
Appeal Decision

Site visit made on 5 December 2016

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 21 December 2016

Appeal Ref: APP/W4515/W/16/3156279

48 Briar Edge, Forest Hall, Tyne & Wear NE12 7JN

- 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 Tajinder Mundi against the decision of North Tyneside Metropolitan Borough Council.
 - The application Ref 16/00968/FUL, registered on 31 May 2016, was refused by notice dated 26 July 2016.
 - The development proposed was originally described as 'Convert garage to dwelling at rear of 48 Briar Avenue.'
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is evident from the submitted plans that the appeal proposal relates to a first floor extension to the existing garage at the rear of 48 Briar Edge and the conversion of the building to form a dwelling. The Council's decision notice describes the appeal proposal as 'Proposed first floor extension to and conversion of existing garage to form separate dwelling', which more appropriately describes the appeal proposal, and I note that the appellant refers to the proposed first floor extension on the appeal form. I have therefore considered the appeal on the basis of the Council's revised description as neither of the parties would be prejudiced or caused any injustice by me taking this course of action.

Main Issues

3. The main issues are the effects of the proposed development upon the living conditions of the occupants of neighbouring residential properties at 46, 48 and 50 Briar Edge, with particular regard to outlook and light, and the effects of the appeal proposal upon highway safety.

Reasons

Living conditions

4. The appeal proposal would result in the erection of a first floor extension over the existing garage. A small gap would be retained between the proposed development and the existing rear additions to Nos 46, 48 and 50. However,
-

the development would create a blank gable wall, reaching around 6.6m high to the ridge and a little over 5m high to the eaves, to the rear of No 48 and adjoining the boundaries with Nos 46 and 50. Although the neighbouring residential properties at Nos 46, 48 and 50 do not have windows at first floor level on the rear elevations of the rear additions, there are a number of windows on other elevations which would be situated in very close proximity to the appeal proposal.

5. The siting and increased height and bulk of the proposed development would give rise to a greater sense of enclosure within the outdoor amenity space to the rear of Nos 46 and 50, have a dominant and overbearing effect when viewed from the rear windows of Nos 46, 48 and 50 and would be likely to overshadow these neighbouring properties.
6. For the reasons set out above, I conclude that the appeal proposal would have a harmful effect upon the living conditions of the occupants of neighbouring residential properties at 46, 48 and 50 Briar Edge, with particular regard to outlook and light. Therefore, the proposed development would be contrary to Policy H11 of the North Tyneside Council Unitary Development Plan (UDP).

Highway safety

7. The appeal proposal would result in the loss of the existing garage that serves No 48. The on-site car parking space shown on the submitted plans would serve the proposed dwelling. The proposed development would not include provision for on-site car parking to serve the existing business and residential use at No 48.
8. However, there are unrestricted on street parking spaces available nearby on both Wilson Terrace and Delaval Road, and there is no evidence before me to indicate that the existing use of this on street parking has led to accidents. Taking into account the potential level and nature of vehicle movements and parking demand resulting from the existing business and the existing and proposed residential use at No 48, it is unlikely that the proposal would cause 'highway safety problems. Details of refuse storage facilities could be secured by condition.
9. For the reasons set out above, I therefore conclude that the appeal proposal would not have a harmful effect upon highway safety. As such, the proposed development would accord with the highway safety aims of UDP Policy H11.

Other matters

10. It has been put to me that there were no objections or representations from neighbours in response to the planning application. However, the absence of objection does not render the appeal proposal acceptable, and I must determine the appeal with regard to the planning merits of the proposed development.
11. My attention has been drawn to a development at 25 Wilson Terrace. However, based on my observations on site, this scheme is not comparable to the appeal proposal with regard to the effect on neighbours' living conditions because it is sited further away from the properties on Briar Edge. I have reached my conclusions on the appeal proposal on the basis of the evidence before me.

12. The appellant has referred to the presumption in favour of sustainable development set out in the National Planning Policy Framework (the Framework). However, the Framework is also clear that decisions should be taken in accordance with the development plan unless material considerations indicate otherwise. I have found that the appeal proposal conflicts with development plan policy in respect of the effect on the living conditions of neighbouring residents, and material considerations sufficient to outweigh that conflict have not been adequately demonstrated.

Conclusion

13. I have found no harm in respect of the effect on highway safety. However, neither a lack of harm in this respect nor the benefit of an additional dwelling is sufficient to outweigh the harm that the proposal would have upon the living conditions of the occupants of neighbouring residential properties.
14. For the reasons set out above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR