



Appeal Decision

Site visit made on 5 December 2011

by Graham Edward Snowdon BA BPhil Dip Mgmt MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 December 2011

Appeal Ref: APP/H0738/D/11/2164064

55 Castlemartin, Ingleby Barwick, Stockton-on-Tees, Cleveland TS17 5BA

- 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 M Davison against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 11/2083/FUL, dated 16 August 2011, was refused by notice dated 17 October 2011.
 - The development proposed is a rear first floor extension and storm porch.
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Application for Costs

1. An application for costs was made by Mr M Davison against Stockton-on-Tees Borough Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission granted for a rear first floor extension and storm porch at 55 Castlemartin, Ingleby Barwick, Stockton-on-Tees, Cleveland TS17 5BA in accordance with the terms of the application, Ref 11/2083/FUL, dated 16 August 2011, subject to the following conditions:
 - (1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No 150811.
 - (3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.

Main Issue

3. The main issue is the effect on the living conditions of occupiers of 53 Castlemartin, in terms of privacy and outlook.

Preliminary Matter

4. The Council is of the opinion that the storm porch proposed constitutes permitted development and I note that this aspect of the appeal proposal has
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been implemented. They also confirm that the new windows on the side elevation would be permitted development. I have, therefore, confined my considerations to the first floor rear extension only.

Reasons

5. The proposal involves building over an existing large single storey extension at the rear of the appeal property. The neighbouring bungalow at 53 Castlemartin has a similar single storey extension which accommodates a kitchen and breakfast room, with a window in the side elevation at a distance of less than 1 metre from the common boundary.
6. At present the first floor bedroom window at the appeal property, nearest to the common boundary, affords oblique views down into the neighbouring kitchen and part of the immediately adjacent patio is also overlooked from this window. The proposal would not have any windows on the flanking side elevation and the new window to Bedroom 4 would be located further out from the main rear elevation, effectively removing the existing ability to overlook the neighbouring kitchen and patio area.
7. Set against this, as the rear gardens (and the dividing fence along the common boundary) fall away, the re-located first floor bedroom window would afford wider views over the remainder of the neighbouring garden. The perception of being overlooked would be exacerbated by the presence of a "Juliette" balcony adjacent to this window. However, on balance, I consider that the overall impact on the privacy of the neighbours would be largely neutral. Policy HO12 in the Stockton-on-Tees Local Plan (Local Plan), which is cited in the reasons for refusal, requires extensions, among other things, to "avoid significant loss of privacy..... for residents of neighbouring properties". I am satisfied that no significant loss would result from allowing the appeal.
8. The side window of the kitchen at 53 Castle Martin is located less than 2 metres from the existing single storey rear extension at the appeal property, but looks directly onto a 2 metre high close-boarded timber fence located along the common boundary between the two properties. I acknowledge that existing glimpses of the sky, by looking upwards, would largely be blocked by the addition of a first floor over the existing single storey extension. Local Plan Policy HO12 states that two storey extensions close to a common boundary will not normally be granted if, among other things, the extension would dominate neighbouring property to a substantial degree. However, given the current substandard outlook, I consider that the proposal would have only marginal impact and would not have any significant detrimental effect on outlook for occupiers of 53 Castlemartin.
9. On the main issue, therefore, I conclude that the proposed extension would not have an adverse effect on the living conditions of occupiers of 53 Castlemartin, in terms of privacy and outlook and would satisfy the requirements of Local Plan Policy HO12.
10. In addition to effect on privacy and outlook, the occupiers of 53 Castlemartin have expressed concern over possible loss of light in their kitchen. I can understand such concern, particularly as the sink unit, at which users will spend some time, is immediately adjacent to the side kitchen window. However, this window faces north-west and the amount of sunlight and

daylight currently received is substantially restricted by its close proximity to the common boundary and the existing extension at the appeal property. I do not consider that the appeal proposal would have any significant effect on sunlight and daylight within the neighbouring kitchen, which is principally lit via a window on the rear elevation facing south-westwards onto the garden, and enjoys borrowed light through glazed doors leading into an adjacent sunroom. I note that the Council agrees with this conclusion.

11. The appellant draws my attention to the personal family need, which has generated the current proposal. I have sympathy with this, which cannot be dismissed as immaterial. However, any development allowed would continue beyond the duration of such need and this limits the weight I can give to it. It has not, therefore, influenced the decision I have reached.
12. In addition to the standard time limit condition and a condition requiring the development to be carried out in accordance with defined approved plans (which is necessary for the avoidance of doubt and in the interests of good planning), the only other condition suggested by the Council relates to the use of matching external materials. I consider that this is necessary to ensure that the development has a satisfactory appearance. I shall impose conditions accordingly. No other conditions are proposed, nor do I consider any to be necessary.
13. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

G E Snowdon

INSPECTOR



Costs Decision

Site visit made on 5 December 2011

by Graham Edward Snowden BA BPhil Dip Mgmt MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 December 2011

**Costs application in relation to Appeal Ref: APP/H0738/D/11/2164064
55 Castlemartin, Ingleby Barwick, Stockton-on-Tees, Cleveland TS17 5BA**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr M Davison for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for a rear first floor extension and storm porch.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It is not argued, on behalf of the appellants, that the Council has acted unreasonably in a procedural sense and I am satisfied that the examples of unreasonable behaviour set out in paragraph B4 of the Circular do not apply in this instance. It is argued, however, that the Council's reasons for refusal have not been substantiated. Paragraph B15 of the Circular explains that planning authorities are at risk of an award of costs against them if they prevent or delay development which should clearly be permitted having regard to the development plan, national policy statements and any other material considerations.
4. Paragraph B18 advises that planning appeals often involve matters of judgement concerning the living conditions of adjoining occupiers of property and goes on to state: *where the outcome of an appeal turns on an assessment of such issues it is unlikely that costs will be awarded if realistic and specific evidence is provide about the consequences of the proposed development.* In the case officer's report, it is correctly pointed out that the moving of the first floor bedroom window would enable greater unrestricted views towards the rear garden area of the neighbouring property, particularly given the falling away in levels. The perception of overlooking created by the presence of French windows and "Juliette" balcony is also pointed out. Whilst I consider that this needs to be set against the removal of existing opportunities for overlooking and have concluded that, on balance, the proposal would not result in the "significant loss of privacy" referred to in Local Plan Policy HO12, I accept

that this is a matter of judgement and I do not find the Council's conclusions on this matter to be unreasonable.

5. Likewise, although I do not agree with the conclusion, I do not consider the Council's view that the increase in eaves height, projecting 5 metres along the common boundary, would result in an overbearing impact on the neighbours at 53 Castlemartin to be an unreasonable one, particularly given the statement in Local Plan Policy HO12 that two-storey extensions close to the common boundary will not normally be granted if the extension would dominate neighbouring property to a substantial degree. Again this involves a matter of judgement.
6. I, therefore, find that unreasonable behaviour, resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

G E Snowdon

INSPECTOR