



Appeal Decision

Site visit made on 13 November 2023

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2023

Appeal Ref: APP/Z2260/D/23/3320885

82 Hugin Avenue, Broadstairs, Kent CT10 3HN

- 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 Austin against the decision of Thanet District Council.
 - The application Ref FH/TH/22/1534, dated 11 November 2022, was refused by notice dated 3 April 2023.
 - The development proposed is the erection of a single storey rear extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupants of 84 Hugin Avenue (No 84) with particular regard to outlook, and access to daylight and to sunlight.

Reasons

3. The appeal site is a semi-detached dwelling. The neighbouring property No 84, has a single storey rear outshot set away from the joint boundary sufficiently to retain a set of clear glazed patio doors in the original rear elevation which are positioned closest to the boundary. The information before me indicates that these doors appear to be the only opening to the room they serve. The boundary between No 84 and the appeal property is defined by a wooden fence.
4. The extension would have a flat roof design and limited height. However, it would project a few metres beyond the rear elevation of No 84 and sit immediately adjacent to the shared boundary for its whole depth. Whilst the appellant contends that the extension would be appropriately scaled and appear moderate, the proposal would still project over the height of the existing boundary fence and, due to its siting so close to the common boundary, it would appear conspicuous from No 84's rear patio doors. Furthermore, taken together with the rear outshot at No 84, the proposal would create a tunnelling effect and sense of enclosure from No 84's patio doors that would not be adequately mitigated by the modest separation distance between these doors and the proposal.
5. The appellant sets out that the 45-degree principle is not applicable in this case. However, as this principle is applied to understand the proposal's effect on a neighbouring property in terms of daylight, to my mind it is not unreasonable to apply it to the clear glazed patio doors at No 84. Irrespective

- of which room the doors serve, I must adopt a precautionary approach, even more so as it appears that there is no other opening serving this room.
6. The extension would substantially infringe the 45-degree principle, thereby leading to unacceptable overshadowing. Additionally, the extension would unacceptably reduce the amount of sunlight during the morning, because of its siting to the south of No 84.
 7. It may be the case that in urban areas residential developments are clustered. However, there remains an expectation that new development does not harm current living conditions. In this instance, there is an established outlook, daylight and sunlight levels and the proposal would be harmful to the living conditions of the residents at No 84 for the afore mentioned reasons.
 8. It has been brought to my attention that this proposal follows a previous planning application for a part single part two storey rear extension that has been approved by the Council. This was however different because the single storey element was set in from the common boundary, was less tall and less deep than this proposal. Nevertheless, I must consider the appeal scheme on its own merits and, for the reasons set out above, I find that the proposal would be harmful to the living conditions of the residents at No 84.
 9. I appreciate that the appellant is seeking to optimise the potential of the property and ensure that it is put to effective use. However, I am not persuaded that this proposal is the only means to achieve this, nor am I convinced it would be an effective use of land because of the harm in terms of living conditions that I have identified.
 10. My attention is drawn to other single storey rear extensions that have been granted elsewhere in the Borough. However, one is for a prior-approval, so this application would have been assessed under permitted development regulations. I have very limited information regarding the other applications, with no specific details of the size of these proposals or the circumstances and considerations that led to their approval. As such, I cannot make any useful comparison between the proposal and these schemes.
 11. In conclusion, the proposed development would have an adverse impact on the living conditions of the occupants of No 84, with particular regard to outlook, access to daylight and to sunlight. As such, the proposal would be contrary to Policy QD03 of the Local Plan 2020, where it only supports development that does not lead to unacceptable living conditions through overshadowing, loss of natural light or sense of enclosure. Further, the proposal would not accord with the National Planning Policy Framework, which supports developments that create a high standard of amenity for existing users.

Conclusion

12. Overall, I conclude that the development would conflict with the development plan as a whole and there are no material considerations of sufficient weight to indicate that a decision should be made otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR