



Appeal Decision

Site visit made on 18 April 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2024

Appeal Ref: APP/W2845/D/24/3337673

2 Terrington Close, Brackley, West Northamptonshire, NN13 6EN

- 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 Pete Davey against the decision of West Northamptonshire Council.
 - The application Ref 2023/7328/FULL dated 6 September 2023 was refused by notice dated 12 January 2024.
 - The development proposed is removal of existing conservatory and erection of rear single storey extension.
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Decision

1. The appeal is allowed, and planning permission is granted for removal of existing conservatory and erection of rear single storey extension at 2 Terrington Close, Brackley, West Northamptonshire, NN13 6EN in accordance with the terms of the application ref: 2023/7328/FULL dated 6 September 2023 subject to the following conditions:
 - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site plan 06/09/2023, proposed ground floor plan 21-DAV2-03 Rev B and proposed elevations 21-DAV2-05 Rev B.

Procedural Matters

2. This appeal is accompanied by an application for costs. This is the subject of a separate decision.

Main Issue

3. The main issue is the impact of the proposal upon character and appearance of the street scene and host dwelling and residential amenity with regard to amenity space.

Reasons

4. The proposal before me seeks to remove an existing conservatory and erect a single-storey rear extension to a semi-detached bungalow which stands in a corner plot between Terrington Close and Manor Road. Whilst it is not within the scope of this appeal to determine what would be permitted development both parties are clear in their agreement that the proposal as submitted would not comply with Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO). The

proposal, as submitted before me, falls to be considered against the Local Plan as a starting point for determination in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 taking into account relevant material considerations.

5. At the time of my site visit I found that the existing conservatory, to the rear, is noticeable within the street scene along Terrington Close but as a result of overall limited scale, it is essentially neutral in its overall impact. The garage at the site has recently been rebuilt as a result of permitted development and is noted to be finished, in terms of external materials, with weather boarding and dark grey joinery as well as having a rubber flat roof covering. I found that there was some variation in materials within the locality. Composite boarding would be a strong contrast, visually, to the host dwelling but would be more in line with the finish of the newly constructed garage so not entirely uncharacteristic for the site itself.
6. The proposal would be single-storey, approximately 2.8 metres in height with a depth of 3 metres (with the existing bungalow being in the region of 5.7 metres in height). As a result of the proposals there would, overall, be an increase in footprint/built form extending to in the region 14 sq./m. The overall footprint, of the extension, would be around 23 sq./m with the original footprint of the host dwelling stated to have a footprint in the region of 70 sq./m. The eaves height is typical of a rear extension to a bungalow, to achieve an appropriate internal ceiling height and I also note that the proposal ultimately only exceeds the height of permitted development by in the region of 93mm (0.093 metres) so the height alone cannot, I find, constitute a reasonable reason for refusal with such a small element of additional height concerned above that which would be within the scope of permitted development.
7. I find that the proposal would, in the context of the bungalow itself, be of an appropriate scale and would be a subservient addition to the host dwelling. I do not find that the proposal, when viewed within the street scene, in terms of bulk, scale and massing, would be viewed as an unsympathetic addition that would result in harmful impact upon the character and appearance of the street scene (and indeed such flat roofed extensions are not uncommon given the generally limited options for extending such properties), however I do find that the contrasting materials would exacerbate the visibility of the proposals within the street scene but that this, alone, would not be sufficient to warrant refusal.
8. Despite this, the proposal would result in what I find to be a substandard amenity space which, regardless of square meterage, would be narrow and of realistically limited use for a family home in the context of general activity and usable space which would be detrimental to residential amenity as a result of the level of development. Whilst I understand that the appellant may be happy with this, and he is the one who would be using it for the time being, the development would be present beyond the appellant's occupation and be part of the host dwelling, so it also falls to consider, reasonably, the needs of existing and future occupiers especially given the potentially extended nature of the appeal site as a result of cumulative proposals/certifications.
9. The proposal, as submitted, would be contrary to West Northamptonshire Joint Core Strategy Local Plan (Part 1) 2014 Policy H1 which expects developments to have regard for the living conditions provided for future residents. The

proposal would also be contrary to the South Northamptonshire Part 2 Local Plan 2011 to 2029 Policy SS2 which seek to support development where it provides a good standard of amenity for future occupiers. The proposal would also be contrary to paragraph 135 of the National Planning Policy Framework 2023 which seeks to ensure that developments provide a high standard of amenity for future and existing users.

10. Despite my findings above I note, and acknowledge, the potential for the proposals before me to be realised utilising permitted development which would be beyond the control of the Council. The proposal which is before me ultimately seeks to allow construction of varying elements and alterations to the host dwelling in a different order to that would be allowed by the GDPO. The appellant's submissions outline a strong understanding, and strong intention, of how such proposals could essentially be achieved via construction in a differing order. I do not, therefore, doubt the appellant's intention to utilise such a route in the event this appeal failed and furthermore I note, within the planning history, that a Certificate of Lawfulness has been granted (WNS/2022/0593/LDP) for a rear box dormer to the property. I do not disagree that at present the host dwelling is a simple modest size bungalow and that the cumulative scale of the proposed development would leave the appeal overdeveloped, however, the presence of permitted development rights cannot be controlled, or ignored, in the context of the proposals.
11. In the event this appeal failed, it is entirely plausible, and likely, that the appellant would seek to construct a certified rear box dormer and proceed to then undertake a single storey rear extension, of the same proportions, under Class A of the GDPO. This would mean that the proposal before me could be constructed, terms of scale and massing, beyond the control of the Council if it were to be constructed in matching materials as the host dwelling stands. This would result in the same issues with residential amenity that I have identified.
12. Whilst the materials would, in my opinion, not be realistically in keeping with the host dwelling they would, nonetheless, be akin to materials found within the appeal site within the newly constructed garage so would not be entirely uncharacteristic for the site and based upon this I do not find that the materials alone would be sufficient to warrant refusal of the proposal. I also note that, in the event the appeal failed, the appellant would and could likely take further steps to introduce desired materials, through permitted development (a porch) which would again allow use of the proposed materials beyond the control of the Council if works were completed in more a tactical order.
13. As a result of the above, I find, that in this case, whilst the proposal is contrary to the relevant policies in both the Local Plan and the Framework, I attach significant weight to the ability of the appellant to construct broadly similar proposals, with the same implications and impact, beyond the control of the Council as a result of construction and alterations being undertaken in a differing order. To refuse an application at this stage, largely down to timings and order of construction, I find would be an obstructive and unnecessary approach. Having regard to material considerations is a well-established context which has been supported by extensive case law and in this case, I find the fallback position one which is, overall, robust and likely to occur in the event this appealed failed and which justifies allowing a proposal which would usually be considered to be contrary to the Local Plan.

Other Matters

14. The Council have stated that the proposal is contrary to the South Northamptonshire Design Guide and indeed I note, within their delegate report, extracts from varying paragraphs within the design guide are quoted, however, a copy of the relevant design guide has not been submitted as part of this appeal. This limits the weight I can place upon such documentation, however, even if the relevant design guide has been submitted the relevant fallback positions outlined would likely still have resulted in a consideration which resulted in the appeal being allowed.

Conditions

15. The Council have suggested conditions, within their questionnaire. which I have considered and applied as appropriate. A time condition is attached to comply with Section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A condition relating to materials matching the existing dwelling is suggested, however, for the reasons I have outlined I do not find this appropriate or reasonable given the fallback position and reasoning stated within the main body of this decision letter.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR