
Appeal Decision

Site visit made on 13 December 2016

by Alex Hutson MATP CMLI MArborA

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

Decision date: 17th January 2017

Appeal Ref: APP/N1730/D/16/3162113

13 Darset Avenue, Fleet, Hampshire GU51 3QE

- 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 Nick Bailey against the decision of Hart District Council.
 - The application Ref 16/00164/HOU, dated 25 January 2016, was refused by notice dated 26 August 2016.
 - The development proposed is two storey rear extension and roof dormer providing additional living accommodation to private residential house.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council's first reason for refusal as set out on its decision notice refers to loss of light to the adjacent neighbour at 14 Durnsford Avenue. This is likely to be an administrative error given that the adjacent neighbour is 14 Darset Avenue. Moreover, the Council's officer's report makes reference to loss of light to 14 Darset Avenue which supports my view on this matter. I have therefore considered the appeal on the basis that the first reason for refusal should read instead as loss of light to the adjacent neighbour at 14 Darset Avenue.
 3. The description of the proposed development on the application form, appeal form and the Council's decision notice is reflected in the banner heading above. However, the plans clearly show that a single storey rear extension also forms part of the proposal. I have considered the appeal on this basis.
 4. The appellant has submitted plan DR-100 Rev 04 (Location and Site Plan) as part of the appeal. The Council has confirmed that this plan was not considered as part of the original planning application. Whilst the appeal process is not intended to bypass the democratic planning process, this plan appears to reflect the proposed development shown on plan DR-115 Rev 04 (Proposed Floor Plans and Elevations) which was considered as part of the original planning application. I am therefore satisfied that my acceptance of this plan would not compromise or prejudice the interests of the Council or any interested parties. I have therefore considered the appeal having regard to this plan.
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Main issues

5. Having considered the evidence, it is my view that the main issues in this case are:
- The effect of the proposal on the living conditions of the occupiers of 12 Darset Avenue with particular regard to sunlight and outlook;
 - The effect of the proposal on the living conditions of the occupiers of 14 Darset Avenue with particular regard to sunlight; and
 - The effect of the proposal on the living conditions of the occupiers of the appeal property with particular regard to external amenity space provision.

Reasons

Living conditions in respect of the occupiers of 12 Darset Avenue

6. The appeal property is a two storey, semi-detached dwelling with a rear conservatory and is located within a wider residential area. A detached, prefabricated garage structure occupies part of the rear garden area. The proposal seeks consent to erect a part two storey/part single storey rear extension and to incorporate a dormer window in the existing rear roofslope.
7. Given the low height of the existing conservatory and prefabricated garage structure, the occupiers of No 12 are likely to experience a good level of outlook from any rear facing windows. In addition, these factors are also likely to maintain a good sense of space in respect of the rear garden of No 12.
8. I acknowledge that the proposed single storey elements would have a similar massing and height to the massing and height of the existing conservatory and prefabricated garage structure. However, the modest setback of the proposed two storey rear extension from the shared boundary of the appeal property and No 12, combined with its substantial height and considerable depth, would, in my opinion, appear overbearing in views from the nearest ground floor and first floor rear facing windows of No 12. In addition and for the same reasons, it would appear overbearing from the rear garden of No 12. This would be most notable from the part of the rear garden nearest to the rear elevation of the house where the proposed two storey extension would provide a substantial sense of enclosure to this space.
9. Consequently, the proposal would result in significant harm to the living conditions of the occupiers of No 12 in respect of outlook. This would be detrimental to their enjoyment of their home and garden.
10. I note that the appellant makes reference to permitted development rights under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) in relation to the proposed two storey rear extension. However, the appellant also sets out that, due to its depth and its proximity to the shared boundary with No 12, it would fall outside the required parameters to constitute permitted development. The provisions of the GPDO are therefore somewhat irrelevant to this appeal and as such, I cannot afford this matter any significant weight.
11. Turning to matters of sunlight, the appellant has submitted a Sun Path Analysis (SPA) based on a geolocated virtual model of the proposal which shows the overshadowing effect that the proposal would have on neighbouring gardens at

various times of the year. Whilst some additional overshadowing would occur to the rear garden of No 12, the SPA demonstrates that any additional overshadowing would be minimal in the context of the size of the rear garden and the existing levels of overshadowing that already occur to this rear garden. Moreover, any additional overshadowing would be limited in duration. I am therefore satisfied that the proposal would not result in any harmful loss of sunlight to the rear garden of No 12.

