The Planning Inspectorate

Appeal Decision

Site visit made on 23 April 2024

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024.

Appeal Ref: APP/V2255/D/24/3337879
1 Norwood Walk West, Sittingbourne, Kent ME10 1QF

- 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 Tatler against the decision of Swale Borough Council.
- The application Ref 23/500616/FULL, dated 6 February 2023, was refused by notice dated 16 January 2024.
- The development proposed is a two storey side extension.

Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension at 1 Norwood Walk West, Sittingbourne, Kent ME10 1QF in accordance with the terms of the application, Ref 23/500616/FULL, dated 6 February 2023, subject to the following conditions: -

   a) The development hereby permitted shall begin no later than 3 years from the date of this decision.

   b) The development hereby approved shall be carried out in accordance with drawing title numbers: A103 (received 10th November 2023), A104 (received 6th February 2023), A105 (received 31st March 2023) and A106 (received 6th February 2023).

   c) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those of the existing building in terms of type, colour and texture.

   d) Before the development hereby permitted comes into use, the proposed window in the first floor rear elevation shall be obscure glazed and this window shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above internal floor level and thereafter the window shall be retained as such.

   e) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: - Monday to Friday 0800 - 1800 hours, Saturdays 0800 - 1300 hours.

   f) No more than 6 residents shall occupy the property as a House in Multiple Occupation, as defined under Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended).

Application for costs

2. An application for costs has been made by Mr Tatler against Swale Borough Council. That application is the subject of a separate decision.

Main Issues

3. The main issues raised by this appeal are the effect of the proposed development on the character and appearance of the area and the living conditions of neighbouring occupiers at Nos. 44 and 46 Norwood Walk West.

Reasons

Character and appearance

4. The host property forms an end property of a small terrace. The development would bring built development closer to neighbouring properties at Nos. 44 and 46 Norwood Walk West. There is a wraparound garden to the front, side and rear enclosed by a fence. A separation of approximately 3m would be retained to the side boundary of the property. Therefore, there would be space retained to the front, side and rear at the end of the terrace and within the plot. Whilst the proposal would create new built development this would not be of a scale that would appear cramped within the site. Therefore, I do not consider the proposal would represent an overdevelopment of the plot. Furthermore, there would remain acceptable separation between the extension and the properties of Nos. 44 and 46 Norwood Walk West.

5. The design of the side extension would be consistent with other end of terrace properties in the area. The set back of the proposed extension from the frontage of the host property and step down from the existing ridge height would create an extension of a subservient appearance. The Officer's report to Planning Committee indicates that this accords with the Council's adopted Supplementary Planning Guidance (SPG) "Design an Extension – A Guide for Householders". As such, the proposal would not be out of keeping with the prevailing form of development in the area. Furthermore, the extension would assimilate with the host property in a form advocated by the adopted SPG. Consequently, I find the proposal would not cause visual harm to the host property or the area.

6. For these reasons, I conclude that the proposed development would not harm the character and appearance of the area. As such, the proposed development would comply with Policies CP4, DM14 and DM16 of the Bearing Fruits 2031 – The Swale Borough Local Plan 2017. These policies seek, amongst other matters, development and extensions to be well designed and respond positively to the building and its surroundings.

Living conditions

7. The Council, in its Officer report to Planning Committee, indicates that a minimum distance of approximately 11m would be maintained between the extension and the front of Nos. 44 and 46 Norwood Walk West. Whilst the flank elevation of the proposed extension would be visible in the outlook from these neighbouring properties, the impact on outlook would not be negatively impacted given the separation distance between developments that would remain. Consequently, the proposal would not result in an overbearing and

oppressive form of development that would harm the living conditions of the occupiers at Nos. 44 and 46 Norwood Walk West.

8. Furthermore, the Officer report to Planning Committee indicates that the Local Planning Authority have made an assessment of light impacts upon the occupiers of Nos. 44 and 46 Norwood Walk West. The development was found to comply with the Building Research Establishment (BRE) Daylight and Sunlight Good Practice Guidance despite Nos. 44 and 46 being sited at a lower land level to that of the proposed development. The impact on light upon these neighbouring properties would remain acceptable if the proposed development took place.

9. For these reasons, I conclude that the proposed development would not harm the living conditions of neighbouring occupiers at Nos. 44 and 46 Norwood Walk West. As such, the proposed development would comply with Policies CP4, DM14 and DM16 of the Bearing Fruits 2031 – The Swale Borough Local Plan 2017. These policies seek, amongst other matters, development not to result in significant harm to the amenities of surrounding uses or areas.

Other Matters

10. Bobbing Parish Council and local residents have raised concern in respect of other aspects of the proposed development.

11. The proposed extension would be located to the north of Nos 13-17 (odd). The Local Planning Authority advise that the proposed extension would be sited at a distance of approximately 16m from the rear elevations of these properties. The extension would not project further south than the main house. As such, at this distance the proposal would be unlikely to cause harmful impacts with regard to light or outlook. In terms of overlooking, although visible to these neighbouring occupiers, the extension would have no greater impact than that of the existing situation. Furthermore, the imposition of Condition 4 above would assist in preventing unacceptable overlooking from occurring.

12. Having considered the separation and relationship of other existing properties in the area, I consider no significant harmful impacts would arise to occupiers' living conditions.

13. Local concerns have been raised regarding the foul drainage system in the area. Southern Water have not raised any concerns regarding capacity. Although a condition is requested relating to protection of any public sewers on the site, the Council have indicated that this is a matter that is controlled directly by Southern Water and as such it would not be considered necessary to impose such a planning condition.

14. A number of objectors have raised concerns in relation to the increased demand for parking arising from the proposal. None of the properties on Norwood Walk West have on-site parking due to the estate design with pedestrianised walkways. As a result, parking occurs on local residential roads. The proposal would add one extra bedroom to the property. As such, any additional parking demand from the proposed development would be extremely modest, as would any impact upon highway safety and/or road congestion.

15. Some noise and disturbance would arise during construction period. Whilst some disruption would likely take place this would be over a short period of time and any disturbance to neighbouring occupiers would be limited. The

imposition of planning condition 5 above would ensure that the days and times of construction works would be controlled.

16. It has been suggested that the proposal would result in a reduction in security in the area due to loss of visibility when using walkway. However, any impacts in this respect would be very modest and would not result any significant restrictions to visibility.

17. It has been pointed out that the internal layout was not initially described. Revised drawings provided during the consideration of the planning application by the Council have addressed this to the satisfaction of the Local Planning Authority. In addition, it has been commented that the loft extension is not included in application. However, that has already taken place and is a separate matter to that of the proposal before me.

18. The Officer's report to its Planning Committee includes an Appropriate Assessment (AA) under the Conservation of Habitats and Species Regulations 2017. The appeal site is located within 6km of The Medway Estuary and Marshes Special Protection Area (SPA) which is a European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

19. The proposal therefore has potential to affect said site's features of interest, and I must undertake an AA to establish the likely impacts of the development. In doing so I have had regard to the AA provided by the Local Planning Authority, which the Local Planning Authority indicates includes advice provided by Natural England to the Council.

20. The proposed development is of a very small scale and, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA. Natural England advice is that when considering any residential development within 6km of the SPA, the Council should secure financial contributions to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring (SAMM) Strategy in accordance with the recommendations of the North Kent Environmental Planning Group (NKEPG), and that such strategic mitigation must be in place before the dwelling is occupied.

21. Due to the scale of development there is no scope to provide on-site mitigation such as an on-site dog walking area or signage to prevent the primary causes of bird disturbance, which are recreational disturbance including walking, dog walking (particularly off the lead), and predation of birds by cats. Therefore, off-site mitigation is required. One additional bedroom is proposed here, and the Local Planning Authority indicate that a total fee of £314.05 is required, which it is understood from the Officers report has been paid. I do not have information before me as to how this tariff has been calculated. Nonetheless, this matter has been dealt with to the satisfaction of the Local Planning Authority. On the evidence before I have no substantive reason that would lead me to conclude that this matter has not been satisfactorily resolved.

Conditions

22. I have considered the planning conditions put forward by the Council in light of paragraph 56 of the Framework and the Planning Practice Guidance. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring the development be carried out in accordance with the approved plans.

23. In the visual interests of the locality a matching materials condition is necessary. To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers a condition requiring the first floor window in the rear elevation to be obscure glazed with opening limitations is necessary. In the interests of the living conditions of neighbour occupiers a construction work condition is necessary.

24. To avoid unacceptable impacts upon Special Protection Areas and Ramsar sites within the area without suitable mitigation being put in place, and because occupation by more than 6 persons would require a separate application for planning permission being a change of use from Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a sui generis use, a condition restricting the number of occupiers is necessary.

Conclusion

25. For the reasons set out above, and subject to the conditions listed, this appeal should be allowed.

Nicola Davies

INSPECTOR