

Appendix A

Appeal by Mrs Yasmin Shafiq

Site at 47 Tapton View Road, Chesterfield.

CHE/16/00648/RET

2/4907

1. Planning permission was refused on 30th November 2016 for retention of a single storey rear extension at 47 Tapton View Road.
2. The reason for refusal was:
The proposed extension as a result of its overshadowing of the neighbouring dwelling, being overbearing and the perception of being overlooked would cause harm to the residential amenity of the neighbouring resident. The proposal would lead to a development that would lead to the overshadowing and breaking of the 45 degree angle of a primary window in the kitchen of no.45 Tapton View Road. This would be a negative impact upon residential amenity and be contrary to the Council's Supplementary Planning Document 'Successful Places' (Section 3.11), policies CS2 and CS18 of the Chesterfield Borough Local Plan and paragraphs 17, 63 and 64 of the National Planning Policy Framework.
3. An appeal against the decision has been determined by the written representation householder appeal method and has been dismissed.
4. The main issue in this case is the effect of the single storey extension on the living conditions of the neighbours at No 45 with regard to outlook, perception of privacy and light. The appeal site is a semi-detached dwelling in a residential area. The single storey flat roofed extension has been built and projects about 6.1m from the rear wall of the dwelling alongside the boundary with the adjoining property at No 45 filling the space between the boundary fence and an existing two storey rear extension. It projects beyond and wraps around the two storey extension to extend across the entire width of the appeal property.

5. The proximity of the extension to the boundary with No 45 coupled with its length and the topography of the area, the rear garden of No 45 being set at a lower level than its neighbours, means that the extension appears an imposing structure which is oppressive and overbearing when viewed from both the ground floor kitchen window of No 45 and from its rear garden thereby compromising the living conditions of the neighbours at No 45.
6. The extension has three high level horizontal windows in the eastern side elevation facing No 45. The windows are visible above the boundary fence between the properties and although they do not impact on the privacy of the neighbours at No 45, being obscure glazed and fixed non-opening, due to their very immediate relationship to the garden area of No 45 they result in an increased sense of overlooking to the detriment of the living conditions of its occupiers.
7. The orientation of No 45 is such that its kitchen window is likely to have previously had a somewhat dark aspect. However, the inspector considered that this will have been exacerbated by the position of the extension which fails the 45 degree test which, as indicated in the Council's Successful Places: Place Making Principles Supplementary Planning Document 2013 (SPD), serves as a guide as to whether a window affected by a side extension is likely to experience a significant reduction in daylight.
8. The inspector concluded that the single storey extension causes material harm to the living conditions that the neighbours at No 45 might reasonably expect to enjoy by way of outlook, perception of privacy and light. Accordingly, it fails to comply with policies CS2 and CS18 of the Chesterfield Borough Council Local Plan: Core Strategy 2011-2031 (2013) which taken together seek to ensure that, amongst other things, new development has an acceptable impact on the amenity of users and neighbours. In addition it fails to comply with the advice contained in the Council's SPD in relation to daylight. The development is also contrary to the core planning principle of the National Planning Policy Framework that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings.

9. The appellant indicated that the adjoining neighbours did not object to the extension at the time it was being built. However, concerns were raised at the planning application stage regarding privacy and overshadowing. In any event the inspector considered the proposal on its merits having regard to the specific context of the site and its surroundings and the relevant development plan policies. The appellant also indicates that the extension is necessary to provide extra space for her family. However, the inspector concluded that the proposal would cause material harm to the living conditions of the occupiers of the neighbouring property at No 45 and he was satisfied that the legitimate aim of granting planning permission in accordance with the development plan and planning policies which require buildings not to be harmful to neighbouring living conditions can only be adequately safeguarded by the refusal of permission. I consider that the dismissal of the appeal would not have a disproportionate effect on the appellant or her family.
10. Now that the appeal has been dismissed it is appropriate and necessary to consider the service of an enforcement notice requiring the unauthorised extension to be removed. Such a notice will need to give a reasonable period of time to allow for compliance and it is suggested that this should be 6 months in this case.
11. Recommendation

That an Enforcement Notice be served requiring the unauthorised extension to the rear of 47 Tapton View Road to be removed with a compliance period of 6 months.