
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: 10 November 2016

Appeal Ref: APP/X4725/D/16/3156869

2 Green Lane, South Kirkby, Pontefract, West Yorkshire WF9 3LR

- 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 Glenn Scarrott against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/00880/FUL, dated 8 April 2016, was refused by notice dated 14 June 2016.
 - The development proposed is a double storey extension to rear and side of property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans, accompanying details and the description of the development on the Council's decision notice, that the development comprises "*a two storey extension to side, single storey extension to rear, and creation of additional off street parking to front*". I am satisfied that this more accurately describes the proposal, and that the Council dealt with the proposal on this basis. I too shall proceed on this basis.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupiers of the adjoining property, with particular reference to sunlight and daylight.

Reasons

4. The appeal property is a two storey, semi-detached dwelling. Both it, and the adjoining half of the semi-detached property, known as Mojave¹, have modestly sized rear gardens. Although ground levels within each of the residential plots are broadly level, there is a substantial brick retaining wall running along Mojave's northern boundary, whilst levels also rise up beyond the rear boundary of the pair of dwellings towards the residential terrace of Mill Lane, to the west.

¹ The submitted plans refer to the property as "*Majave*", although both the appellant and the Council subsequently refer to it as "*Mojave*" in other submissions. In the interests of consistency, I shall adopt "*Mojave*" throughout this decision.

5. At ground floor level within the rear elevation of the neighbouring dwelling is a single window serving what the Council understand to be the living room. The common boundary between the two properties is marked by a low timber panel fence giving a relatively open feeling at the rear of the pair of dwellings.
6. The single storey rear extension element of the proposal would be positioned close to the common boundary running between the appeal property and Mojave. It would extend some 4.5 metres into the host property's rear garden, parallel to the common boundary, with the height of the flank wall measuring approximately 2.6 metres above ground level. As a consequence, the proposal would introduce a considerable expanse of flank wall next to, and rising significantly above, the existing boundary fence.
7. The extension would be located due south of the neighbouring property. A combination of the extension's overall depth, its height and particularly its proximity to the boundary with Mojave, would result in an appreciable increase in overshadowing of the area immediately to the rear of that property, including the ground floor rear window at certain times of the day. That the proposal would also significantly cut a line drawn at 45° in the horizontal plane from the mid-point of the ground floor window at the rear of Mojave merely adds weight to my conclusion that the proposal would restrict direct sunlight, and, more generally, daylight to the rear of the adjoining dwelling.
8. I note that the occupier of Mojave has not objected to the proposed extension. However, the absence of an objection does not necessary make a development acceptable in planning terms. For the reasons given above therefore, I find that the size and closeness of the proposed single storey rear extension would restrict sunlight and daylight entering the rear living room window to an extent that would be harmful to the living conditions of occupiers of that property.
9. Thus, the proposal would be contrary to policies D9(k) and D10(c) of the Council's Local Development Framework Development Policies Document which, amongst other matters, seek to prevent such harm arising from developments. 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

10. I note that the Council conclude that the proposal would not detract from the character or distinctiveness of the listed building, opposite, at 1 Green Lane. I am statutorily² required to have special regard to the desirability of preserving the building or its setting, and I see no reason to disagree. I therefore also conclude that the proposal would preserve the setting of the listed building.
11. I note too, that it is common ground that the two storey side extension and the additional car parking provision at the front of the property would not cause harm to living conditions of occupiers of neighbouring properties, or to the character or appearance of the surrounding area. These factors weigh in favour of the proposal, but are not sufficient to outweigh the harm to living conditions of Mojave arising from the single storey rear extension, that I have identified above.

² Section 66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

12. The appellant has referred me to the provisions of permitted development and the notification procedure for larger home extensions³, stating that an extension could be constructed up to 6 metres in projection from the rear of the house, provided that there was no objection from the neighbouring resident. Notwithstanding the Council's advice that the single storey element of the current proposals would not benefit from these provisions, it appears to me that even if a scheme could be devised to take such benefit, it would in my judgement be far removed from the level of accommodation that the applicant currently seeks. I have no substantive evidence to indicate that there is a significant probability that such a scheme would be constructed should this appeal fail. This limits the weight I can attach to it as a fallback position.

Conclusion

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

Graeme Robbie

INSPECTOR

³ Class A, Part 1 Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)