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# Appeal Decision

Site visit made on 29 July 2016

**by Elaine Gray MA(Hons) MSc IHBC**

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

**Decision date: 29 September 2016**

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**Appeal Ref: APP/W4223/D/16/3152982**

**40 Warwick Road, Failsworth, Manchester, Lancashire M35 0QQ**

- 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 Mrs Patricia O'Neill against the decision of Oldham Metropolitan Borough Council.
  - The application Ref HH/337724/15, dated 20 October 2015, was refused by notice dated 25 May 2016.
  - The development proposed is first floor extension to the side.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupants, with particular regard to daylight and outlook.

## Reasons

3. The appeal site at 40 Warwick Road is located in a predominantly residential area. It is a two storey semi-detached dwelling, and the proposal would add a first floor extension to the side gable elevation. The Council's concern relates to the effect of the extension on living conditions at the neighbouring dwelling.
4. The facing elevation at 42 Warwick Road has a single window, which the Council states is a bedroom window. The appellant disputes this, stating that this room is a storeroom, and is too small to be used as a bedroom. On my site visit, I was unable to gain access to No 42 to view the room in question. The Council has now submitted information relating to the planning permission<sup>1</sup> which was granted in 1984 for an extension at No 42.
5. The accompanying proposed first floor plan shows the room annotated as a 'store'. It is approximately seven feet and six inches in width, and greater in length, although this exact measurement is not given. The dimensions of the room, as shown on the plan, make it comfortably big enough to be used as a bedroom. In the absence of any evidence to show that the room has been made significantly smaller in the interim, I find that it is suitable to be considered a habitable space. Even if it is currently in use as a store, there would be nothing to preclude its being returned to habitable use in the future by subsequent occupiers.

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<sup>1</sup> G/16598/84/F

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6. The separation distance between the two elevations is currently approximately 4.8m, whereas the extension would reduce this to approximately 2m. At present, the window at No 42 looks directly towards the gable end of No 40, and so its outlook is already limited. This substantial reduction of the intervening distance would curtail the outlook still further, resulting in an unacceptably increased sense of enclosure. The narrowing of the gap to this degree would also reduce the amount of daylight available to the room. As the window of No 42 faces north-west, it will receive very little direct sunlight during the day, and so the loss of day light would be all the more significant.
7. Taking these factors in combination, I conclude that the proposal would unacceptably harm the living conditions of present or future occupiers of the neighbouring property at 42 Warwick Road. It would therefore conflict with Policy 9(iii) of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies (November 2011), which seeks to avoid significant harm to the amenity of neighbouring occupants. It would also be at odds with the National Planning Policy Framework, which seeks to secure a good standard of amenity of all existing and future occupants of land and buildings.
8. I have had regard to the deed of release that has been drawn up between the appellant and the occupants of No 42, releasing present and future occupiers of No 42 from their entitlement to any right of light or air in respect of the property at No 40. However, this is a private matter between the parties, and it cannot outweigh the duty to assess proposals for development against the relevant local and national planning policies.
9. I accept that the removal of first floor bedroom window from the side elevation of No 40 would improve the privacy between the two properties. However, this benefit would be insufficient to outweigh the harm I have identified. I note also the personal circumstances of the appellant, and the benefit to them of allowing a family member to return home, but I can give this circumstance little weight in planning terms.
10. I note the support of the neighbour for the appeal scheme, and the fact that no letters of objection have been received in respect of it. Nonetheless, these circumstances have not led me to a different conclusion.
11. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*Elaine Gray*

INSPECTOR