
Appeal Decision

Site visit made on 20 April 2024

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10.05.2024

Appeal Ref: APP/W3710/D/24/3337330

16 Blackberry Lane, Ash Green, Coventry, Warwickshire CV7 9AL

- 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 Mrs Stacey Rutherford against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 039834, dated 9 September 2023, was refused by notice dated 2 November 2023.
 - The development proposed is single storey extension to rear.
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Decision

1. The appeal is allowed and planning permission is granted for single storey extension to rear at 16 Blackberry Lane, Ash Green, Coventry, Warwickshire CV7 9AL in accordance with the terms of the application, Ref 039834, dated 9 September 2023, and the plans submitted with it.

Procedural Matter

2. The appeal proposal has already been constructed. Therefore, this appeal is being determined retrospectively.

Main Issue

3. The main issue is the effect of the development on the living conditions of the neighbouring occupiers of 14 Blackberry Lane (No 14).

Reasons

4. Planning permission was granted under application reference 039576 for a 3.9m deep single storey extension which had already been constructed. However, at some 4.3m deep, the development is larger than indicated in the approved scheme. The appeal application was submitted to regularise the situation.
5. The Council's Sustainable Design and Construction SPD (the SPD) sets out guidance for house extensions, including measures to prevent harm to the living conditions of neighbouring occupiers. These can be applied flexibly, depending on matters including on-site circumstances. No 14 is the attached neighbouring bungalow which is not extended. There would be a breach of the Council's 60-degree line in respect of the only window which serves its lounge. This could indicate an impact on the amount of natural light reaching this room. Furthermore, the extension projects more than the 4m beyond the rear wall of the neighbouring property which is permitted by the SPD.

6. However, the rears of the appeal property and No 14 face south. Considering also the size, scale, height and location of the extension, the more persuasive evidence indicates that the extension does not unacceptably affect natural daylight levels reaching No 14's lounge or external patio area. There is no convincing evidence demonstrating that the depth of the extension shown on the appeal drawings, and as built, would have a materially greater overbearing or oppressive effect than the approved scheme. It remains unclear why the impact of the same, already constructed, extension was firstly assessed as being acceptable and was later considered harmful to the living conditions of the neighbouring occupiers. Furthermore, a deeper extension could potentially be built here under the 'Prior Approval' procedure. This is a planning consideration which supports the appeal proposal.
7. Although the proposed scheme does not satisfy each of the SPD criteria, strictly applied numerical guidance does not outweigh planning judgement based upon site-specific circumstances. In this appeal, there are material considerations which attract greater weight than the conflict with the SPD. Accordingly, the proposal should be determined in accordance with the development plan.
8. Overall, I conclude that the constructed extension does not cause undue harm to the living conditions of the neighbouring occupiers at No 14. It is therefore consistent with the requirements of Policy BE3 of the Nuneaton and Bedworth Borough Plan 2019 which, in summary, seeks to achieve a high-quality design which is appropriate to its context. Furthermore, the scheme broadly complies with the guidance set out in the National Planning Policy Framework and the National Design Guide.

Other matters

9. The extension has been built up to the boundary with No 14 and the eaves and guttering of the extension overhang and are attached to the adjoining property. However, this unfortunate situation is the same as in the already approved scheme. But in any event, encroachment of the boundary is a private matter between the two neighbouring parties.

Conclusion

10. For the reasons set out above and having regard to all other matters raised, the appeal is allowed.

Elaine Benson

INSPECTOR