



Appeal Decision

Site visit made on 28 March 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Appeal Ref: APP/Q3820/D/22/3302025

1 Turner Walk, Tilgate, Crawley RH10 5LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr S Ahmad against the decision of Crawley Borough Council.
 - The application Ref CR/2022/0068/HPA, dated 17 March 2022, was refused by notice dated 28 April 2022.
 - The development proposed is 'existing conservatory to be demolished prior to the erection of 4m ground floor rear extension'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
3. The main parties do not dispute that the appeal scheme meets the requirements of Schedule 2, Part 1, Class A of the GPDO such that it would constitute permitted development, subject to conditions.
4. Paragraph A.4 requires a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1. Paragraph A.4(7) provides that where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises, taking into account any representations received.
5. In the case of the appeal before me, the provisions of paragraph A.4(7) have been triggered, and the Council have refused prior approval on this basis.

Main Issue

6. The main issue is the effect of the development proposed on the amenity of the occupants of no.2 Turner Walk, with particular regard to outlook and natural lighting.

Reasons

7. The appeal site contains a two storey end of terrace property. No.2 adjoins the appeal site to the northeast and its garden is separated by close board timber fencing which allows some visibility between the gardens and which includes a taller panel closest to the back of the house. No.2 does not have any existing rear extensions and includes windows and doors in its rear elevation at the ground floor level which face into the rear garden. A set of glazed double doors exists closest to the boundary with the appeal site and I understand them to serve a habitable room. The doors provide an important source of natural lighting and outlook to the back of the property.
8. The proposal would project along the boundary and close to those double doors of no.2. The proximity of those doors, in combination with the depth and height of the proposed extension along the boundary, would result in a harmful enclosing effect on the outlook from that habitable room, creating oppressive conditions within the room.
9. The Urban Design Supplementary Planning Document (SPD) 2016 includes a 45 degree test for assessing effects of extensions on natural lighting. The appellant does not dispute that the proposal would cross a 45 degree line taken from the nearest edge of the neighbouring doors. While I do not have a plan detailing the extent of the breach, given the proximity of the proposal to the boundary and its depth, the encroachment into the 45 degree line and consequent effects on daylight, are likely to be significant.
10. Given the orientation of the properties, and in the absence of substantive evidence to the contrary, the proposal would also reduce the extent of sunlight received to the back of no.2, particularly in the late afternoon. While in isolation this may not be significant, it nonetheless adds to my concerns when considered in combination with the other effects.
11. The proposal would be set in from the boundary, but only by a distance of 0.1m, which would not notably reduce the effects of the development on no.2. While the boundary treatment between the properties would provide some screening, the extension would remain apparent and prominent above the boundary. In any event I do not have evidence relating to the height of that boundary nor the effects that it has on the existing levels of sunlight and daylight to the back of no.2. Based on the evidence, the boundary would not acceptably reduce or mitigate for the above effects.
12. While the proposal would replace an existing conservatory, the effects of the conservatory are substantially different by reason of its set back from the boundary, together with its height, depth and lightweight construction. While many extensions to terraced houses will have effects on the neighbouring properties, the extent of those effects would inevitably depend on the particular circumstances of the site and the proposal.
13. Taken together, for the above reasons the proposed extension would have a harmful effect on the amenity of no.2 in terms of its outlook and natural lighting. The proposal would conflict with Policy CH3 of the Crawley Borough Local Plan 2015 and the Urban Design SPD which require development, among other things, to retain a good standard of amenity for existing occupants.

Other Matters

14. The appellant considers the Council assessed the proposal as an application for planning permission. I do not have substantive evidence to conclude that this is the case, and the Council's officer report makes reference to the relevant section of the GPDO, including the need to notify and allow representations from each adjoining occupier.
15. The proposal would provide enlarged accommodation for its occupiers as well as encompassing an appropriate design. However, in line with the requirements of paragraph A.4(7), the considerations in this instance are limited to the amenity of adjoining premises.
16. The appellant has drawn my attention to other examples of rear extensions in the area. Of those examples, the evidence suggests that one related to an application for a certificate of lawfulness, and the others state that prior approval was not required¹. As such the considerations in those instances would have been different to the appeal scheme, where prior approval is required, and they do not provide reason to alter my judgement.

Conclusion

17. For the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR

¹ Crawley Borough Council references: CR/2018/0717/192, CR/2019/0238/HPA, CR/2021/0358/HPA, CR/2017/0865/HPA.