



Appeal Decision

Site visit made on 3 June 2024

by A Hartley, LLB(Hons), Solicitor, MBA

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/M0655/D/24/3340888

The Swallows, Cann Lane South, Appleton, Warrington, WA4 5NJ

- 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 Mark Lewis against the decision of Warrington Borough Council.
 - The application Ref is 2023/01476/FULH
 - The development proposed is for a single storey kitchen extension to the rear elevation and conversion of integral garage.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey kitchen extension to the rear elevation and conversion of integral garage in accordance with the terms of the application reference 2023/01476/FULH subject to the following conditions:
 - (1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan; Proposed elevations plans ref 30523/2; Proposed floor plans ref 30523/5; Plot Plan ref 30523/5RevA
 - (3) The materials to be used in the construction of the development hereby permitted shall match those used in the existing building.

Main Issue

2. Although it is not cited by the Council as a reason for refusal, the Officer's Report mentions that the proposal would affect the direct outlook from the windows of the neighbouring dwelling 'Kahana'. The main issue is therefore the effect of the proposal on the living conditions of neighbours at Kahana, both by reason of overshadowing and loss of outlook.

Reasons

3. The appeal property is a two-storey detached property built circa 1980's in a large plot set back from a narrow lane of rural character, with driveway and parking to the front. The neighbouring property is of similar age, size and character, but the properties are bespoke in design.

4. The existing relationship between the dwellings at the shared side boundary where the rear extension is proposed provides an approximate separation distance of 8.5 metres. Presently the side elevation ground floor window of the appeal property directly faces a ground floor window of Kahana. The ground level of the appeal property is higher than that of Kahana. The side elevation of Kahana contains four ground floor windows, two of which could serve habitable rooms. There are three first floor windows, two of which could serve bedrooms. The side boundary is not the main outlook from Kahana, which is to the rear garden.
5. The proposed extension would reduce the gap between the dwellings to approximately 5 metres. My attention has been drawn to the Warrington Supplementary Planning Guidance – House Extensions (2021) and application of the 45-degree code at Section 2.2. I am satisfied that due to the proximity of the proposal to what could be primary windows to main habitable rooms in the neighbouring side elevation, it is an appropriate tool to assess its impact.
6. From the evidence before me, I note that it is likely only one of the windows would be in breach of the 45-degree code (the window labelled “rear elevation window” in Figure 2 of the Officer Report). From my observations on site, however, it is reasonable to assume that the affected window is not a principal window serving a habitable room but rather serves the garage. The other windows are unaffected. I find therefore that the potential resultant increased level of overshadowing from the proposal would not cause unacceptable harm to the living conditions of the neighbouring occupiers.
7. Presently, the outlook from one of the ground floor side elevation windows of Kahana is to a boundary fence and foliage of approximately 1.5 metres and the side brick elevation and ground floor window of the appeal property. The rear single storey extension would result in a change of outlook from one of the windows to a brick elevation of approximately 2.2 metres to eaves at an increased proximity. The proposal is an infill in the context of the appeal property and does not extend further than the existing rear boundary of the appeal dwelling. It therefore does not impact on the outlook from the other side elevation window that may potentially be a primary window to a main habitable room. Having regard to the main outlook from Kahana being towards its rear garden, I find that the change to the outlook from one habitable room window in the side elevation does not give rise to unacceptable harm to living conditions.
8. In addition, the side ground floor window of the appeal dwelling would be removed by the proposal and thus could result in increased privacy between the properties, particularly with the difference in ground level.
9. Consequently, I find that the proposal complies with policy ENV8 of the Warrington Local Plan (2023) and does not cause unacceptable harm to the living conditions of the occupiers of the neighbouring dwelling, Kahana.

Conditions

10. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the approved plans as this provides certainty. In the interests of the visual amenity of the area I have imposed a condition regarding materials.

Conclusion

11. Having taken into account all representations made, for the reasons given above, I conclude that the appeal should be allowed subject to conditions.

A Hartley

INSPECTOR