



Appeal Decision

Site visit made on 03 April 2023

by **D Cleary MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 June 2023

Appeal A Ref: APP/T3725/D/22/3312948

23 Freemans Close, Leamington Spa, Warwickshire CV32 6EZ

- 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 Ms L Sutcliffe & Mr J Vicary against the decision of Warwick District Council.
 - The application Ref: W/22/1578, dated 29 September 2022, was refused by notice dated 25 November 2022.
 - The development is described as 'Proposed single storey rear extension and enclosure of front porch'.
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Appeal B Ref: APP/T3725/D/23/3316460

23 Freemans Close, Leamington Spa, Warwickshire CV32 6EZ

- 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 Ms L Sutcliffe & Mr J Vicary against the decision of Warwick District Council.
 - The application Ref: W/22/1965, dated 12 December 2022, was refused by notice dated 06 February 2023.
 - The development is described as 'Proposed single storey rear extension and enclosure of front porch'.
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Appeal A: Decision

1. Appeal A is allowed and planning permission granted for proposed single storey rear extension and enclosure of front porch at 23 Freemans Close, Leamington Spa, Warwickshire CV32 6EZ in accordance with the terms of the application, Ref: W/22/1578, dated 29 September 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans referenced Dwg No.1 Existing Floor Plans and Elevations, and Dwg No.2 Proposed Floor Plans and Elevations.
 - 3) The materials to be used in the construction of the external surfaces of the walls of the development hereby permitted shall be as detailed on the approved plans.

Appeal B: Decision

2. Appeal B is allowed and planning permission granted for a single storey rear extension and enclosure of front porch at 23 Freemans Close, Leamington Spa,

Warwickshire CV32 6EZ in accordance with the terms of the application, Ref: W/22/1965, dated 12 December 2022, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans referenced Dwg No.1 Existing Floor Plans and Elevations, and Dwg No.2 Revision B Proposed Floor Plans and Elevations.
- 3) The materials to be used in the construction of the external surfaces of the walls of the development hereby permitted shall be as detailed on the approved plans.

Procedural Matters

3. As set out above there are two appeals on this site. They differ only in the detail of the design of the proposed extensions. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. I have re-worded the address within the banners from that contained within the application forms, to rectify an ordering mistake.
5. On my site visit I observed that the construction of a single storey rear extension had taken place and was complete. In respect of Appeal A, the extension is consistent with the plans before me in terms of form, scale and materials. However, the proportion and the design of the rear opening differs to those as constructed. In respect of Appeal B, the plans before me do not reflect the extension on the ground. I have determined the appeals on the basis of the plans before me, not what has been constructed on site.

Main Issues

6. Appeal A. The main issue is:
 - the effect of the proposed rear extension on the living conditions of the occupiers of 22 Freemans Close, with particular regard to natural light and outlook.
7. Appeal B. The main issues are:
 - the effect of the proposed rear extension on the living conditions of the occupiers of 22 Freemans Close, with particular regard to natural light and outlook, and,
 - the effect of the proposed rear extension on the character and appearance of the area.

Reasons

Living Conditions

8. The appeal dwelling is a two-storey, semi-detached property of post-war construction located on the north-western side of Freemans Close. The dwelling has a dual pitched roof, with rear dormer, and an integral flat-roof garage to

the side. The dwelling has gardens to the front and rear. The semi-detached pairing is No.22 Freemans Close, and is positioned to the south-west of the appeal site. To the north-east is No.24 Freemans Close, which is a 2-storey detached dwelling.

