



Appeal Decision

Site visit made on 7 January 2025

by **G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/Y3425/D/24/3346968

44 Mount Avenue, Stone, Staffordshire ST15 8LW

- 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 Dan Bellerby against the decision of Stafford Borough Council.
 - The application Ref is 24/38673/HOU.
 - The development proposed is a two storey rear extension with a single storey rear and side extension, including internal alterations and dropped kerb/amended access.
-

Decision

1. The appeal is allowed, and planning permission is granted for a two storey rear extension with a single storey rear and side extension, including internal alterations and dropped kerb/amended access, at 44 Mount Avenue, Stone, Staffordshire ST15 8LW, in accordance with the terms of the application, Ref 24/38673/HOU, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Site Location/Block Plan No.2741-300 Rev.B,
Proposed Site Plan No.2741-301 Rev B,
Proposed Plan No.2741-302,
Proposed Elevations No. 2741-303 Rev A,
45 Degree Line No.2741-304
Elevation from Neighbouring Property No.2741-305.
 - 3) The external materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The extension hereby permitted shall not be occupied until the proposed kitchen window and window serving the en-suite in the south west elevation have been fitted with obscured glazing, and the kitchen window shall be non-opening. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed. Once installed, the obscured glazing and fixed window shall be retained thereafter.

Preliminary Matters

2. I have revised the description of development in the banner heading above to reflect that given in the appellant's appeal form as this more accurately describes the proposal.
3. The Government published a revised version of the National Planning Policy Framework (the Framework) on 12 December 2024. I have considered its amendments against the earlier version and against the parties' appeal evidence. I have also updated Framework paragraph numbers where necessary. However, I have not gone back to the parties for comment, as I do not consider the Framework changes to be substantive or determinative to the outcome of this appeal.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of adjoining occupants at 46 Mount Avenue, with particular reference to outlook, daylight, and overbearing.

Reasons

5. The appeal property (No 44) is a detached two storey dwelling on a residential estate. The immediate area is characterised by a mix of dwelling types with variations to their height, design and materials. The land generally slopes in a south westerly direction, resulting in the staggering of some plots down the hillside. No 44 stands with its gable facing the road and its ridge running at right-angles to it, whilst the adjoining properties (No 42 and 46) have their ridges parallel to the road. All three dwellings are two storey and have a similar set-back to the road, have a broadly similar depth alongside each other, and have rear, linear gardens. Each plot is slightly stepped into the bankside resulting in No 42 having the highest ground position and No 46 the lowest.
6. No 44 has a single storey addition at the rear comprising a conservatory and kitchen extension. It also has a relatively long, narrow outbuilding set well back within the garden alongside the boundary with No 42. No 46 has no single storey additions at the rear but also has a detached, linear outbuilding running alongside the boundary with the appeal site.
7. The appeal proposal is a two storey rear extension in line with the height and width of the existing building with a single storey lean-to extension to the rear which wraps around to a narrow side extension alongside No 42. The Council is concerned with the potential impact of the proposal on the living conditions of the occupants of No 46.
8. The Council's Supplementary Planning Document 'Design' (2018) (SPD) seeks to ensure that development does not cause an unreasonable loss of daylight or an unreasonable degree of overshadowing to habitable rooms in dwellings or in gardens. It advocates the 45-degree code as a guideline to establish any loss of light or outlook to principal windows of adjoining properties.
9. The Council considers that the proposed extension would contravene the 45-degree code in relation to the nearest ground floor window of No 46. However, the appellant contests this and their submitted Design Statement illustrates that the appeal proposal does not breach this guideline for any rear windows at this

property. This is further demonstrated in the appellant's appeal submission which notes that full account has been taken of the change in levels between the plots. The further drawing submitted at appeal (Drawing No.2741-304) seeks to illustrate that the proposal would not contravene the 45-degree code when measured horizontally or vertically. Furthermore, Drawing No.2741-305 also more clearly shows the relationship between the two properties, including the change in ground levels, relative heights and projections. It therefore concludes that the proposal would not breach the 45-degree code in relation to No 46 and would have a minimal impact on the outlook experienced by those occupants.

