



Appeal Decision

Site visit made on 12 December 2024

by J D Westbrook BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/R1845/D/24/3350285

27 Dunnington Avenue, Kidderminster, Worcestershire, DY102YS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms L Hooper against the decision of Wyre Forest District Council.
 - The application Ref is 24/0300/HOU.
 - The development proposed is the construction of a single-storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single-storey rear extension at 27 Dunnington Avenue, Kidderminster, Worcestershire, DY10 2YS, in accordance with the terms of the application, Ref 24/0300/HOU, and the plans submitted with it, 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 plan: Proposed, Rev B
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue in this case is the effect of the proposed extension on the living conditions of the occupiers of No 29 Dunnington Avenue by way of light and outlook.

Reasons

3. No 27 is a semi-detached house situated on the south-eastern side of Dunnington Avenue. In common with other properties along the road, there is a gap between pairs of semi-detached houses. The garage at No 27, in the gap between the host property and the neighbouring No 29, has been demolished behind its original door. The topography of the surrounding area is such that the road rises from east to west and the properties on the south-eastern side of the road slope down from the road across the plots. As a result, No 27 is set significantly lower than the neighbouring No 29. From my visit, it would appear that the side/rear of No 27 is set a little over 1 metre below the level of the garage and rear conservatory at No 29.

4. The appeal property benefits from a recent planning permission for a single-storey side and rear extension. This includes the replacement of the original garage with a side/rear extension, which would project a short distance beyond the conservatory at the rear of No 29, and which would have a flat roof. The current proposal would be similar to the permitted scheme but would project a further 1.5 metres to the rear.
5. The Council contends that the proposed extension would result in a breach of the 45-degree code in relation to the nearest habitable room window of No 29, as set out in Policy DM25 of the Council's Local Plan (LP), and further developed in the Council's Design, Amenity and Shopfronts Supplementary Planning Document (Adopted July 2024). On this basis, and due to the length of the extension from the rear elevation of the existing dwellinghouse, the development would result in loss of light and have a serious adverse effect on the amenity of the occupiers of the neighbouring dwelling.
6. Although the proposal would result in the extension breaking the 45 degree code, the code is expected to take account of the particular circumstances at each site, which might include orientation and differences in levels. In this case, owing to the local topography, the roof of the extension would be around 1 metre lower than the eaves of the conservatory at the neighbouring No 29. Furthermore, although I have no detail relating to sunlight and daylight factors at the properties, I note that No 27 lies to the north-east of No 29, and the extension would, therefore, have little if any practical impact on the daylight or sunlight reaching the dwelling at No 29 for almost all of the day. On the basis of the difference in levels and the relative positioning of the two properties, I do not consider that the proposed extension would have any significant harmful impact on the light received by the windows in the neighbouring conservatory.
7. In addition to the above, the land to the rear of Nos 27 and 29 falls beyond the rear boundaries, and there is a generally open aspect from the rear of the two properties. Since the roof of the proposed extension would be largely below the level of the windows in the conservatory at No 29, it would have little impact on outlook and would, in any case, be largely hidden behind the existing fence between the two properties.
8. In conclusion, I find that the proposed extension would not be harmful to the living conditions of the occupiers of No 29 by way of light or outlook, and that the proposal would not, therefore, conflict with Policies DM24 and DM25 of the LP, which relate to design quality, including conformity with the 45 degree code and requiring that development should provide adequate levels of outlook, sunlight and daylight, and should not be unduly overbearing. Accordingly, I allow this appeal.

Conditions

9. I have attached a condition relating to plans for the avoidance of doubt and in the interests of proper planning. I have attached a further condition relating to materials in the interests of the visual amenities of the area.

J D Westbrook

INSPECTOR