



Appeal Decision

Site visit made on 12 February 2025

by **K E Down MA(Oxon) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/B1930/D/24/3353731

40 Windermere Avenue, St Albans, Hertfordshire, AL1 5QN

- 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 Terry Dempsey against the decision of St Albans City & District Council.
 - The application Ref is 5/24/0912.
 - The development proposed is a ground floor rear extension, front porch and first floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The one main issue is the effect of the proposed rear extensions on the living conditions of occupiers of 42 Windermere Avenue with respect to outlook and light.

Reasons

3. The appeal dwelling is a post war semi-detached house. It is set on a generous plot in a cul-de-sac of similar semi-detached and terraced dwellings and, on the opposite side of the street, a primary school. The Council raises no objection to the proposed front porch and I agree it would be acceptable. I shall therefore restrict my further consideration to the rear extensions.
4. The proposed rear extensions would comprise a ground floor addition some 6.3m deep with a first floor above, some 3.3m in depth. The extension would occupy the full width of the rear elevation which is currently un-extended and would lie adjacent to the shared boundary with No 42, the semi-detached pair. The rear gardens which are extensive face slightly north of due west. The appeal dwelling lies generally north of No 42.
5. The dwellings have rear windows that are arranged close to the shared boundary. At ground floor these appear to serve habitable kitchens. At first floor the window in No 42 appears to serve a bathroom and landing which are non-habitable areas.
6. The eaves height of the single storey element, which would have a flat roof is not denoted on the plans but, extrapolating from the eaves height of the porch which is shown and can be seen to be similar they would be somewhere in the region of 2.1m with the finished roof slightly higher. Whilst noticeable from the kitchen window at No 42, the limited height of the single storey element, and the position of No 42 generally south of the proposed extension, would ensure that outlook from

that window was not materially affected, despite the overall depth. Neither would there be any material loss of light.

7. Nevertheless, the first floor element although shallower would, owing to its proximity to the shared boundary, appear to loom over the rear of No 42 which would result in an unacceptably overbearing effect when seen from the kitchen window and garden immediately behind the dwelling.
8. I agree with the appellant that, owing to the orientation and relative position of the two dwellings, there would be no material loss of sunlight. However, the extension would contravene the 45° rule and as such daylight would be reduced from the north, which would result in the outlook from the kitchen window and area of garden behind the rear elevation at No 42 feeling gloomy and penned in, particularly during winter months when the absence of sunlight would exacerbate the effect.
9. I therefore find that the single storey extension on its own would not materially harm the living conditions at No 42 but, owing to the proximity of the first floor element to the shared boundary, taken as a whole the extensions would materially harm outlook and light when seen from the kitchen window and garden area close to the rear of the dwelling.
10. The appellant draws my attention to other extensions in the vicinity which he considers are similar. However, in most cases these comprise single storey extensions, some with separate loft dormers. In one case where a first floor has been built up to the shared boundary, the semi-detached neighbour has a deep single storey extension which would mean that its ground floor rear windows were not affected by the two storey extension.
11. The appellant also suggests that the extensions were intended to be 6m and 3m deep to meet permitted development dimensions. However, a drafting error meant that external dimensions are some 0.3m greater in each case and he would be willing to reduce these. Firstly, the plans before me show the greater dimensions and these are what I must consider. Secondly, the combined extensions could not in any case be considered as permitted development. Moreover, a first floor extension carried out under permitted development rights would need to be at least 2m from the boundary. Therefore, even if the extension was reduced in depth there would be no permitted development fallback.
12. It is concluded on the main issue that, taken together, the proposed single and two storey rear extensions would have a materially harmful effect on the living conditions of occupiers of 42 Windermere Avenue with respect to outlook and light. In consequence, they would conflict with Policies 69 and 72 of the City and District of St Albans District Local Plan Review, 1994, and with the National Planning Policy Framework, 2024. Taken together these expect new development to have a high standard of design such that there is no unacceptable effect on adjoining property with respect to light and amenity and, specifically in the case of two storey rear extension, do not normally intrude into a 45° visibility zone of a neighbour's ground floor windows.

13. For the reasons set out above and having regard to all other matters raised, including the lack of objection from the neighbouring occupier, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR