



The Planning Inspectorate

Appeal Decision

Site visit made on 17 April 2019

by **Mr Kim Bennett DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th April 2019

Appeal Ref: APP/V2255/D/19/3221136
10 Athelston Road, Faversham ME13 8QJ

- 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 P Bennett and Ms P Turner against the decision of Swale Borough Council.
 - The application Ref 18/506066/FULL, dated 21 November 2018, was refused by notice dated 10 January 2019.
 - The development proposed is a two storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension at 10 Athelston Road, Faversham ME13 8QJ in accordance with the terms of the application, Ref 18/506066/FULL, dated 21 November 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 101/P2; 102/P1; 103/P1; 104/P2; 105/P3 and 106/P2.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. The application was originally submitted to include a rear dormer and a ground floor rear extension as well as the two storey rear extension. However, following discussions with the Council the dormer window and ground floor extension were deleted from the proposed scheme. These were subsequently approved separately and individually under permitted development.¹

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of No 8 Athelston Road.

¹ Application reference Nos 18/506497 & 18/506507

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Reasons

4. The appeal site comprises a two storey end of terrace house on the southern side of Athelston Road and close to its junction with Kingsnorth Road. At the rear, there is a two storey projection inset from the common boundary with No 8 Athelston Road and a single storey extension beyond that which has recently been demolished. There is a matching two storey projection at No 10 Athelston Road, although that has been extended further back and also at two storey level, and with a single storey extension beyond that. The rear dormer referred to above has since been completed and at the time of my visit, preparatory building works were underway to commence the ground floor extension, also approved under permitted development. No 8 Athelston Road lies to the east and on slightly lower ground because of the rise in the road level. It is also two storey but is semi-detached, and the two properties are separated by a narrow alleyway.
5. The Council is concerned that the proposed extension would detract from the outlook from No 8, particularly bearing in mind that the appeal site is on slightly higher ground. In reaching that view, the Council took into account that the proposed extension would breach the Building Research Establishment's (BRE) 45° rule. It would also conflict with advice in the Council's Supplementary Planning Guidance – 'Designing an Extension- A guide for Householders' (SPG), which says that first floor extensions close to the common boundary should not exceed 1.8 metres.
6. The appellant points out that the BRE tool is more an assessment for daylight and sunlight than for outlook and questions whether the latter is a proper planning consideration in any case. I agree with the former point although the 45° rule is not decisive in itself; it merely indicates that daylight and sunlight may be an issue which might prompt further studies. In this case the appellant has produced such studies to show that levels of daylight reaching the windows of No 8 would not be significantly impacted by the extension and there is no evidence before me to the contrary.
7. In terms of outlook being a planning consideration however, I disagree with the appellant and although more subjective, it nevertheless forms part of an overall assessment as to whether there would be an adverse impact upon living conditions that occupiers of adjacent properties could reasonably expect to enjoy. In that respect, regard needs to be had to the existing character of properties and the relationship between them. In this instance, outlook has always been somewhat restricted because of the plan form of the properties and the original rear projections at two storey level which reduces wider outlook.
8. Also of significance in this case, is the permitted development approval for the ground floor rear extension which extends up to the common boundary with No 8 and to a significant depth. That extension will impact upon the rear ground floor living room of No 8 to a far greater extent than the proposed two storey extension would, and represents a significant material consideration given that construction work has already commenced. The potential impact is therefore not just hypothetical. As a result, any impact upon No 8 from the current appeal proposal would be mainly at first floor level where there is a rear facing bedroom window. However, outlook from that window is already somewhat restricted and bearing in mind the first floor element of the proposed two

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storey extension would be 2 metres away from the common boundary with No 8 and would extend only 2 metres further in depth than the existing situation, I do not consider that outlook would be significantly changed, notwithstanding the slight increase in height of the appeal site.

9. With regard to conflict with the SPG, I do not see that being necessarily the case in this instance, since it specifically refers to a more flexible approach being taken if there is a gap to the boundary with the neighbour, which is the case here. In any event, such guidance cannot be prescriptive and much will depend upon individual relationships between adjoining sites.
10. Drawing the above together, I am satisfied that there would be no adverse impact upon the living conditions of the occupiers of No 8 Athelston Road, as a result of the proposal before me for consideration and bearing in mind current ongoing development.
11. The Council does not raise any issue with regard to any adverse impact upon No 12 Athelston Road nor with the design of the proposed extension and I agree with those assessments.
12. Having regard to the above, the proposal is compliant with Policies CP4, DM14 and DM16 of the Council's Local Plan: Bearing Fruits 2031 in that it would be appropriate in height, massing and scale and would cause no significant harm to amenity. Conditions for the development to be built in accordance with the approved plans and for matching materials, are necessary in the interests of certainty and visual amenity.
13. Accordingly, the appeal is allowed and planning permission granted.

Kim Bennett

INSPECTOR

