

Appeal Decision

Site visit made on 3 April 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2024

Appeal Ref: APP/W3710/W/23/3332629

94 Coventry Road, Bedworth, Warwickshire CV12 8NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Dr Anoop Deol on behalf of Dental Care against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref is 039752.
 - The development proposed is a one storey rear extension to relocate surgery No.1 and also use part of the new area as a storage room. The area vacated by surgery No.1 to be used for an additional waiting area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's reason for refusal refers to the effect of the proposal on No. 94 Coventry Road (No. 94). However, it is clear that the wrong number was referred to in the decision notice in that No. 94 is the appeal site and No. 96 Coventry Road (No. 96) is the neighbouring property. This was a drafting error on the part of the Council and both main parties have referred to this error in their evidence. Consequently, I do not consider that any parties have been prejudiced by me considering the effect of the proposal on No. 96.
3. The appellant advises that No. 96 is in the same ownership and is also used by the dental surgery. I saw at my visit that there is no longer a boundary between the rear gardens of the two properties and staff were regularly moving between the two buildings. However, from the evidence before me there has not been any planning permission for the change of use of No. 96. On the evidence, and only as far as it is material to my decision, I have made my assessment on the basis that the lawful use of No. 96 is a dwelling.
4. A revised National Planning Policy Framework came into force on 19 December 2023 with a further change published on 20 December 2023. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the changes, and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupants of No. 92 and No. 96 Coventry Road (No.92 and No. 96), with particular regard to outlook, daylight and sunlight.

Reasons

6. The appeal site, No. 94, is a detached two-storey building which is currently in use as a dentist surgery. The property has been extended previously with a large, flat-roofed, two-storey extension to the rear. The rear garden area is mostly hard surfaced and includes two large outbuildings. The side boundary, with No. 92 is a tall brick wall against which two outbuildings are positioned. The surrounding area is residential with a mix of detached, semi-detached and terrace houses.
7. The Nuneaton and Bedworth Borough Council, Sustainable Design and Construction Supplementary Planning Document, 2020 (SPD) provides guidance on meeting the requirements of Policy BE3 of the Nuneaton & Bedworth Borough Council Borough Plan, 2011-2031 (the Borough Plan). The sustainability checklist in section 5.1 of the SPD advises that, amongst other matters, residential amenity should be considered for all applications.
8. The SPD advises that developers must demonstrate that daylight and sunlight impacts have been considered and the way buildings relate to each other, their orientation and separation distance, must provide and protect acceptable levels of living conditions for both existing and future residents. Paragraph 11.9 seeks to resist extensions that would infringe on a line drawn at 60 degrees from the centre point of the window of a neighbouring habitable room of the same floor level.
9. Moreover, paragraph 11.9 advises that, near the boundary of usable rear private amenity space, a proposed single storey extension shall be no more than 4 metres long. Shaving off the corner of an extension or stepping-in so as to follow the required 60-degree angle would not normally be acceptable as such measures do not usually significantly reduce the effect of the extension on neighbouring habitable rooms or gardens.
10. Both No. 92 and No. 96 have ground floor windows in the rear elevations and in the side elevations of the two-storey outriggers, which extend back from the properties. Furthermore, both neighbouring properties have rear private areas, although the garden of No. 96 is no longer separated from the appeal site and there is a vehicular access between the appeal site and No. 92, serving as access to the rear of No. 92.
11. The proposed extension would, in itself, extend more than 4 metres along the boundaries of both No. 92 and No. 96. In this regard the proposal would fail to comply with the guidance set out in paragraph 11.9 of the SPD. When added to the existing two-storey extension, and as viewed from both neighbouring properties, the proposed development would result in a substantial rear extension, even if the extension is not visible from any public areas.
12. Paragraph 11.9 does include some flexibility. I acknowledge that the appeal property is a detached building and, is therefore not the same as the illustration in the SPD. The scale and depth of the proposal, when added to the existing extension, would result in the outlook from the windows in the rear elevation and from within the garden of No. 92 being a blank brick wall.
13. This outlook is already restricted by the boundary wall and the proximity of the existing building and extension. However, there would currently be an outlook over the wall and beyond the rear elevation of the appeal property. The limited

existing outlook would not justify worsening the situation for the occupants of No. 92. Due to the scale, depth, and proximity of the extension, the outlook from the windows and from within the garden of No. 92 would be significantly reduced to the detriment of the living conditions of the occupants of that property.

14. Even if I were to accept the appellant's separation distances given for between the appeal property and No. 92, these distances, and the presence of a vehicular access and driveway, would not significantly reduce the overall massing of the extension or substantially reduce the effect the proposal would have on the neighbouring property. In this case, the layout and on-site circumstances would not reduce the harm. That the occupants of this property would still have views to the rear would not mitigate the harm that would arise from the scale and depth of the proposed extension as viewed from the rear elevation.
15. The aerial photograph submitted by the appellant appears to show that there is no discernible patio at No. 92. However, there is a garden area at the rear of the dwelling. Moreover, the whole area to the rear of No. 92 could be used as a garden, notwithstanding the preferences of the current occupants to use the rear space for vehicle parking and storage.
16. The appellant's evidence indicates that the proposal would cast a shadow on the garden of No. 92. However, this would not be to more than a quarter of the garden. There would be other parts of the garden which would not be in shade from the extension and the loss of light from the garden area would not be substantially harmful.
17. However, the proposed extension would infringe on the 60-degree angle of the ground floor windows in the rear of No. 92. The appellant has sought to step the extension in from the side boundary, however this is specifically noted in the SPD as not an appropriate solution to resolving a 60-degree conflict. The scale and depth of the extension to the rear would substantially reduce the level of daylight and sunlight available to the windows in the rear elevations of No. 92 and result in an adverse effect on the living conditions of the occupiers, contrary to the SPD.
18. The proposed extension would also add to the significant infringement of the 60-degree angle that the existing extension has had on the ground floor patio doors in the rear elevation of No. 96. The proposed extension would cause additional harm to the living conditions of this neighbouring property and would reduce the daylight and sunlight available to this property.
19. For the above reasons, I, therefore, find that the scale and position of the proposed single-storey rear extension would have a harmful effect on the living conditions of the occupants of No. 92 and No. 96 Coventry Road, with particular regard to outlook, daylight, and sunlight. The proposal would be contrary to BE3 of the Borough Plan which, amongst other matters, requires development to be designed to a high standard and respect the sensitivity to change of the characteristics of an area, including residential amenity.
20. I also find that it would be contrary to the guidance in the SPD which seeks to ensure that, amongst other matters, all developments provide and protect acceptable levels of living conditions for both existing and future residents.

21. For the same reasons the proposal would fail to comply with the guidance in the Framework which seeks to ensure that developments function well, add to the overall quality of the area and have a high standard of amenity for existing and future users.

Planning Balance and Conclusion

22. The appellant has sought to argue that the proposal is needed to improve the patient experience and the effective operation of the practice. Although storage is suggested as much needed, I did not see any evidence of a lack of storage facilities and noted the two outbuildings in the rear garden which appeared to be in a good state of repair. Furthermore, I have not been provided with any substantive evidence of a need for a larger waiting area. Although the proposal would increase storage space and the waiting area, I do not have substantive evidence that these factors should be given significant weight in the planning balance or that these benefits would outweigh the harm.
23. The proposal would, therefore, conflict with the development plan taken as a whole, and there are no material considerations to indicate that the appeal should be determined otherwise than in accordance with it. For the reasons given above the appeal should be dismissed.

K Townend

INSPECTOR