12. Whilst I have not found harm to the living conditions of the occupiers of No 12 in respect of sunlight, I have found harm in respect of outlook. This would be contrary to saved Policy URB 16- Extensions, of the Hart District Local Plan (Replacement) 1996-2006 (Replacement Local Plan). This policy requires, amongst other things, extensions not to materially detract from the amenities of adjoining dwellings by virtue of siting and massing. This policy is consistent with the aims and objectives of the National Planning Policy Framework (the Framework) which requires a good standard of amenity for all existing occupants of land and buildings.
13. The Council also cites conflict with saved Policy GEN 1, of the Replacement Local Plan, in respect of living conditions matters relating to light and outlook. However, whilst this policy refers to specific aspects of neighbour amenity, it omits any reference to light or outlook. As such, this policy is not of particular relevance to this main issue.

Living conditions in respect of the occupiers of 14 Darset Avenue

14. No 14 lies to the east of the appeal property. The submitted SPA demonstrates that some additional overshadowing would occur to the rear garden of No 14. Nevertheless, it also demonstrates that, similarly to that of No 12, any additional overshadowing would be minimal in the context of the size of the rear garden and the existing levels of overshadowing to the rear garden. Any additional overshadowing would also be limited in duration. I am therefore satisfied that the proposal would not result in any harmful loss of sunlight to the rear garden of No 14.
15. The proposal would therefore maintain adequate living conditions for the occupiers of No 14. It would therefore comply, in this regard, with saved Policy URB 16, of the Replacement Local Plan.

Living conditions in respect of the occupiers of the appeal property

16. The footprint of the proposed rear extensions would not be significantly greater than the existing footprint of the rear conservatory and prefabricated garage structure. As such, there would be no material change in the existing provision of external amenity space to the rear of the appeal property. Whilst I acknowledge that the proposal would provide additional living space and at least one additional bedroom, I have not been provided with any local standards in respect of external amenity space provision. Moreover, the Council has not demonstrated with any clear evidence, why it considers the proposed rear external amenity space would be insufficient for the proposed size of the dwelling.
17. The proposed rear external amenity space would be regular in shape and would be well connected to the proposed internal living spaces. According to the evidence, it would maintain a generous size of approximately 78 square

metres. Having regard to these factors, I consider that the proposed rear external amenity space would provide adequate living conditions for the occupiers of the appeal property and would have a good level of utility.

18. Saved Policies GEN 1 and URB 16, of the Replacement Local Plan, which the Council cites conflict with in respect of this main issue, do not specifically relate to living conditions matters in respect of external amenity space provision. As such, it is unclear how these policies relate to this main issue. I therefore turn to the Framework. I consider that the proposal, in terms of external amenity space provision, would comply with the broad aims and objectives of the Framework which requires a good standard of amenity for all existing occupiers of land and buildings.

Other matters

19. I acknowledge that the proposal would provide additional living space for the appellant and his family. I also note the appellant's argument that to extend the appeal property would be more cost effective and less disruptive than to move house. Nevertheless, these personal benefits to the appellant would not outweigh the harm I have identified. In addition, there is no substantive evidence that there is no alternative scheme that could provide additional living space to meet the needs of the appellant and his family without harm arising to the living conditions of the occupiers of No 12.
20. I have had regard to the concerns of a number of interested parties, including in respect of privacy, highway safety, the character and appearance of the area and flooding. However, these matters did not form part of the Council's reasons for refusal and on the basis of the evidence before me and my own observations, I have no substantive reasons to take a different view.

Conclusion

21. Whilst I have not found harm to the living conditions of the occupiers of the appeal property in respect of external amenity space provision or to neighbour living conditions in respect of sunlight, I have found harm to the living conditions of the occupiers of No 12 in respect of outlook. Such harm would be significant and would outweigh any benefits. Therefore, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR