



GROUND'S OF APPEAL

SITE

17 Yew Tree Court,
Gresford,
Wrexham
LL12 8ET

Appeal against Refusal of Householder
Planning Application 2017/0034 for Single
Storey Front and Rear Extensions and
Two Storey Side Extension.

Introduction.

Householder Planning Application 2017/0034 for Single Storey Front and Rear Extensions and Two Storey Side Extension was made on 17th January 2017 and refused on 14th February 2017.

The grounds for refusal were:

1. The development would have a significant detrimental impact upon the occupiers of the adjacent property by way of significant loss of daylight to, and outlook from, habitable rooms. To allow the development would leave the affected rooms feeling dark and claustrophobic and therefore conflicts with policy GDP1 of the Wrexham Unitary Development Plan and Local Planning Policy Guidance Notes No 20 'House Extensions' and No. 21 'Space around Dwellings'.

The grounds of appeal are that is an incorrect assessment.

Planning History.

This is the fourth application on this site for extensions.

Planning application 2014/0148 was made on 13th March 2014. The Officer informed the applicant that the application would not be supported. There is no written record of the reasons for this but the applicant remembers being told of concerns of the effect on no. 18 and the 45° rule. Elevational plans for this application are at appendix 1. The application was withdrawn.

Planning permission 2014/0353 for First Floor Extension over Existing Garage and Single Storey Rear Extension was granted by the planning committee on 7th July 2014. The plans for that application are attached at appendix 2 and the committee report at appendix 3.

Planning permission 2014/05576 for Front Extensions to Dwelling was granted under delegated powers on 16th September 2014. The plans for that applications are at appendix 4 and the Delegated Tick Sheet at appendix 5.

This appeal should not therefore be judged on the building as it actually stands but against the decisions previously made by the local planning authority when permission was given for extensions of a similar nature. The "significant detrimental impact" and "significant loss of daylight" must therefore be shown to be significant against that fall-back position.

Planning Policy.

National guidance is set out in Technical Advice Note 12 Design March 2016 but that is not considered in this application as there is little in there relating to house extensions and other matters are replicated in local policy. There is, however, general guidance to local planning authorities in design issues.

The adopted Local Plan is the Wrexham Unitary Development Plan 1996-2011 adopted by Wrexham County Borough Council on the 14th February 2005. Clearly it is out of date and a new Local Plan has been in preparation for some time.

Policy GDP1 says:

All new development should:-

- a) Ensure that built development in its scale, design and layout, and in its use of materials and landscaping, accords with the character of the site and makes a positive contribution to the appearance of the nearby locality.
- b) Take account of personal and community safety and security in the design and layout of development and public / private spaces.
- c) Make the best use of design techniques, siting and orientation in order to conserve energy and water resources.
- d) Ensure safe and convenient pedestrian and vehicular access to and from development sites, both on site and in the nearby locality.
- e) Ensure that built development is located where it has convenient access to public transport facilities, and is well related to pedestrian and cycle routes wherever possible.
- f) Ensure the safety and amenity of the public and safeguard the environment from the adverse effects of pollution of water, land or air, hazards from industry and quarrying, and associated noise, odour or vibration arising from development.
- g) Secure public services (e.g. gas, water, electricity) to development at minimum public cost.
- h) Safeguard sites and areas of nature conservation and wildlife interest, and to provide new habitats where there is an unavoidable loss of existing habitats and areas of wildlife interest.
- i) Ensure that development does not result in, or is subject to, flooding, soil erosion, landslides or contamination, either on or off the site.
- j) Have regard to the need to safeguard those areas that possess a strong Welsh cultural and/or linguistic identity from development that could harm this identity.
- k) Secure the development of sustainable communities, through the promotion of the economic, social and environmental well-being of the area

It is not clear from the reason for refusal as to which paragraphs of this policy count against this application. It is a generic policy and an appellant should be able to see clearly how the proposal is felt not to be in accordance with that policy.

The Delegated Tick Sheet to the application refused says:

the scale and design of the extension as proposed is acceptable in terms of impact upon the character and appearance of the dwelling, and upon local visual amenity

so paragraph (a) is complied with. There is very little else in the policy that could be especially applicable to this proposal.

Paragraph 6.14 of TAN12 mentions Supplementary Planning Guidance. There are no such SPGs in this local planning authority but there are Local Planning Policy Guidance Notes (LPGN) which are a material consideration in determining planning applications but carry less weight than a SPG or policy. LPGN 20 on House Extensions was updated in March 2010 and LPGN 21 on Space around Dwellings updated in January 2007. They are both significantly old documents.

