



Appeal Decision

Site visit made on 30 July 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2024

Appeal Ref: APP/U1620/D/24/3340947

29 Windermere Road, Gloucester, Gloucestershire, GL2 0LZ

- 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 & Mrs Scott Matthews against Gloucester City Council.
 - The application Ref 23/00964/FUL.
 - The development proposed is single storey rear and side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the impact of the proposal upon neighbouring residential amenity with regard to overbearing impact.

Reasons

3. The appeal site is a semi-detached residential dwelling with the attached neighbour, to the east, being 31 Windermere Road (no. 31/the neighbouring property). The proposal seeks to extend the host property via a single storey rear and side extension which, from the original wall of the host dwelling would extend to in the region of 6 metres in depth in close proximity to the shared boundary with no. 31. I can see, from the plans, that the property already benefits from a smaller rear extension, however, the projection along the shared boundary is limited in comparison to the appeal proposal.
4. The Council's refusal reason relates only to unacceptably harmful overbearing impacts in relation to no. 31. The depth of the proposal would significantly obstruct both plan and elevation 45-degree lines from the neighbour's dining room patio doors. The 45-degree line is a consideration largely relating to daylight to a neighbour. The orientation of the appeal site, and neighbouring dwellings, means that light/sunlight to the rear of the site and no. 31 is already limited and I find that this is further evidenced by the appendices, i.e. the photographs, to the appellant's statement of case. Based upon this, and the evidence before me, I do not find that loss of light as a result of the proposals would in itself be sufficient to warrant refusal on this occasion.
5. Despite this matters relating to light are separate to the overbearing impact which is the main issue stated within the refusal reason. The image provided, as appendix 2 to the appellants statement, is taken from the rear of the dining room (at the point where it appears, on the floorplan, that a wall has been removed to create an open plan living room and dining room). The image is, therefore, taken notably back from within the room within the neighbouring

property. The proposal would unlikely have notable impact from such viewpoints as shown within the neighbouring property, however, views from at or near the patio doors within the dining room¹ and from the patio area itself, would experience a tunnelling effect which would reduce outlook and have an unacceptable overbearing impact due to the depth of the proposals along the shared boundary. In addition, whilst there may be other windows serving the neighbouring kitchen, there is a window which would directly face the proposal which would ultimately experience reduced outlook and, overall, contribute to harmful impact to neighbouring occupiers.

6. Whilst I note the appellant's commentary, regarding use of the garden, it is generally accepted that the area immediately to the rear of a dwelling is most commonly utilised for general activities, sitting out etc., due to proximity to the host dwelling itself. Even if I had found that other areas of the garden were more commonly utilised than the patio area of the neighbouring property in question, this would not overcome the general harmful overbearing impacts to residential amenity from within the dining room and adjacent to the patio doors which I have identified as a result of the depth of projection of the proposed extension along the shared boundary.
7. Whilst the appellants may have the opportunity to extend the host dwelling, beyond the control of the Council, utilising permitted development rights should the proposed projection be reduced, I place limited weight upon this consideration. Whilst a smaller, permitted development, scheme would likely still breach both 45-degree lines and result in some impact to the neighbouring property in this case I find that the depth of the proposal before me would result in additional harm above this potential fallback position which would exacerbate and worsen the impact to neighbouring occupiers as a result of depth of projection along the boundary.
8. The appellant's statement of case states that there are numerous extensions of similar scale in the area, some built postdate and others in progress, however, no evidence of these extensions has been submitted with this appeal. Despite this, as acknowledged by the appellant, each case should be considered on its own merits and in this case the scale and siting has been acknowledged by the Council as not unusual in the context of the wider street. The proposal has been considered, by the Council, not to cause impact to, for example, the appearance of the area or constitute over development on the site and I find no reason to conclude differently on this point. Despite this, being acceptable in principle and all other regards, does not overcome the main issue in this case which is that the proposal would unacceptably harm neighbouring amenity as a result of overbearingness due to notable depth along a shared boundary.
9. The appellant has made reference to an application at 12 Grasmere Road (19/00877/FUL) which is stated to bear a lot of similarities with the proposal, which is before me, however, no further details of this application has been submitted to enable me to consider any relevance to this appeal.
10. I note comments in relation to sale of the adjacent property and the comments, from both parties, as to the impact the timing of this sale may or may not have had upon consultation responses from the neighbouring property during the application process. Either way, a lack of objection is a neutral consideration, and proposals should (in all cases) be considered in relation to

¹ As labelled on the floor plans in appendix 3 of the appellant's statement

potential impact upon both existing and future occupiers. The development would likely stand beyond the lifetime, or property ownership, of many occupants.

11. For the reasons outlined I find that the proposal would be contrary to Gloucester, Cheltenham, and Tewkesbury Joint Core Strategy 2017 (JCS) Policy SD4 which requires that new development should enhance comfort, convenience, and enjoyment and JCS Policy SD14 which outlines that new development must cause no unacceptable harm to the amenity of neighbouring occupants. The proposal would also be contrary to Gloucester City Plan 2023 Policy A9 which supports extensions of residential properties where they satisfy criteria including that the living conditions of neighbouring occupiers are not unduly harmed by the proposal.
12. The proposal would be contrary to Gloucester City Council Home Extension Guide Supplementary Planning Document 2008 which contains guidance outlining that the positioning and mass of an extension should not be dominant or have an adverse impact on any windows that may be present in neighbouring properties. The proposal is also contrary to paragraph 135 of the National Planning Policy Framework 2023 which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

13. I note comments, within the appellant's statement of case, that they find the report very shortcoming in relation to communication and that no correspondence was received from agreeing an extension of time until the final decision was issued. Whilst I can understand that a lack of correspondence and communication can be disappointing, the handling of the application itself is outside the scope of this appeal which has been considered on its own merits based upon the submissions and evidence that is before me.
14. I note that the agent stated, within the application itself, that reducing the proposed projection would be difficult due to the foundations needing to adequately avoid drainage routes running under the building site, however, this is not a planning consideration. I note the appellant's offer of further information, as required, but procedurally I must determine the appeal based upon the information and evidence as submitted at the point the appeal was lodged with the Planning Inspectorate.

Conclusion

15. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR