



Appeal Decision

Site visit made on 31 July 2025

by **Eleni Marshall BSc (hons) MSc FRICS FAAV MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 August 2025

Appeal Ref: APP/J3720/D/25/3367679

10 St Matthews Close, Salford Priors, Warwickshire WR11 8UY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Denzil Byron against the decision of Stratford-on-Avon District Council.
 - The application reference is 25/00297/FUL.
 - The development proposed is single storey extension (part retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. The submitted plans appear to be incorrect/inconsistent with regard to the red line boundary on the existing and proposed site plans versus the existing and proposed floor plan – bedroom 3, shown off the lounge of the host property, appears to be outside of the site boundary. Furthermore, what has been part built, on site, does not appear to match the plans in so far as there is one window in elevation D-D (proposed plans) versus two window openings as built.
4. I have considered the proposal on the basis of the plans before me, but the discrepancies are, however, of limited consequence within this appeal. Even without these discrepancies the appeal would still have been dismissed for the reasons set out with regard to residential amenity, but they are noted for completeness as well as any future applications, if any, for the site.

Main Issue

5. The main issue is the impact of the proposal upon neighbouring residential amenity with regard to overshadowing and overbearing impact.

Reasons

6. The appeal site is an end of terrace bungalow which is immediately adjoined by 12 St Matthews Close (no. 12) which stands to the northwest of the appeal site with a shared boundary which was, at the time of my site visit, delineated by timber panelled fencing. The proposal, as outlined in the development description above, had been partly constructed at the time of my site visit with the proposal seeking part-retrospective planning permission for a single storey extension. The proposal runs parallel with/in very close proximity to the shared garden boundary with no. 12.

7. The appellant discusses the proposal in the context of there being no overlooking, however, the Council's refusal reason is not based upon overlooking and their delegated report confirms that the opening part of the side facing window would be in the region of 1.7 metres above ground floor level and therefore, on balance, no issue is raised with regard to harmful overlooking impact. I have no reason to conclude differently on this and whilst the appellant's comments are noted – overlooking is not utilised as a refusal reason in any case. The Council's refusal reason is specific in its reference to overshadowing and overbearing impact upon habitable rear windows and a sitting out area to the detriment of the amenity of the residents of the neighbouring property.
8. Based upon the evidence before me which includes both the Council's assessment, made when the shared boundary fence was down, as well as the floorplans submitted by the appellant, the window closest to the shared boundary, and therefore the proposed extension, serves a habitable room. I note, from the floorplan provided by the appellant, that it is stated that a lounge area/dining area is located adjacent to the appeal property and it would appear that there are two windows serving an area which is essentially presented as open plan on the floor plan. Even with two windows serving an open plan living area, I do not find that this is sufficient to justify the impact of the proposal upon the window immediately adjacent to the shared boundary in this case.
9. The proposal would significantly breach the 45-degree sight line from the window at the rear of no. 12 as well as significantly breaching the 25-degree line. I do not find that the proposal breaches the 45- and 25-degree rules marginally. The breach is significant and the proposal, even taking into account the boundary fence, would be in the region of half a metre higher than this and would result in development which is higher than the eaves of the existing bungalow. The appellant has submitted existing and proposed sun studies, and I find that this does demonstrate impact to the adjacent occupiers, and no. 12, particularly in the mornings. The appellant acknowledges that the extension would affect no. 12 between the hours of 8am and 11am which could be considered, overall, a limited impact, but nonetheless it is an impact and the proposal would cause overshadowing for part of the day, which would also be combined with overbearing impact for the reasons I have outlined from both within the property and the adjacent occupier's garden.
10. The proposal would result in some loss of light to the open plan living space, even taking account of the presence of the boundary fence which is in the region of 2 metres, however, shadowing and/or loss of light is separate to overbearing impact which is also noted as part of the refusal reason that is before me. Even if I had agreed with the appellant that the impact in terms of overshadowing/sunlight was acceptable, due to the limited hours of impact each day, I do not find that the appeal would have succeeded due to the issues I have found with regard to overbearingness. The proposal would be immediately adjacent to the boundary, projecting in the region of 4.5 metres with the eave height exceeding that of the existing bungalow as confirmed by the sectional drawings.
11. I find, therefore, that the proposal would result in an overbearing impact to occupiers of no. 12 from within the living area of that property as well as within the immediate garden area/sitting out area which would be to the detriment of the amenity of the residents of the neighbouring property. I note that there has been no objection from the neighbouring dwelling, however, a lack of objection is a

neutral consideration and planning decisions have a duty to protect both existing and future occupiers of the site with the proposal having been assessed independently due to the built form that would remain beyond the lifetime of current and future occupiers of both properties.

12. The appellant has outlined that they have selected matching brickwork, as well as utilising a flat roof, however I do not find that this has minimised the height of the extension in the context of the neighbouring property. I note that it is stated that a similar extension which added an ensuite and extra room to the property has recently been approved and is nearly completed, however, I do not find that this demonstrates the Council has acknowledged the potential for expansion in the area - furthermore the Council's refusal reason is not based upon the impact of the proposal to the character and appearance of the area, nor the host property itself, the refusal reason is solely based upon the impact to neighbouring occupiers as outlined. The potential for expansion cannot be to the detriment to the amenity of residents of neighbouring properties.
13. I understand that the appellant commenced the build because they were under the impression that a (previously intended) conservatory could be built without planning permission and overall, they did not realise the planning implications of the construction work to date. I acknowledge that this is unlikely to be an intentional breach of planning control, however, for the reasons I have set out the proposal is unacceptable. The appellant is noted to be flexible to ensure that materials, time, money and effort are not wasted, however, I must consider the proposal that is before me as it has been submitted and any revisions or future alterations to the proposals must be the subject of a separate application to the Council – it is not the purpose of an appeal to evolve a scheme.
14. The proposal would be contrary to Stratford on Avon District Core Strategy (2011 to 2031) (2016) policy CS.9 which seeks to protect occupants of new and neighbouring building from unacceptable loss of daylight and adverse surroundings and Policy CS.20 which requires that proposals will not unacceptably detract from the amenities of any neighbouring property by reason of loss of daylight, overshadowing or overbearing impacts.
15. The proposal would also be contrary to Salford Severn Neighbourhood Development Plan (2017) policy SP4 which requires proposals be designed to ensure a good standard of amenity for existing and future occupiers. The proposal would be contrary to the Development Requirement Supplementary Planning Document, Part F, which confirms that the area immediately outside of the rear of the house such as patios/sitting out areas should be protected from overlooking, overshadowing and overbearing impacts as well as being clear in its overarching objectives to maintain a good standard of residential amenity for adjacent occupiers.

Conclusion

16. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Marshall

INSPECTOR