



Appeal Decision

Site visit made on 8 January 2025

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 February 2025

Appeal Ref: APP/W2845/W/24/3348533

24 Highfield Way, Yardley Hastings, West Northamptonshire NN7 1HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr & Mrs Lleshi against West Northamptonshire Council.
- The application Ref is 2023/7612.
- The development proposed is proposed front single storey extension, two storey side and rear extension and single storey rear extension along with internal alterations.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal is against the Council's failure to determine the application within the prescribed period of time. The application was submitted for the works as described in the banner heading, above. However, the Council raised concerns regarding aspects of the proposal's design and discussions ensued between the appellants and the Council in an effort to overcome these concerns.
3. The main parties have submitted correspondence with the appeal setting out the progress of these discussions. Various iterations of the scheme were submitted to the Council, culminating in the appellants' appeal and appeal statement which refers to the original (superseded) plans and the latest plans that were before the Council and which were intended for consideration at appeal¹. However, whilst the appellants refer to correspondence from 7 May 2024² as providing confirmation of the basis upon which the application should be determined³, appeal submissions indicate that further discussions between the parties continued beyond that date⁴.
4. The '*Procedural Guide: Planning appeals – England*⁵' is quite clear that the appeal process should not be used to evolve a scheme and that it is important that what is considered by an Inspector at appeal is essentially the same as that considered by the local planning authority (LPA) and interested parties at the application stage. I have no conclusive evidence before me that confirms which revision to the scheme was the 'latest' version thereof. Nor do I have any evidence before me to indicate that the scheme consulted upon, and upon which occupiers of neighbouring properties were notified, was on anything other than the original plans.
5. Whilst I accept that interested parties have had an opportunity to consider the revised plans during the course of the appeal process, this is not the scheme that

¹ Drwg Nos: 2302-PL-04 Rev J and 2303-PL-03 Rev H

² Final Comments of Mr & Mrs Lleshi

³ Drwg No. 2303-PL-04 Rev F

⁴ LPA Statement – Appendix 3 – email correspondence dated 10 June 2024

⁵ Planning Inspectorate 'Guidance – Procedural Guide: Planning appeals – England' (updated 17 September 2024)

was originally submitted. Whilst ostensibly similar, the latest iteration of the appeal scheme¹ nevertheless results in revisions that would alter the development description from that originally applied for. The revised scheme may well be of a reduced size and scale from that originally submitted but as interested parties were not afforded the opportunity of commenting upon the revised scheme I cannot be certain that procedural unfairness would not result were I to accept the revised scheme. Nor, given the difference in development description that would arise from the latest revised plans with the proposed omission of the rear two-storey extension element, am I persuaded that the 'substantive' test established by *Wheatcroft*⁶ would be satisfied. I have therefore determined the appeal on the basis of the plans initially submitted with the application for planning permission, and not those referred to in the appellants' appeal statement.

6. In addition to policies from the 'South Northamptonshire Part 2 Local Plan 2011-2019' (SNLP) and the 'West Northamptonshire Joint Core Strategy Local Plan (Part 1)'⁷ (JCS) the Council's Statement refers to the emerging 'Local Plan for West Northamptonshire Draft Publication'⁸ (eWNLP). The Council's Statement refers to a Regulation 18 version of the document having been published for consultation. In response to recent Government proposals regarding local plan preparation the Council have subsequently confirmed that a revised Local Development Scheme will be published in due course and that the eWNLP remains at a very early stage. The weight that I am therefore able to afford the policies in the eWNLP is very limited as a consequence.
7. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. I am satisfied that, other than changes to paragraph numbering and paragraph structure between the current and previous versions of the Framework, the sections relevant to the matter before me have not materially changed. I have determined the appeal accordingly and in so doing I am satisfied that neither main party would be disadvantaged.

Main Issues

8. The main issues are the effects of the proposed development upon:
 - The living conditions of occupiers of 22 Highfield Way, with particular regard to daylight and sunlight and outlook; and
 - The character and appearance of the appeal property and the surrounding area.

Reasons

Living conditions

9. The appeal property is a semi-detached dwelling situated at the end of a short cul-de-sac. Houses along Highfield Way are a mix of semi-detached properties and short terraced blocks of three houses. The street is straight with an initially consistent building line but, towards the cul-de-sac's turning area, the final pairs of semi-detached houses step back from the prevailing building line, opening up towards the turning head. The appeal property, which is situated on the turning

⁶ *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL 1982 P37]

⁷ Adopted December 2014

⁸ April 2024

head, steps back further again such that its front elevation is broadly level with the rear elevation of No. 22. The appeal property benefits from a generous space to the side of the house and a lengthy rear garden.

