The Planning Inspectorate

Appeal Decision

Site visit made on 10 January 2017

by Mike Fox BA (Hons) DipTP MRTPI

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

Decision date: 19th January 2017.

Appeal Ref: APP/D0121/D/16/3162920
39 Wren Gardens, Portishead, Bristol, BS20 7PP

- 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 Cody Allen against the decision of North Somerset Council.
- The application Ref 16/P/2287/F, dated 6 July 2016, was refused by notice dated 9 November 2016.
- The development proposed is erection of first floor extension above existing garage and single storey rear extension.

Decision

1. The appeal is dismissed.

Procedural Matter

2. I note that there is currently a High Court challenge to the adopted North Somerset Core Strategy in relation to strategic housing policies. However, I agree with the Council that this does not materially affect the determination of this appeal.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of neighbouring residential occupiers with particular reference to privacy.

Reasons

4. The appeal property is a semi-detached dwelling within a residential estate. A previous planning application for a first floor extension at the appeal property above the existing garage was allowed, subject to a condition that the front bedroom window in this extension would be obscure glazed in order to prevent the overlooking of the rear garden of the adjacent property at 37 Wren Gardens. The sole difference between the two applications is the provision of a clear glazed window in the appeal application.

5. The Appellant considers that the imposition of an obscure glazing condition would amount to an unacceptable impact on the living conditions of future occupiers of the bedroom, and that in any event the neighbouring property at no. 37 is already overlooked by other properties in the immediate vicinity. The Appellant also states that as the proposed extension would be a bedroom, it is

unlikely that future occupiers would spend time leaning out of the window to look into their neighbours' garden.

6. I accept that the imposition of an obscure glazed window would adversely affect the outlook from the proposed bedroom. I also agree that there is a degree of mutual overlooking in the vicinity of the appeal property. However, the nearest properties with windows of habitable rooms facing the rear garden of no. 37 are located on the opposite side of Wren Gardens, at a sufficient distance away for overlooking not to be a serious privacy issue.

7. In contrast, a clear glazed window serving the proposed bedroom, which would be set back in relation to the rear garden at no. 37, would enable direct overlooking of the rear garden of no. 37 from close quarters, to the detriment of the living conditions of the neighbouring occupiers. It is clear, from the layout of their garden, including the provision of tables and chairs, that the occupiers of no. 37 use this area for recreational and social purposes.

8. The proposal would therefore be contrary to policy DM32 of the North Somerset Sites and Policies Plan (Part 1), which protects the living conditions of adjoining properties through loss of privacy, such as through overlooking. It would also be contrary to national planning policy, as expressed in paragraph 17 [4] of *the Framework*[1], which states, in one of its core principles, that planning should always seek to secure a good standard of amenity (living conditions) for all existing and future occupants of land and buildings.

9. In conclusion, I find that the proposal would have a harmful effect on the living conditions of neighbouring residential occupiers with particular reference to overlooking leading to loss of privacy, contrary to national policy and the development plan. In my view, this outweighs any loss of outlook for future occupiers of the proposed development. For the reasons given above and having regard to all other matters, I conclude that the appeal should fail.

Mike Fox

INSPECTOR

[1] DCLG: National Planning Policy Framework (*the Framework*); March 2012.