

Appeal Decision

Site visit made on 1 November 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 9 November 2016

Appeal Ref: APP/Z4718/D/16/3157257

3 Moorcroft Close, Mirfield, West Yorkshire WF14 9FA

- 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 & Mrs P Kenyon against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/91003/W, dated 22 March 2016, was refused by notice dated 25 May 2016.
 - The development proposed is a proposed orangery to rear.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of occupiers of 1 Moorcroft Close, with particular reference to daylight / sunlight and outlook.

Reasons

3. The appeal property is a two-storey, semi-detached dwelling located towards the entrance of a relatively recently developed residential estate. The proposed orangery extension would be located on the rear elevation of No 3. It would extend across almost the entire width of the rear elevation and have a depth of 3.9 metres.
 4. The orangery extension would be positioned almost exactly due south of the neighbouring property, 1 Moorcroft Close. It would be erected very close to the common boundary with that property, at the rear of which is a ground floor habitable room window. That window is also very close to the common boundary between the two dwellings. Although the Council refer to the gap between the proposed extension and the common boundary with No 1 to be approximately 1 metre, my observations of the arrangement at the rear of both properties suggests that the likely gap would in fact be much less.
 5. The appellant has suggested that the original planning permission for the Moorcroft Close development included provision for 2.1 metre high boundary walls between properties. Such walls, it was suggested, would project in the region of 3 metres from the rear of the houses along the common boundary in the interests of privacy. However, even if that were the case and such provisions applied to Nos 1 and 3, I haven't been provided with any evidence to
-

this effect and there were no such walls in place at the time of my site visit. Although there was a curve-topped timber panel fence in place along the common boundary, the proposed extension would, in my judgement, be both taller and longer than that fence.

6. Thus, at almost 4 metres in depth, positioned in very close proximity to the habitable room window at No 1, and located due south of that property, the extension would reduce both daylight and sunlight to the rear of No 1 to an unacceptable degree. It would also, for the same reasons, have a harmfully enclosing effect on the outlook from the rear of No 1. The proposal would therefore cause harm to the living conditions of occupiers of that property. This would be contrary to those parts of policies D2, BE1 and BE14 of the Kirklees Unitary Development Plan (UDP) that are concerned with avoiding the detrimental effect of proposals on the residential amenity and living conditions of occupiers of adjoining dwellings and land. This would also be at odds with the provisions of the National Planning Policy Framework which, as one of its core planning principles, seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

7. I note the appellant's suggestion that the proposal could have been constructed under the provisions of the notification process for larger extensions to domestic properties. However, the Council state that permitted development rights were withdrawn from properties on Moorcroft Close as a condition of the original planning permission, a point also acknowledged by the appellant. I therefore give this matter limited weight as a possible fallback position.
8. Whilst reference has been made to an extension at the rear of No 5, I have not been provided with the details of that extension or the circumstances around it and that property appears to be a different house type to the appeal property. In any case, I have considered the appeal proposal on its own merits.

Conclusion

9. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR