
Appeal Decision

Site visit made on 30th January 2017

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 20th February 2017

Appeal Ref: APP/P4225/D/16/3164647
99 Kiln Lane, Milnrow, Rochdale OL16 3JN

- 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 Mrs Jane Karran against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 16/00988/HOUS, dated 16th March 2016, was refused by notice dated 17th November 2016.
 - The development proposed is the erection of a detached two-storey garage including demolition of existing garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-storey garage, including demolition of existing garage at 99 Kiln Lane Milnrow, Rochdale OL16 3JN, subject to the following conditions:
 - (a) the development hereby permitted shall begin not later than three years from the date of this decision;
 - (b) the development hereby permitted shall be carried out in accordance with the approved plans.
 - (c) the development hereby permitted shall not be brought into use prior to the rooflight shown on the submitted western elevation having been fitted with obscure glazing and fixed permanently shut.

Procedural matters

2. The application form describes the development as: *"the erection of new two-storey garage adjacent to existing house: build to consist of dual pitch roof with vaulted ceiling to allow for first floor construction and single outrigger / porch to house side elevation. External finish to match that of existing house"*. However the Decision Notice simplifies this to *"erection of a detached two-storey garage including demolition of existing garage (resubmission)"*. The submitted plans do not detail the form of the ceiling, nor does the design incorporate a porch. In the interests of simplicity and accuracy, I have adopted the Council's description, albeit omitting reference to resubmission.

Main Issues

3. The main issues in this case are the effect of the proposed development on:
 - (a) the character and appearance of the area; and

- (b) the living conditions of neighbouring occupiers.

Reasons

4. The appeal property comprises a dormer bungalow situated close to its boundary with Kiln Lane, together with a 3-bay timber garage / store located to the rear, close to the common boundary with *Strathmore*, a house fronting Wildhouse Lane. The intention is to replace the garage, which has a shallow monopitch roof, with an L-shaped building having a vehicular door in the gable ends of each limb, and a single personnel door on one of the returns.
5. The appellant states that the ground floor would provide storage for 4 cars with sufficient movement space around each. In my estimation it would be capable of accommodating 5 cars easily, and quite possibly more. There would be an upper floor set within the pitch of the roof which is shown on the plan as providing storage space within the parts having restricted height. The purpose to which the remainder would be put is stated by the appellant as being for the storage of motorbikes together with a sufficient working area. A window is shown in each of the gable ends above the vehicle doors; and 7 large rooflights are proposed to be inserted into the roof-slopes. The external finish of rendered block work with grey slate tiles would match that of the existing dwelling.
6. The building would have maximum dimensions of 11.4 metres (m) and 11m, providing a ground floor area of 96 sq m a total useable floorspace of 181 sq m. According to the appellant, it would have a ridge height of 5.5m with eaves at 2.3m. The Council estimates 5.9m and 2.8m for these dimensions respectively. The copy of the elevations drawing I have does not scale precisely, but the ground floor ceiling height, which equates roughly with the eaves, is given as 2.3m, so I consider that figure to be broadly accurate. The ridge height is not given but, by comparison with measured distances, I estimate that it would be in excess of 5.7m.

Character & appearance

7. The Council has referred me to Policies DM1 and P3 of its Core Strategy which require all development to be of high quality design and to take opportunities to enhance the quality of the area. This is broadly in line with the thrust of National Planning Policy Framework and the Council's own Supplementary Planning Document *Guidelines and Standards for Residential Development* (SPD). However, I find nothing objectionable about the architectural design of the proposed building in itself, which would be very similar to that of the existing house.
8. Moreover, I disagree with the Council's assertion that the building would be cramped within the plot. While it would be located close to 2 boundaries, that does not necessarily equate to it being cramped on the plot. Indeed, access to it would be good and the house would retain a reasonable amount of outside amenity space. The effect of siting the building close to the boundaries would place it in proximity to the gardens of the neighbouring dwellings, *Strathmore* and *Windy Ridge*. Insofar as that may be considered to be a cramped relationship, I will address it under my second issue.
9. I acknowledge that the proposed building would be substantial in size, much larger than commonly used for domestic garaging and storage. It would be

somewhat smaller than the house with which it would be associated, but nonetheless of a size comparable with a modest dwelling. As an outbuilding, it would not appear particularly subservient to house. In this, I would distinguish it from the present garage, which though itself fairly large, has a significantly smaller footprint and a low roof form.

10. The National Planning Policy Framework (NPPF) says that the Government attaches great importance to the design of the built environment. It adds that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
11. So far as I was able to ascertain during my site visit, I would estimate that, notwithstanding the intervening boundary walling and fencing to the house, some of the upper parts of the proposed building would be visible in public views from Kiln Lane, from Crossgates Road and from the car park to The Gallows public house. However, I do not believe it would form a prominent feature in the street-scene. It would set well back from Kiln Lane and partly screened by the house and its boundary treatment. It would in my opinion have a negligible impact on the appearance of the locality and little or none on its character. It would be viewed within the context of the residential area and would be read as visually integral to it. I therefore consider that the Council's first reason for refusal greatly exaggerates the potential for harmful impact on the locality. With respect to the guidance of the NPPF, while accepting that the building would be large, it would not represent poor design.

