



Appeal Decision

Site visit made on 13 May 2024

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/G4620/D/24/3339957
85 Newbury Lane, Oldbury, B69 1HE

- 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 A Ali against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/23/68724, dated 2 October 2023, was refused by notice dated 24 January 2024.
 - The development proposed is described as 'double storey side/rear extension'.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Council's decision describes the proposal as 'Proposed two storey side/rear and single storey front/side extensions and pitched roof to existing front porch'. As this describes the development more accurately, I have determined the appeal on this basis.

Reasons

3. The main issue in this appeal is the effect of the proposed development on the living conditions of the neighbouring occupier/s at 83 Newbury Lane with regard to outlook and sunlight. The appeal dwelling and the neighbouring dwelling at no 83 are both two storey, hipped roof semi-detached dwellings of the same original design that are sited on the same ground level and almost the same building line on both front and rear elevations. The appeal dwelling lies in close proximity to the south-west of no 83. Each dwelling has an attached flat roof garage and kitchen extension to the side that are almost conjoined. A 2m or so high fence separates the properties at the rear.
4. The garage and kitchen extension at the appeal site would be replaced under this proposal by a two storey, hipped roof side extension that would project beyond the main rear wall by some 2.8m, according to the submitted plans.
5. The Council's Revised Residential Design Guide 2014 Supplementary Planning Document (SPD) advises that ground floor extensions will be determined using the 45° code and that increased storey heights will be judged on their individual merits. The SPD provides no detailed guidance on the 45° code but whilst it constitutes guidance only, in my experience, it is generally taken to be i) in plan, a line of 45° taken from the quarter or centre point of the nearest

- habitable room window and ii) in elevation, a line of 45° from the centre point of the nearest habitable room window.
6. The nearest ground floor rear window in the neighbouring house is a glazed door to the kitchen but as that is obscurely glazed, I have based my assessment on the impact on the next nearest window, which is the main kitchen window, some 2.5m from the side wall of the proposed extension. Although the Council contends that the proposal would fall within that line in plan, the appellant's drawing in his statement shows that it would lie just outside that line. From what I have seen, in elevation it would also lie just outside the 45° line.
 7. The outlook from the rear windows of no 83 would mostly encompass its rear garden and as the proposal would be outside the 45° line from those windows, I am satisfied that the light to and outlook from the neighbouring windows would not be significantly harmed.
 8. As the 45° code generally applies to windows only, I have also considered the effect of the proposal on the rear garden of no 83. I have noted the appellant's point that as the rear elevations of the properties and the closest part of their gardens face north-west, they are presently in shadow all year round until later in the evening when the sun is shining. Although the proposal would result in only a small additional loss of late evening sunlight during the summer months, even a small loss would be significant. Unlike the appeal dwelling, no 83 has a small rear garden and its patio area is closest to the house. It is reasonable that the neighbouring occupier/s could expect to enjoy sitting out on that patio during the late evening in summer months given the lack of sunlight there at other times.
 9. For these reasons, I conclude that the proposed development, by reason of its height, length and proximity to 83 Newbury Lane, would significantly harm the living conditions of the occupier/s of that property with regard to sunlight to the rear patio. As such it would conflict with development plan policies ENV3 of the Black Country Core Strategy (2011) and SAD EOS9 of the Site Allocations and Delivery Development Plan Document (2012) which seek to ensure that development is of a high quality and compatible with its surroundings.
 10. The Council has not raised any objection to the front elevation of the proposal and from what I have seen that would be acceptable. However, I am unable to issue a split decision in favour of that part of the development because it is not physically and functionally separate from the rear part.

Conclusion

11. For the reasons given above, I conclude that the proposal is not in accordance with the development plan and there are no material considerations that would outweigh that. The appeal should be dismissed.

Sarah Colebourne

Inspector