In LPGN 20 it states:

the size and scale of the resulting extension should not over-dominate the existing dwelling;

There is no suggestion that it does so.

It goes on:

within settlement limits, an overall limit on the size of extensions would not be appropriate, provided that the extension complied with the Council's guidelines regarding garden size, separation distances, residential amenity, impact on townscape etc.

The garden is of a good size but questions have been raised about separation distances.

In the committee report to 2014/0353 it says:

There are no windows for the side elevations which will avoid any loss of privacy to adjacent dwellings. The closest property to the rear of the site is located approximately 26 metres away from the first floor extension (in excess of the minimum separation distance of 22 meters as recommended within LPGN 21 'Space around Dwellings'). There is a 20 metre separation distance at ground floor level to the rear although this falls short of the minimum separation distance, there is sufficient screening along the curtilage boundaries to prevent overlooking and retention of this will be secured by planning condition. I am satisfied therefore that there would not be overlooking in this direction which would lead to a significant loss of privacy.

There are no issues of loss of light and the 45 degree test for daylight passes. The development will not cause a significant loss of day/sunlight to, or restrict the outlook from, the habitable room windows or outdoor amenity areas of the surrounding properties.

The condition applied to this permission was that a 2m boundary be established and maintained to the property at the rear. In fact a 2m boundary is a feature of the whole site as shown in the below images.

The 2m wall is a means of enclosure and extends along the north side of the garden.



On the south side of the garden is another 2m means of enclosure.



The boundary where the proposed side extension will be is shown below but it is intended to extend the wall along this boundary when the extensions are complete.

The habitable rooms facing the side extension are, from front to back, the kitchen, study and a bedroom. They currently face an overgrown hedge in front of a fence or a new wall.



The distance from the proposed extension to the common boundary is 1100mm. The kitchen window is set back 5400 from the common boundary but this window already is opposite the existing building and would opposite the two storey extension granted under 2014/0353. The LPGN on space around dwellings specifically says :

Where a window in a habitable room faces a blank wall, the height of which exceeds the top of that window, there should be a distance measuring a minimum of 13 metres between them.

In the case of a kitchen window, these standards may be relaxed provided suitable screening is in place.

Suitable screening is in place.

Whilst a two storey extension would clearly exceed the height of a window in a bungalow the windows themselves are only slightly above the height of the garden wall.



The centre line of the study window is roughly on a line with the extent of the side extension. The bedroom window is towards the end of the single storey extension. The single storey element on the rear is already approved - twice.

Of interest here is the extension at no.19 Yew Tree Court, reference 2014/0006. A copy of the committee report is attached at appendix 6. The issue in this case was the impact of the development on the habitable rooms of no.18. The report explained:

“No. 18 has a window serving a lounge/dining room that will directly face (face?) the side elevation of the garage. Whilst the proposed garage will result in loss of daylight to this window the amount of light received by the lounge/dining as a whole will not be significantly reduced. The applicant’s existing garage already impacts upon the amount of light received by the window. The lounge/dining room is also served by two other windows in the front/southwest elevation which will be unaffected by the extension.

The fence along the boundary of no.18 and no.19 and the latter’s existing garage dominate the view from the side facing lounge/dining room window of the former to the extent that the outlook from it does not afford any significant degree of visual amenity. Accordingly, whilst the proposed garage will be higher than the one it

replaces I do not accept that this will prove unacceptably overbearing or severely harm the standard of visual amenity enjoyed by the occupiers of no.18.

In the present case the view from the kitchen is of a boundary enclosure and behind that is a blank wall. The kitchen window is 5400mm from this wall. The view from the study window will also be of a boundary wall after the fence is replaced. The window is 4750mm from the wall. Beyond that half the window will see beyond the two storey extension to the single storey extension. The bedroom window is 4300mm from the wall and half of that has the single storey extension beyond it whilst the rest is clear.

In all cases the consideration is only about daylight and not sunlight because this is a north facing elevation. It is approx. 10 ° east of due north and there is an attached garage shadowing the rising sun. No sun shines in these windows.

LPGN 20 House Extensions also mentions the 45 ° test. The extensions given permission in and the committee report for 2014/0353 mentions that the proposal passes those tests. The rule was also mentioned by the Officer in the first, withdrawn, application. No assessment has been made by the Officer in the current application. This application also passes those tests.

LPGN 20 says:

Extensions should not, therefore, be so large as to create a claustrophobic effect or cause a significant amount of visual intrusion and loss of light to neighbouring properties.

The reason for refusal mentions “the affected rooms feeling dark and claustrophobic”. The addition of a pejorative adjective that is not in the guidance document is not required. On the evidence, and on the assessment made in previous permissions, the proposed extension does not represent significant visual intrusion or loss of light.

Whilst the main grounds of refusal have been considered, and dealt with, there are other minor differences in this proposal to the previous ones approved.

The ridge line of the main roof has been lifted to the same level as the existing roof. LPGN 20 House Extensions says:

in order to be in scale, the roof of the proposed extension should not be higher than the existing dwelling, and the pitch, angles and materials should match those of the existing dwelling; sometimes a lower ridge line will allow the extension to remain in scale with the existing;

Normally a reduced ridge height for an extension is to emphasise that it is an extension. The LPGN 20 states that this is only required outside settlement boundaries, “Outside settlement limits, any extension should be clearly subsidiary to the existing dwelling,” and this site is within the settlement boundary.

The proposed extension is in scale with the building and the introduction of a lower roof level and of a hipped roof to one end of the single storey elevation leads to a complicated and cluttered design. The present house has a quite uniform horizontal rear aspect. (The scaffolding is for roof repairs not a start on this development).

LPGN 20 House extensions specifically mentions side extensions. It says:



a pitched roof will normally be essential. The roof of the proposed extension should match the original in terms of pitch and shape. The ridge line should either follow, or be lower than the original dwelling;
to allow for maintenance and access, it is recommended that a distance of 1m be left between the extension and the side boundary.

The proposed ridge does match the original and follows the ridge line. The distance to allow for access and maintenance is maintained at 1100mm.

Conclusion.

Making a major extension to a home is something that is normally only undertaken once.

In the withdrawn application, 2014/0148, no record exists of why the application would be unsuccessful. The applicant was left with the option of submitting a sub-optimum set of plans or having a refusal. There is nothing to say that this refusal would not have been overturned at appeal but further applications do at least provide clarity as to the issues.

The committee report to 2014/0353 mentioned Policies GDP1, PS2 and T8 of the Wrexham Unitary Development Local Plan, TAN 12 and LPGNs 16- Parking Standards, 20 - House Extensions and 21- Space around Dwellings.

The decision notice to 2014/0557 mentioned Policies GDP1, PS2 and T8 and the delegated report mentioned LPGNs 16 and 21.

The decision notice to the application the subject of this appeal mentioned Policies GDP1, PS2 and T8 and LPGNs 20 and 21 and the delegated report mentioned "UDP Policy GDP1 and supplementary Planning Guidance Note No. 21." This notwithstanding the advice is a LPGN and not a SPG.

It may be that the Officer has become a little tired of the site and this has influenced judgement on the primary issue by her entrenching her first opinion.

TAN12 says:

6.2 Local planning authorities should not repeat national policy but include clear robust policies on design in their development plans which address local issues and should be based on relevant evidence. These should set out the planning authority's design expectations. They should not impose architectural styles or particular tastes but should secure good quality design as applied to the local context (local distinctiveness). Such local policies should reflect the objectives of good design set out in Section 2.

The proposal the subject of this appeal has been shown to comply with the LPGNs, which is what this local planning authority sets out as a design code. A design code is not the personal opinion of an individual Officer. The advice to withdraw the first application would probably have been made by that Officer alone.

The Inspector will be able to view the site afresh, informed but not influenced by the previous applications and decisions. On this view the proposal accords with policy and advice. The appeal should be allowed and permission given.

Conditions.

Permission 2014/0353 had the following conditions.

1. Five year start.
2. Materials as per application form
3. Removal of p.d. for windows and openings.
4. Boundary to 5 Holly Court to be maintained at 2m.

Permission 2014/557 had the same conditions at 1 and 2 but conditions 3 and 4 were not re-applied.

Condition 1 & 2 could be applied to this application as well. Condition 4 is not required as the intention to have a 2m means of enclosure around the whole of the rear of the property is clear.

Appendices

1. Determined plans for 2014/0353
2. Committee Report for 2014/0353
3. Determined plans for 2014/0557
4. Delegated Report for 2014/0557
5. Committee Report for 2014/0006