



Appeal Decision

Site visit made on 19 November 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2025

Appeal Ref: APP/X1355/D/24/3350506

Chestnut Lodge, Middridge Road, Rushyford, Durham DL17 0NH

- 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 Mr and Mrs Kent against the decision of Durham County Council.
 - The application reference is DM/23/03121/FPA.
 - The development proposed is the extension of an existing patio and the erection of a replacement fence.
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Decision

1. The appeal is allowed, and planning permission is granted for the extension of an existing patio and the erection of a replacement fence at Chestnut Lodge, Middridge Road, Rushyford, Durham, DL17 0NH in accordance with the terms of the application, Ref DM/23/03121/FPA, and the plans submitted with it, subject to the following condition:
 - 1) The development hereby permitted shall be retained in accordance with the following approved plans: Location Plan (unreferenced); Proposed Patio Plan drawing number 1001-01 Rev A; Proposed Elevations drawing number 1001-11 Rev A.

Preliminary Matter

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. It does not change the planning policy context in respect of the main issues, and I have determined the appeal accordingly.

Procedural Matters

3. At the time of my site visit, I saw that a raised patio and boundary fencing had been erected. I have dealt with the appeal on the basis that planning permission is sought for the extension of an existing patio and the erection of a replacement fence, which is reflected in the description of the development, and in accordance with the drawings submitted. I note from the application form that development had commenced at the time the application was made. I have therefore dealt with the appeal on the basis that the development has already occurred and with regard to the plans submitted with the application.
4. The Council's officer report refers to the retention of a single storey rear extension. The description of the development on the application form relates to the extension of an existing patio and the erection of a replacement fence. Nevertheless, the Council consider the single storey extension to be acceptable and the reasons for refusal relate only to the raised patio and fence. Therefore,

my consideration is confined to the description of the development as set out in the application form.

Main Issue

5. The main issue is the effect of the development on the living conditions of the occupiers of the neighbouring property known as Eden Chase with particular regard to privacy and outlook.

Reasons

6. The appeal property is a detached two storey property set on a sizeable plot. It has been recently extended at the rear with a single storey flat roofed extension spanning the entire width of the property. The natural ground level slopes gently away from the dwelling at the rear. The appeal property is set forward of the neighbouring property, Eden Chase.
7. A garden room (also referred to as a sunroom) projecting beyond the rear elevation of Eden Chase and set back from its side elevations has windows facing the appeal property. One small window at ground floor level in its side elevation also faces the appeal property, although I have not been made aware that this serves a habitable room.
8. A raised paved patio measuring approximately 5.5 metres in depth has been erected across the rear elevation of the appeal property, which the appellant states is the result of extending a pre-existing raised patio by 1.75 metres. Where it meets the lawn the height of the patio varies between around 0.45 and 0.55 metres from ground level.
9. A dark grey panelled fence has been erected between the appeal property and the adjacent property at Eden Chase. From the information I have before me the finished fence would be a maximum of approximately 2.08 metres from ground level, although I observed on my site visit that fence posts appeared to be higher in places. Along its length the finished height of the fence would vary in height from a minimum of approximately 1.6 metres to its maximum of approximately 2.08 metres. It replaces a fence which the appellants state was approximately 1.8 metres in height. Although the fence is higher and is dark in colour, which may be more imposing than the fence which it has replaced, it is not untypical of fences which are commonplace between residential properties.
10. Some users of the raised patio may be possible to glimpse views into the garden and garden room at Eden Chase particularly if they were stood very close to the boundary between the two properties. However, they would not generally be able to view directly into the neighbouring property.
11. I note that the Council's Residential Amenity Standards Supplementary Planning Document (January 2023) advises that raised decking close to boundaries can have a significant impact on privacy, however, it would not be the case in this instance and therefore I find no conflict with the advice set out.
12. The appellants point to a fallback position of the erecting of a fence measuring 2 metres in height as permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO). This matter carries significant weight in support of the development, in particular as there is a real prospect that it would be implemented, and it would have an

almost identical impact on the outlook and privacy of the occupiers of Eden Chase.

13. Consequently, I find that there are no materially adverse effects arising from the development which would harm the living conditions of the occupiers of Eden Chase with regard to privacy and outlook. There is, therefore, no conflict with County Durham Plan Policies 29 and 31, which amongst other things, seek to ensure that new development is of high quality and provides a high standard of amenity for existing and future users.

Other Matters

14. I note that representations made by a third party refer to the retrospective nature of the appeal and concerns that the development will devalue their property and make it harder to sell. However, the effect of the proposal on the value of property is not a material consideration on which I can attach any significant weight. Furthermore, the retrospective nature of the development is not one which has any bearing on the determination of the appeal, for which I have only had regard to the planning merits of the development.
15. I also note that the representations refer to the rear extension at the appeal property. This did not form part of the Council's reason for refusal, and I am satisfied that it does not result in a level of harm which would justify dismissal of the appeal, and as set out above, is not referred to in the description of development on the application form. I have no substantive evidence before me which would lead me to an alternative conclusion on this matter.

Conditions

16. The Council have not requested that any other conditions be imposed, and since the development has been carried out, I have only imposed a condition, for enforcement purposes, setting out the approved plans as they relate to the planning permission that has been granted.

Conclusion

17. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

K L Robbie

INSPECTOR