

Appeal Decision

Site visit made on 9 November 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 17 November 2016

Appeal Ref: APP/Z4718/D/16/3158810

10A Penistone Road, New Mill, Holmfirth HD9 7JR

- 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 Donald Angir against the decision of Kirklees Metropolitan Council.
 - The application Ref 2016/62/91381/W, dated 25 April 2016, was refused by notice dated 14 September 2016.
 - The development proposed is described as: 'We have built a garden room in the garden and require retrospective planning permission. The garden room is built out of stone and has a conservatory as part of the building. The garden room is in the garden and it is separate to the main dwelling. We have built a fence to maintain neighbour privacy.'
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Decision

1. The appeal is dismissed insofar as it relates to the erection of a fence.
2. The appeal is allowed and planning permission is granted for the erection of a garden room at 10A Penistone Road, New Mill, Holmfirth HD9 7JR in accordance with the terms of the application Ref 2016/62/91381/W, dated 25 April 2016, and the plans submitted with it, Refs 02, 03, the drawing entitled Summer House Elevations and the Plan that shows the site edged red.

Procedural matters

3. The proposed garden room and fence are complete and appear to have been constructed broadly in accordance with the plans.
4. For clarity and brevity, I have used the Council's description of development, which is the erection of a garden room and fence, in my decision.

Main issues

5. The main issues are the effect of the fence on the living conditions of the occupiers of 14 and 16 Penistone Road with regard to visual impact and the effect of the garden room on the character and appearance of the local area.

Reasons

Living conditions

6. To overcome overlooking problems towards and from the garden of the appeal property, a timber fence has been erected along the common boundary with 14 and 16 Penistone Road, which are mid-terrace properties that back onto the
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site. A significant effect of the fence, which according to the Council stands between 2 metres and 2.4 metres high, is to partly enclose the short rear gardens of these neighbouring properties from which the fence is visible. The fence would also be evident at close range from the first floor rear windows of both Nos 14 and 16, which are just above the sloping garden of No 10A due to the notable difference in ground levels. Having viewed the rears of Nos 14 and 16 from the site, I have little doubt that the fence, due to its height and position close to the first floor rear windows of these properties, has an overly imposing presence and overbears on the occupiers of these properties.

7. On the first main issue, I therefore conclude that the fence unacceptably harms the living conditions of the occupiers of Nos 14 and 16. Accordingly, it conflicts with Policy D2 of the Kirklees Unitary Development Plan (UDP) insofar as it aims to safeguard residential amenity. It also fails to adhere to a core principle of the National Planning Policy Framework (the Framework), which is to secure a good standard of amenity for all occupiers of land and buildings.
8. The appellant states that the height of the fence could be reduced so that it qualifies as permitted development or it could be removed in its entirety. Nevertheless, planning permission is sought for the fence, as erected, and so I have assessed it on that basis.

Character and appearance

9. The garden room stands towards one corner of the garden of No 10A, which occupies an elevated position to the main house. The new addition has two main elements: a stone building with a dual pitched roof and a conservatory that faces towards the front of No 10A. The overall building is single storey and is modest in scale and height, with external materials that are of reasonable quality and are compatible with those of other nearby buildings.
10. The juncture between the conservatory and the stone building is rather abrupt largely due to their contrasting roof form and use of different materials. Nevertheless, the overall appearance of the garden room is a domestic outbuilding and it does not look out of place in its residential setting. Its design, while unusual, is not so jarring as to cause significant harm to the predominantly residential character of the area. Although the elevated position of the garden room accentuates its prominence, public views of it are limited due to the screening provided by existing buildings and boundary treatment. Consequently, the development is not readily visible in its entirety from public vantage points.
11. On balance, I conclude on the second main issue that the garden room does not cause significant harm to the character and appearance of the local area. As such, it does not conflict with UDP Policies BE1 and BE2, which broadly aim to ensure that new development achieves good quality design and is in keeping with the surrounding area.

Other matters

12. Interested parties raise additional concern that the garden room, if permitted, would set an undesirable precedent for further development in the garden of No 10A. However, I disagree. Such proposals would be likely to require planning permission and should be assessed on their own merits.

13. The garden room is close to the boundary that is shared with the adjacent property just to the north. According to the Council the windows in the elevation facing the site are required to include obscure glazing. From what I saw, overlooking towards this neighbouring property from the garden room would not be significantly greater than would be possible from standing within the garden of No 10A. As this adjacent property is broadly to the north of the garden room there would be no significant loss of sunlight as a result of the new built form. Reasonably generous distances would separate the garden room from other neighbouring properties. Consequently, there would be no undue loss of privacy through overlooking or an undue loss of light to other nearby occupiers. The problems associated with debris and weeds on and adjacent to the site are a private matter between individuals that is outside the remit of this appeal.

Conditions

14. As the garden room is clearly severable to the fence I am able to issue a split decision that grants planning permission solely for it. The Council has put forward 2 suggested conditions if planning permission were to be granted. As the development is complete, the standard time limit condition is unnecessary. I have, however, specified the approved plans in my decision for certainty.

Conclusion

15. Overall, for the reasons set out above, I conclude that the appeal should be dismissed in part and allowed in part.

Gary Deane

INSPECTOR