10. The originally submitted scheme incorporated a two-storey extension at the side of the house which extended rearwards beyond the existing rear wall of the main house. Because of the significant off-set between the respective front elevations of Nos. 22 and 24, the result would be the creation of a long and largely uninterrupted two storey flank wall that would be seen from No. 22 to extend a considerable distance rearward.
11. Furthermore, the substantial overall depth of the two storey extension would be compounded by the additional height and bulk of its gable elevation as well as the proximity of the lengthy flank wall to the boundary between Nos. 22 and 24. Consequently, the extended built form of No. 24 would be both closer to, and extend further rearwards from, the rear of the neighbouring property, than is currently the case. These factors would combine to materially and harmfully compromise the outlook from the rear of the neighbouring property.
12. There are a number of windows at the rear of No. 22 within both an extended ground floor and at first floor levels. However, it is the closest of the first floor windows that would experience the greatest exposure to the proposed extension and which is likely to serve a habitable room. Although the aspect to the rear of both properties is largely open and broadly south facing across open fields, the substantial depth and proximity of the extended building to No. 22 would nevertheless be an intrusive and enclosing presence when viewed from the rear of No. 22, particularly given the degree of off-set between the two properties and the resulting limited spacing between them.
13. Because of these factors, the two-storey side and rear extension would result in an uncharacteristic degree of enclosure at the rear of No. 22 and would restrict outlook to an unacceptable degree from, particularly, the first floor rear window at No. 22 closest to No. 24. Whilst the recessive roofline of the rear-most portion of the extension would limit the vertical bulk of the extension closest to the boundary this would be offset by the bulky gable of the extension. Together, these would be significant contributory factors to the sense of enclosure that the extension would bring to the rear of No. 22, and the significant physical and visual presence close to the rear of that property, particularly where openness is otherwise a distinct characteristic of the rears of houses along Highfield Way.
14. In addition to a harmful effect on outlook from the rear of No. 22, the significant offset between the two properties, the proximity of the extension to the boundary between the two and its bulk and rearward projection would exacerbate the effect of the proposed extension on daylight and sunlight received at the rear of No. 22. Given that the appeal property and the proposed extension lie to the southeast of No. 22 the additional bulk and proximity of the extension to the neighbouring property would result in a structure that would restrict direct sunlight to the rear of the property for a longer period during the morning than is currently the case.
15. Whilst the orientation of the properties may be such that afternoon and evening sunlight and daylight would be unaffected, the effects of the extension on morning sunlight and daylight add to the harm to outlook that would also arise from the scale, bulk and relationship of the extended property to No. 22. Thus for the

reasons set out, the appeal scheme would cause material harm to the living conditions of occupiers of No. 22, with particular regard to outlook and to daylight and sunlight received at the rear of the property. The proposed development is therefore contrary to the aims and provisions of SNLP Policies SS2 and SDP1 and the guidance set out in the *South Northamptonshire Design Guide Chapter 4 – Residential* (2017) (SNDG) which together seek to secure high quality development that avoids unacceptable impacts on the amenities of neighbouring occupiers.

16. The Council refer to the application of a 45-degree line ‘test’ from the nearest of the rear windows at No. 22 as a means to assess whether or not the proposal would result in a loss of daylight and sunlight. However, the appellant is correct to query the application of such a test and I have not been directed towards an explicit development plan policy or guidance imperative for its application.
17. Although the SNDG does include a diagram that shows what appears to be a 45-degree line between two properties, it is not referred to specifically as such, nor does it explain its relevance to residential extensions – as opposed to new dwellings from which section of the SNDG it appears to be taken. In reaching my conclusions regarding the effect of the extension on outlook and daylight / sunlight such a ‘test’ has not been determinative and is not a matter to which I have given significant weight. Nevertheless, for the reasons I have set out, I conclude that the extension would cause harm to the amenities of occupiers of No. 22, contrary to the collective provisions of SNLP Policies SS2 and SDP1 and the SNDG guidance.

Character and appearance

18. Although the houses along Highfield Way are broadly consistent in their design and appearance, there are subtle differences in house types. Bay windows, including some incorporating porches, are not uncommon whilst the appeal property already has a modestly sized porch with a peaked pitched roof located roughly centrally within the front elevation.
19. The appeal scheme seeks to replicate the general form of the existing porch, albeit on a much larger scale and with a different mix of materials. As a consequence of its enlarged proportions, which includes the peaked pitched roof extending almost to the eaves level of the main house, the scale of the porch would dominate the property’s front elevation to a harmful and incongruous extent. As such, it would fail to respect the character or proportions of the host property and would therefore be contrary to SNLP Policies SS2 and SDP1 and the SNDG guidance.
20. The two-storey side extension would be set back from the front elevation of the main house and, as a consequence, would also incorporate a slightly lower roof line than that of the main house. When viewed from the front, the extension would appear well-proportioned and, in this respect, I agree with the Council’s conclusion, even if a greater set back might have been closer to the advice set out within the SNDG.
21. The single storey rear extension element of the proposal would be hidden from wider view at the rear of the property, where its flat roofed design would not have a harmful effect on the character or appearance of the appeal property or surrounding area. Nor, because of its location at the rear of the property and the property’s particular location at the head of the cul-de-sac, would its rearward

projection result in particular harm to the character or appearance of the surrounding area. However, the absence of harm in these respects does not justify the harm that would arise from the proposed porch.

22. The appellants have indicated an acceptance of the use of conditions to omit the porch from the proposal should it be that element which is considered to be particularly harmful to the character and appearance of the appeal property and surrounding area. However, as I have also found harm in respect of the effects of the two-storey side and rear extension on living conditions, I have not considered further such an approach.

Conclusion

23. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR