

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: 30th March 2023

Appeal Ref: APP/C4615/D/22/3309113

24 Douglas Road, Halesowen, B62 9HR

- 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 M Gill against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P22/1101, dated 20 July 2022, was refused by notice dated 16 September 2022.
 - The development is a garden office.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Arrangements had been made for an Access Required Site Visit, but no-one was present at the site when I arrived at the pre-arranged time. Building works were in progress at the property, but the house was boarded up and a temporary security fence had been erected across the site's frontage. I could not therefore enter the site to view the office from the appeal property's rear garden. However, I was able to view the development from 4 Elm Drive, a neighbouring property, to which I was allowed access.
3. Judging from what I could see, and the representations and photographs provided, the shell and roof of the garden office have been erected. The appellant wishes to retain that built and complete the building in accordance with the deposited plans. I shall proceed on this basis.

Main issue

4. The main issue is the effect of the proposed development on the living conditions of the residents of 4 Elm Drive (No 4) with specific reference to outlook, visual impact and overshadowing.

Reasons

5. The appeal property is a detached dwelling with a lengthy garden. As the appellant says, the proposal complies with development plan policies in some respects, and the Council acknowledges this.
6. The appellant claims that, other than for its height, the office would comprise permitted development. Because of my inability to access the site, I could not verify the precise dimensions of the building, but there is no dispute that the 'as-built' structure requires planning permission.

7. From No 4's rear amenity area the building's roof could be seen clearly protruding above the boundary fence separating the two properties. To my mind, given the limited depth of No 4's useable amenity area, the roof, being at such close quarters to No 4's boundary, appeared dominating and intrusive, and harmfully affected outlook to the southern sky. From within No 4's newly built rear extension, the office's roof could be clearly seen in oblique views from the sliding glazed doors serving a habitable room. Taken in combination, the office, as erected, has made No 4 a far less pleasant place to live both within and outside the property, and harmed the living conditions of its residents by reason of its visually intrusive nature.
8. In view of its position to the south of No 4's amenity area, the building would cast a limited shadow on the neighbouring property at certain times of the day. However, for most of the day during the summer when it is most likely to be used, No 4's rear amenity area would remain largely unaffected by overshadowing from the structure. I do not therefore share the Council's concern in this respect.
9. I therefore conclude that the garden office, if retained and completed, would comprise an un-neighbourly form of development harming the living conditions currently enjoyed by No 4's residents by reason of its visually intrusive nature and its effect on outlook, in particular from No 4's rear amenity area. Accordingly, a clear conflict arises with those provisions of policy L1 of the Dudley Borough Development Strategy directed to protecting the amenities of the occupiers of neighbouring dwellings.

Other matters

10. I note the references to other development plan policies, but that to which I have referred is considered the most relevant in this case. I have also noted and taken into account the references to the *National Planning Policy Framework* and local design guidance.
11. I note that No 4's residents did not register formal objections to the proposal when consulted. However, this is not decisive in my considerations. Having seen the development at first hand from both within and outside No 4, I consider the development to be objectionable for the reasons set out above.
12. 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