9. In both appeals the extension would project to the rear by 3.6m and would be single storey with a flat roof design. In Appeal A, the extension would be sited immediately adjacent to the shared boundary with No.22 for its whole depth. The extension in Appeal B, would be sited immediately adjacent to the boundary for 3m, before cutting away. To the rear of No.22 are rear facing habitable room openings at ground floor level including dining room patio doors, positioned closest to the boundary, and a kitchen window. The position and height of the extension is such that it would be visible from both the internal and external areas of No.22.
10. The rear extensions for both Appeal A and Appeal B would infringe upon the 45° guideline¹ taken from the nearest opening in No.22 Freemans Close. Albeit the extent of infringement for Appeal B would be less due to its 3m depth along the boundary. I am mindful that this is guidance only and the SPG confirms that the application of the guideline is not the overriding consideration, and regard must be had to individual circumstances. The orientation of the properties is such that the extensions would be sited to the north of this opening. Therefore, I consider that any reduction of daylight or sunlight would be limited, particularly given the single storey nature of the extensions. In addition, on my site visit I observed that the affected room benefits from a further large south-east facing opening meaning there is a further principal source of light serving that room. Given these factors, I do not consider that the infringement of the 45° guideline in both Appeal A and Appeal B would result in a significant loss of light to the occupiers of No.22 Freemans Close.
11. With regard to outlook, I consider that the scale and flat roof design of the extensions would limit the effect of the proposals to some extent. Furthermore, the depth and width of the rear gardens along Freemans Close are relatively open and spacious. The extent of built form along the boundary, in both Appeal A and Appeal B, would be modest in this context and, for the above reasons, I do not consider that it would result in an unacceptable sense of enclosure. While the extensions would inevitably be visible, for these reasons, I do not consider that either would be of such a scale to result in a significant loss of outlook.
12. I am also mindful of what could be constructed under permitted development rights as a fall back. Permitted Development under Class A.1² would allow for the construction of a 3m single storey rear extension along the site boundary, with an eaves height of 3m, and overall maximum height not exceeding 4m. Given the position of the dining room opening, a single storey extension under permitted development along the boundary would have a similar effect on the living conditions of occupiers of No.22. I do not consider the additional depth within the proposed extensions would be of such a scale to have a significant

¹ As detailed in Warwick District Council's The 45 Degree Guideline SPG (2005)

² Of Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

effect on living conditions, compared to the fall back, having particular regard to the matters of orientation, context and design that I have observed above.

13. I note the comments raised by neighbours with regard to the boundary fence. It is indicated that 3 panels of a 1.2m high fence had been replaced with a 1.8m high fence. On my site visit I did observe that a fence, at approximately 1.8m in height, had now been constructed along most of the site boundary with the exception of one lower fence panel at the rear of the garden. Some earlier fencing appears to have been retained on the No.22 side of the new fence. I have no substantive evidence to support the neighbours' comments so I can only give them limited weight. In any event, I have found the effect of the proposals to be acceptable and similar to what would be allowed as permitted development. Matters of boundary ownership, and the responsibility for the fence line, would be a civil matter.
14. Comments have also been raised with regard to a 2.8m single storey rear extension at No.21. However, the presence of this extension does not alter my overall findings and, in any event, I have considered the proposals on their individual merits.
15. I consider that the development proposed for Appeal A and Appeal B would not have an unacceptable effect on the living conditions of the occupiers of 22 Freemans Close, with particular regard to natural light and outlook. As such I find both proposals would comply with Policy BE3 of the Warwick District Local Plan 2011-2029, which requires development to not have an unacceptable adverse impact on the amenity of nearby users and residents.

Character and Appearance

16. Freemans Close is characterised by predominantly two-storey detached and semi-detached properties of largely similar design. A prevailing characteristic are flat roofed garages attached to the side of the dwellings. Many dwellings have been extended and altered with extensions of various design, scale, form and siting, including extensions to the rear.
17. The Council's principal concern with regard to the design of the extension proposed under Appeal B, is that the corner of the extension on the boundary with No.22 being "cut off", would result in a contrived design, citing the advice contained within the SPG mentioned previously. Overall, the proposed rear extension would project from the whole width of the property and would include a flat roof design which would be marginally higher than the height of the existing flat roof garage. The angled corner would splay away from the boundary and, at 0.6m in depth, I consider that splayed corner would be relatively minor in the context of the overall extension. Overall, I consider that the extension would be sympathetic to the proportions and appearance of the host dwelling.
18. Visibility of the proposed extension from public vantage points would be limited and, as such, I do not consider that the extension would be harmful to the character and appearance of the streetscene. Given the rear siting, views of the extension would be more apparent from adjoining gardens. However, the single storey nature of the development, with its modest scale and height, along with the use of appropriate materials, is such that the extension with its

splayed corner, would not appear as a prominent or an incongruous form of development within the private realm.

19. I therefore find that the Appeal B proposal would have an acceptable effect on the character and appearance of the area. The development would comply with Policy BE1 of the Warwick District Local Plan 2011-2029, which requires development to positively contribute to the character and quality of its environment through good layout and design, and with the National Planning Policy Framework 2021, in this regard.

Conditions

20. While a single storey rear extension has been constructed on site, it has not been carried out in total accordance with the plans before me for Appeal A and Appeal B. For both appeals, I therefore attach the standard commencement condition. A condition requiring compliance with the submitted plans is necessary for reasons of certainty. A further condition requiring the materials to be as detailed within the application is also necessary, in the interest of the character and appearance of the area.

Conclusion

21. For the above reasons, I conclude that Appeal A is allowed, and Appeal B is allowed.

D Cleary

INSPECTOR