to prove harmful, given that for most of the afternoon, no overshadowing would occur, particularly in summer.
10. The Council's concerns in respect of the effect on No 14 are different. Although acknowledging that the proposed development would not contravene its 45⁰ Code guidelines¹, the Council nevertheless considers that, due to its mass and height and siting on the side boundary, the extension would appear overbearing when viewed from both within No 14 and its garden.
11. The space between No 14's flank elevation and its side boundary is occupied by outbuildings which would perform some level of effective screening and separation functions. No 14 also has an extension attached to its rear elevation which appears to be in the form of a conservatory. The proposed side extension would be seen from No 14's rear garden and to a far lesser extent in oblique views from within No 14. Given the generous size and depth of No 14's garden and the hipped roof of the proposed two storey extension, the extension would not in my view be perceived as dominant or oppressive when viewed from No 14's garden. Moreover, such would be the obliqueness of views of the structure from within No 14 that I do not consider the proposal would have a harmful effect on No 14's internal environment, and the application of the Council's 45⁰ code supports this view. The outlook from No 14, from in and out, would not be affected to the extent that it would prove harmful.
12. I therefore conclude that the proposal would not harm the living conditions of its nearest neighbours on either side. Accordingly, I find no conflict with those provisions of policy L1 of the Dudley Borough Development Strategy requiring

¹ As set out in the Council's Planning Guidance Note 17 – House Extension Design guide (PGN 17).

new development not to unacceptably harm the amenities of occupiers of neighbouring dwellings.

Conditions

13. I have considered the Council's suggested conditions and agree that, in the interests of visual amenity, a condition in respect of external materials is necessary.
14. It is also necessary, in the interests of certainty, that the development shall be carried out in accordance with the approved plans.

Other matters

15. I note the references to other development plan policies, but that to which I have referred is considered the most relevant in this case taking account of the basis for the Council's objections. I have also noted and considered the references to PGN17 and the *National Planning Policy Framework*.
16. Neither the residents of No 10 nor No 14 objected to the proposal when consulted on the original application. Whilst not decisive in my considerations it indicates that possibly, the Council's fears as to the alleged ill-effects of the proposal and not shared by the immediate neighbours.
17. No other matter raised is of such strength or significance as to outweigh those considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1). The development hereby permitted shall begin not later than three years from the date of this decision.
- 2). The development hereby permitted shall be carried out in accordance with the following approved plans: Plan Ref Nos 001; 002 & 003.
- 3). The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.