Living Conditions

12. Although the proposed siting of the garage would have the advantages of limiting its visual impact and minimising land-take within the garden, it would have the disadvantage of being closest to neighbouring properties, with the potential to affect the living conditions of their occupiers, in particular those of *Strathmore*.
13. I estimate from the submitted plans that the closest part of the rear elevation of *Strathmore* lies a little over 10m from the boundary with No 99, though more than this at its northern end. The space between the boundary and the proposed building would be a maximum of around 2m in the north, reducing to the south. The two buildings would be in the region of 12m apart at the closest with perhaps as much as 15m separation at the northern end.
14. Windows at the rear of *Strathmore* would face the western elevation of the proposed building: comprising a blank rendered wall 11 metres in length, including a gable and a roof-slope incorporating a single rooflight. The narrow gap between the existing garage and the rear boundary is presently occupied by a mature conifer hedge which is a little taller than the garage and provides screening for it. If the hedge were to be retained, it would provide a significant amount of screening – to above eaves height – for the proposed building. However, there can be no guarantee that it would be possible to retain it,

having particular regard to the proximity of the building and the need to excavate foundations. In my opinion, there must be a possibility that the hedge would be seriously damaged, such that it could lose much or all of its value as a screen. Irrespective of the degree of screening that the hedge or a replacement fence might provide, it is clear that much of the gable and the roof would be readily visible from *Strathmore* and its garden, stretching along something over half the width of the rear boundary.

15. The proposed building would approach to within about 1.5m of a short length of the plot boundary with Windy Ridge, at the end that dwelling's garden. The closest corner of the house would be around 15m away and views from any window would be oblique.
16. The Council acknowledges that, although the proposed building would deprive the gardens of the neighbouring houses of some light at certain times of day, the effect would not be detrimental to their occupiers by reason of overshadowing or loss of daylight. I agree.
17. The Council's SPD sets out space standards to be applied to new residential developments and developments which affect existing residential properties. My attention has been drawn to the requirement for a distance of *21 metres between directly facing principal windows of habitable rooms, at an upper floor level AND 10.5 metres between a principal window at an upper floor level and a directly facing boundary of the curtilage*". The definition of a principal window is set out in the glossary of the SPD as "*Windows which are the main source of light and outlook for a particular room. Where two or more windows serve a room, it will normally only be the principal window - the larger window or the window with the primary outlook - which is protected by the relevant policies of this document. However, for large rooms, it may be considered that there is more than one principal window, for example where a room extends from the front to the back of the house and where a window exists in both the front and rear elevations*".
18. The application of this standard gives rise to a number of questions: whether the roof-lights serving the proposed building should be regarded as "principal windows"; and whether the 10.5 metre standard applies only where the boundary of the curtilage is to a dwelling having directly-facing principal windows
19. As to the first, I consider that the roof-lights should be regarded as windows, notwithstanding that they are described as "skylights" on the plans. Moreover, I believe that, taking account of their size (over a metre in both dimensions) and position, and the angle of the roofs, it would be possible for someone inside to look out. The upper floor is shown as a single room, with 7 roof-lights. But the internal arrangements – which for example omit any means of gaining access to the upper floor – are not shown on the submitted plans. I have doubts about the practicality of using the space for storage of motorbikes, as claimed by the appellant. Taking the machines up and down a staircase would be extremely awkward, as would the use of a hoist. The likely use of the space must therefore be uncertain. If it were the intention to subdivide it, that could affect the number of roof-lights that might be regarded as "principal". As things stand, any of them could potentially qualify.
20. Second, I do not believe that the intention of the 10.5m standard should apply to situations where there are no directly facing windows, not least because a

lower standard of 10m applies in circumstances where a principal window faces a single-storey secondary (blank) elevation on a boundary. On that basis, the only roof-light that would be affected by the 21m / 10.5m standard would be that in the roof-slope facing the rear of *Strathmore*.

21. If the rooflight in question were to qualify as a principal window, then I would take the view that the standard would be breached and that there would be an unacceptable risk of overlooking, contrary to the SDP and to Policy DM1, which seeks amongst other things to ensure that development does not adversely affect the amenity of residents through loss of privacy. However, it seems to me that any potential for overlooking could be avoided by the simple expedient of requiring the window to be obscure glazed and fixed shut, thereby preventing any outlook. As there would be several other windows serving the upper floor, this would not be unreasonable, in my view.
22. Finally, the Council says that the proposed building would have an overbearing impact on *Strathmore*. However, in view of the fact that it does not allege any unacceptable loss of light, and that the space standards are content to allow a secondary single-storey elevation to be built within 10m of a principal window – rather closer than the situation in this case, I take the view that while the proposed building would obviously be visible from *Strathmore*, it would not excessively dominate that property or significantly deprive the occupiers of a reasonable outlook.
23. I conclude that the living conditions of neighbouring occupiers would not be unreasonable affected

Conditions

24. The Council has suggested just 2 conditions, relating to the timescale for commencement and compliance with the submitted plans. These are commonly applied in order to ensure that the development is carried out in a timely manner and as proposed. I have imposed them. As discussed above, I have also required that the roof-light shown on the western elevation should be fitted with obscure glazing and fixed shut.

Overall conclusion

25. I conclude overall that the proposed development, though large for a garage, would not unacceptably affect either the character or appearance of the locality or the living conditions of neighbouring occupiers. I agree with the Council that the building would be large for a garage, but as no material adverse impact arising from its size would arise, I do not regard that as being sufficient, alone, to justify withholding permission.

Jonathan G King

Inspector