10. The Appellant's sunlight assessment notes that due to the southerly aspect of the nearby houses, the impact of the proposal on sunlight experienced by the occupants of adjoining properties would be limited. It also illustrates that shading would not be substantially greater than present conditions. With regard to the proposed impact on No 46, it comments that the shadow from the two storey element would impact only the lower part of its site wall, and by the afternoon this property would always be self-shading. It concludes that the proposal would have a negligible impact on the sunlight that No 46 would receive and that ambient light would also be largely unaltered.
11. The Council has provided little information to justify its findings in relation to the above issues, including explaining how in its view the 45-degree code would be breached. There is also little commentary on its views in relation to the appellant's findings. In the absence of this information, it is difficult to understand the Council's general conclusions and concerns, and I therefore see little reason to doubt the appellant's findings.
12. Having visited the appeal site and the garden area of No 46, I have taken full account of the relative position of the buildings, principal windows, boundaries, and areas likely to be affected by the proposal. It was very apparent to me when standing in the rear garden of No 46 that the presence of their existing outbuilding along much of the boundary with the appeal property, the linear nature of the garden, and the southerly aspect naturally drew the eye along the length of that garden. This would also be the main outlook from the rear windows. I recognise that the occupants of No 46 may have a greater awareness of the increased bulk and height of the appeal property. However, when considered alongside the appellant's findings, there is no compelling evidence to suggest that the proposed extension would have an overbearing effect on No 46 or detract from the main views from rear windows. Nor does it suggest that the occupants would feel overshadowed, hemmed in or claustrophobic in their house or garden. Much of the garden of No 46 would be well away and unaffected by the presence of the appeal proposal and there is little evidence of any substantive loss of greenery.
13. I therefore conclude that the proposal would have no harmful effect on the living conditions of adjoining occupants at 46 Mount Avenue, with particular reference to outlook, daylight, and overbearing. The proposal would therefore comply with Policy N1 of The Plan for Stafford Borough (2014), the SPG and the Framework which together seek to ensure that occupants enjoy a good level of amenity.

Other Matters

14. Whilst the proposed extension would be visible from the rear of No 42, the higher ground level of this property and more easterly location suggests to me that the

proposal would have little adverse impact on light levels entering its windows or cause unacceptable shading of the garden. It has also not been demonstrated to breach the 45-degree code or cause adverse shading in the sunlight assessment. Also, the existing garden outbuilding at No 42 and linear form of the garden would most likely direct the main views from the house along the length of the garden in a similar fashion to No 46. I see little evidence to suggest that any primary views would be blocked as a result of the proposal and even the kitchen window which faces towards the proposed extension is demonstrated to comply with the 45-degree code. Therefore, I have no reason to conclude differently to the Council. The proposed relocated side door would look towards No 42, but this would look directly onto a boundary wall and there would be no undue loss of privacy.

15. I have also considered the effect on the privacy of the occupiers of No 46 arising from the installation of two windows in the side wall of the appeal property. These would be a low-level window to serve the kitchen and an en-suite window on the first floor. The appellant's Design Statement indicates that the kitchen window would be not openable and obscured. Given the proximity of opposing windows to No 46, it would be reasonable to attach a condition to require these windows to be obscure-glazed and the kitchen window fixed shut.
16. Any disruption to the shared garden wall is not a matter under my consideration and any noise or disturbance arising from the construction of the proposal should be short-lived and is not in itself a reason for finding against the proposal. There is little reason to doubt that issues relating to drainage, waste and extractor smells would not be adequately addressed during the construction of the proposal. I also see little reason why the property values of adjoining properties should be diminished.

Conditions and Conclusion

17. I have attached conditions to require the use of matching materials in the interests of appearance and to list the plans in the interests of certainty. I have also added a condition in relation to the proposed windows in the side elevation facing No.46, as previously discussed.
18. The proposal would accord with the development plan as a whole and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

G Bayliss

INSPECTOR