



Appeal Decision

Site visit made on 20 August 2024

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/T3725/D/24/3345838

198 Rugby Road, Leamington Spa, Warwickshire, CV32 6DU

- 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 Kieran Shaw against the decision of Warwick District Council.
 - The application reference is W/23/1796.
 - The development proposed is single storey rear extension and alteration of an existing side access gate.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. Within the application process, revised floor plans and elevations were submitted in response to Officer feedback but that despite this an updated site plan has not been submitted which reflects the amended proposals.
4. I note, from the Council's delegated report, that the proposed alteration of the existing access gate is considered acceptable, and I have no evidence before me to conclude differently on this matter. This appeal will focus, therefore, on the proposed single storey rear extension in the context of the main issue outlined below.

Main Issue

5. The main issue is the impact of the proposal upon neighbouring residential amenity with regard to light and outlook.

Reasons

6. The appeal site is a 3 storey, end of terrace, dwelling located on the junction of Rugby Road and Fairlawn Close. The Council's delegated report confirms that the principle of the single storey rear extension is acceptable and considered to be in keeping with host dwelling as well as being considered to preserve the character of the host dwelling and the wider Conservation Area. In that regard, the refusal reason is specific to the impact of the proposal upon neighbouring residential amenity with regard to both light and outlook from a habitable window.
7. The existing two storey rear outrigger of the appeal site already breaches the 45-degree line in relation to a ground floor window within the adjacent property

at 196 Rugby Road (number 196). The proposed single storey extension would increase the length of the existing structure, albeit not at two storeys, with a window facing directly towards the appeal proposal. The window in question is currently forward of the existing outrigger projection which means that, whilst I note the boundary wall stated to stand in the region of 1.8 metres, there are still views available over the appeal site garden which contribute to a level of outlook that is achievable from the window. The proposal would, as a result of contributing to further breaches of the 45-degree line, result in unacceptable adverse impact on the amenity of neighbouring occupiers as a result of loss of outlook. I find that the proposal would restrict the neighbouring occupant's simple ability to look outwards a reasonable distance as a result of the proposal which would result in an enclosing and overbearing impact.

8. I acknowledge that the existing two storey extension has been in situ for a number of years and that this extension is not the subject of the appeal, which is before me, however, the proposal for a single storey extension adds to existing extension creating cumulative impact that is of relevance for the reasons I have outlined. The proposed extension would be in the region of 0.6 metres above the boundary wall and whilst a pitched roof would slope away from the boundary wall this does not assist with a reduction in outlook which I find would be experienced as a result of the proposal.
9. The appellant's appeal submissions include a computer-generated image of the view from the side return side facing window, with the extension, which I find demonstrates that outlook would be impacted upon with limited views, towards the sky only, over the proposed extension. I find that this is a direct contrast and negative impact compared to the outlook without the proposed extension which would result in unacceptable impact and material harm to the amenity of the neighbouring occupier as a result of outlook from this habitable window.
10. The existing two storey extension is already likely to have some impact on the light/sunlight reaching habitable rooms at no. 196. Whilst I note that the appellant has submitted a sun path analysis with this appeal I noted, at the time of my site visit (circa 16:15), that the window facing the proposal benefitted from clear levels of direct sunlight. Based upon my site visit I find it is, therefore, highly likely that the proposal would result in loss of sunlight to the window in question. Despite this, even if the proposal could be considered acceptable in terms of sunlight, and noting the revised design, I still find, for the reasons set out, that the proposal would result in material harm to the amenity of neighbouring occupiers by way of negative impact upon outlook from the habitable room which would directly face the appeal proposal. This would result in a significantly altered, negative, outlook compared to views over the appeal site without the appeal proposal.
11. I note from the appellant's statement, and submissions to date, that reference has been made to properties within the vicinity of the appeal site in terms of extensions and objection beyond original rear outriggers. Whilst these may form part of the character of the area the proposal 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 all material considerations. The Local Plan and the National Planning Policy Framework 2023, and supporting supplementary planning documents, are all consistent in their objective to ensure a high standard of living conditions for existing and future occupiers.

12. The proposal would be contrary to Warwick District Local Plan 2017 Policy BE3 which outlines that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses by residents. The proposal would also be contrary to the overarching objectives of the Warwick District Council Residential Design Guide 2018 which, within its overarching guidance, seeks to ensure a high standard of residential amenity with regard to matters such as outlook.

Other Matters

13. I note comments made, by third parties, in relation to the boundary wall and the site's location within the Conservation Area. The Council's Assistant Conservation Officer has been consulted and raises no concern relating to this within their responses and I have no reason to conclude differently based upon my site visit and the evidence before me. The wall is stated to be a jointly owned boundary wall, however, matters of ownership or boundary are not material planning considerations and the amended plans would, in any case, move the proposal away from the wall in question.
14. I have dealt with matters relating to light in the main body of this decision letter and given that there would be no windows in the elevation facing the neighbouring property I have no evidence which would support that the proposal would result in any material impact upon privacy.

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