



Appeal Decision

Site visit made on 19 December 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2024

Appeal Ref: APP/K2420/D/23/3330070

132 Stanley Road, Hinckley, Leicestershire LE10 0HT

- 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 Stewart Lawrence Muscutt against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 23/00422/HOU, dated 29 April 2023, was refused by notice dated 7 September 2023.
 - The development proposed is a single storey extension to the rear of the property.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous iteration. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments. References hereafter in the decision to the Framework are to the December 2023 version.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupants, with respect to light, enclosure and outlook.

Reasons

4. No 132 forms part of a short linear group of dwellings on Stanley Road with deep rear gardens which fall slightly in level from the rear elevations. The proposed extension would project some 8.2 metres from the rear wall alongside the boundary with No 130. It would feature a monopitch roof falling towards the interior of the site. As a result, the roof ridge of the extension would stand at some 3.9 metres high at the boundary, above the bottom of the rear first floor window.
5. The appeal site is presently separated from No 130 by a close boarded timber fence leading from the rear wall for around 4 metres, and then a hedge which runs to the outbuildings at the end of both gardens. The extension would replace the fence and first section of the hedge. I saw the fence of be of a standard height of around 1.8 metres, with the hedge around half a metre taller in the vicinity of the proposed extension. At 3.9 metres, the extension would represent a substantial increase in height in comparison to the existing

boundary treatment. Coupled with a depth of over 8 metres, the result would be a structure of imposing size and bulk on the boundary.

6. The neighbouring occupant has two sheds directly alongside the position of the proposed extension. However, neither one extends above the height of the hedge and I saw at my visit that they are not of a height that restricts views to the west from within No 130. As such, the additional height of the extension would be wholly visible from the neighbouring dwelling at very close range. The dwelling at No 130 is only some 1.8 metres from the common boundary and although the plans before me do not show it, the depth of the extension means it would almost certainly breach the 45 degree line rule set out in the Council's Good Design Guide Supplementary Planning Document 2019 (the GDG). The combined height and depth would demonstrably restrict outlook to the west and would have an enclosing effect on the rear ground floor windows and doors which serve a living and dining area, and the adjacent patio area.
7. Moreover, as the extension would be located to the west of the rear elevation and patio, it would limit evening sun and increase shadowing to these parts of the neighbouring dwelling. Taken together, the proposal would result in loss of outlook and sunlight, and increased sense of enclosure and overshadowing. This would be detrimental to the living conditions of neighbouring occupants.
8. In reaching a view, I have had regard to matters raised by the appellant. I note the described effects of the development at No 134 on the appellant's own living conditions; however, I am not provided with full particulars of that site's planning history so as to understand the Council's considerations in granting permission for extensions, such as what existed beforehand. In any event, the assessment of the effect on living conditions is necessarily site specific and the effects of one development will not always be identical to another, even when neighbouring dwellings are involved, due to differences in the relative size, position and relationship between buildings. Therefore, I do not consider the development at No 134 to set a precedent for the appeal scheme, which I have considered on its own merits.
9. I note that the roof shape is intended to reduce the need to access No 130 for maintenance, and that the height of the extension reflects the high ceilings of the existing dwelling and a desire to provide level access. However, the evidence does not demonstrate clearly that the proposed design is the only feasible means by which the dwelling could be extended, and so these are considerations of very limited weight. The appellant has also referred to frustrations in his discussions with the Council to find a suitable design for the extension. Whilst I empathise with any difficulty the appellant has had, this is not a determinative factor in my considerations, which are restricted to the planning merits of the specific scheme determined by the Council and now before me at appeal.
10. I have also noted other issues raised by the appellant in respect of noise and disturbance caused by the neighbouring occupant; however, such claims are not substantiated by evidence and therefore I afford very limited weight to argued benefits in terms of reduction in noise levels which may result from the presence of the proposed extension.
11. Taking all matters together, I find that the proposed extension, owing to its height, depth and overall massing, would form an imposing and dominant structure on the shared boundary with No 130, which would restrict outlook

and sunlight for neighbouring occupants and conversely increase overshadowing and their sense of enclosure. This would conflict with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), which supports developments which, among other things, would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and visual intrusion.

12. There would also be conflict with the aforementioned guidance of the GDG and with the aims of the Framework to create places with a high standard of amenity for existing and future users.

Other Matters

13. Notwithstanding its size, the Council did not refuse permission on the basis of the effect of the extension on the character and appearance of the area. The property benefits from a significant depth of rear garden, within which the extension would not appear disproportionate in depth relative to the main dwelling or overall plot. As such, I have no reasons to conclude differently to the Council on this issue, but whilst I acknowledge the proposed use of matching materials, the extension would do no more than preserve the existing character, and therefore would be a neutral factor overall.
14. The appellant refers to permitted development (PD) rights to extend detached dwellings by up to 8 metres.¹ However, it is also required that where the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, the height of the eaves of the enlarged part must not exceed 3 metres. As such, a PD compliant extension would not have the same height on the shared boundary as the proposal before me, and thus would not have the same degree of impact on neighbours. Critically, the right to build to 8m depth is also subject to a prior approval process where the local planning authority will consider the impact of the proposed development on the amenity of any adjoining premises where objections are received. Given the objections received in this case, I cannot be certain that a prior approval application would be successful. Therefore, I afford limited weight to potential development under PD as a fall-back position for the appellant.

Conclusion

15. For the reasons set out, the proposal would conflict with the development plan. Benefits arising in this case would be limited in scale, such as any economic output from the construction of the extension, or primarily private in nature, namely the provision of additional level-accessed space for the appellant. These and the other material considerations I have taken into account are not sufficient to outweigh the identified development plan conflict.
16. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR

¹ The relevant provision is Schedule 2, Part 1, Class A, Paragraph A.1.(g) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).