
Appeal Decision

Site visit made on 18 October 2016

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 2nd November 2016

Appeal Ref: APP/X4725/D/16/3158588

**11 Bloomingdale Court, Woolley Grange, Barnsley, South Yorkshire
S75 5RQ**

- 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 and Mrs Smith against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/01414/FUL, dated 6 June 2016, was refused by notice dated 12 August 2016.
 - The development proposed is conservatory to rear.
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Decision

1. The appeal is allowed and planning permission is granted for a conservatory to rear at 11 Bloomingdale Court, Woolley Grange, Barnsley, South Yorkshire S75 5RQ in accordance with the terms of application Ref: 16/01414/FUL, dated 6 June 2016 and 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 plans which were submitted to the Council with the application form: 'Location Plan'; 'Site Plans'; 'Site Plans – Existing'; Site Plans – Proposed'; and 'Existing Elevations – Side and Rear Elevations', all received by the Council on 6 June 2016 and 'Proposed Elevations', received by the Council on 8 June 2016.
 - 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.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the neighbouring occupiers of No 9 Bloomingdale Court, with particular regard to daylight and outlook.

Reasons

3. The appeal site consists of the rear garden of a two-storey semi-detached dwelling which is situated within an established residential area. Private amenity space is provided by the rear garden which is located to the north east of the host property and is enclosed by a mix of close-boarded timber fencing
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and brick walls. To the rear of the garden there is a garage with driveway which forms the north east boundary of the garden. Although shown as being outside the red line boundary of the appeal site, the appellants have confirmed in evidence that the garage and driveway are in their ownership. The topography of the immediate area around the appeal site slopes downwards from north east to south west. This means that the neighbouring property at No 9 Bloomingdale Court (No 9) is positioned slightly above the appeal site.

4. The Council states that the only clear pathway for natural light to reach the rear elevation of No 9 and its garden is the gap in development to the southeast created by the rear garden of the appeal property. It is argued that this gap would be taken up entirely by the proposal. Furthermore, the proposal would breach the 45 degree arc from the centre point of the neighbouring patio door opening on the rear elevation of No 9, as set out in Appendix 1 of the Council's Residential Design Guide 1996 (the RDG).
5. From the submitted plans and my observations of the site, the proposal would extend to approximately half the length of the boundary between the appeal property and No 9 and would therefore fill about half of the gap in development referred to by the Council. Whilst rising to an eaves height similar to the top of the existing timber fence, the northwest elevation of the proposal which would face the boundary with No 9 would consist of a solid brick wall. However, the close-boarded fence, which is to be retained, would conceal the majority of the proposal, including the brick wall, from No 9. Therefore, any overshadowing resulting from the proposal would largely be already in existence due to the effect of the existing boundary fence.
6. Due to the glazed and hipped nature of the proposed roof of the conservatory which would be apparent above the boundary fence, that part of the proposed development would have no materially adverse effect on the amount of natural daylight currently enjoyed by the occupiers of No 9. Therefore, the limited additional massing over and above the existing boundary fence resulting from the proposed conservatory would have little effect on exacerbating any existing overshadowing. Furthermore, I note that the property at No 9 is slightly above the appeal site due to the local topography. This would have a further limiting effect on any overshadowing resulting from the proposal.
7. With regard to the 45 degree arc, a rigid application of the guidance in the RDG would, in this case, limit a rear extension of the appeal property to around 1.5 metres, according to the appellants. Therefore, the proposal would not comply with the guidance of the RDG. Notwithstanding this, for similar reasons to those above, whilst not meeting the 45 degree arc, the proposal would have no significant adverse effect in terms of overshadowing the rear elevation and garden of No 9. I note that the proposal would be close to the boundary with No 9. However, having taken all of the above matters into account, I find that the effect of the proposal in terms of it being oppressive or overbearing to the occupiers of No 9 would not be so significant as to cause any material harm to their living conditions with regard to outlook.
8. Whilst no objections to the proposed conservatory have been made, this does not necessarily mean that the proposal would be acceptable in policy terms. As such, I confirm that I have undertaken a full assessment of the proposal against policy and have determined the appeal on the basis of its own context and on its own merits.

9. Accordingly, I conclude that the proposed development would have no materially harmful effect on the neighbouring occupiers of No 9 in terms of significant overshadowing and loss of natural daylight. Nor would it result in any significant adverse effect on the outlook of those neighbouring occupiers in terms of it being an oppressive and overbearing development.
10. Consequently, I conclude that the proposal would comply with Policies D9 and D10 of the Wakefield Local Development Framework Development Policies Document 2009, the Council's Residential Design Guide 1996 and the National Planning Policy Framework. Amongst other matters, these policies and guidance seek to ensure that development does not overshadow or have any significant detrimental impact on neighbouring properties which would result in harm to the living conditions of the occupiers of those properties.

Conditions

11. I have had regard to the planning conditions that have been suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the suggested conditions to better reflect the relevant parts of the Planning Practice Guidance (PPG).
12. In addition to the standard implementation condition (1), I have imposed a condition specifying the approved plans (2) in the interests of providing certainty. A condition relating to the development permitted being constructed in materials which match the existing building (3) is necessary and reasonable for reasons of character and appearance. I have not imposed a condition relating to the removal of permitted development rights with regard to windows, doors or openings within the northwest elevation of the approved conservatory as I am not persuaded that it is absolutely necessary to do so. The PPG indicates that such restrictions should be exceptional and I do not consider the circumstances in this case to be so.

Conclusion

13. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development should be allowed.

Andrew McCormack

INSPECTOR