
Appeal Decisions

Site visit made on 31 January 2017

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 22 February 2017

Appeal Ref: APP/X4725/W/16/3162075

20 Cardigan Lane, Wakefield, Ossett WF5 0LT

- 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 Anthony Bowering against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/01451/FUL, dated 4 October 2015, was refused by notice dated 15 September 2016.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal on the living conditions of future occupants with particular reference to privacy, noise and disturbance.

Reasons

3. The appeal site comprises part of the rear garden space associated with 20 Cardigan Lane which is an end of terrace two storey residential property. The existing rear boundary of the plot faces onto Charles Street, which is a residential street with a mix of mainly terraced houses and semi-detached bungalows. The proposed dwelling would be situated between Nos 9 and 15 Charles Street.
 4. The front of the proposed dormer bungalow would face onto Charles Street and the rear would face towards the host property, 20 Cardigan Lane. The rear elevation would have dining/kitchen and lounge windows at ground floor with roof lights serving a bedroom and en suite in the roof space.
 5. I observed at my site visit that the rear first floor windows of No 20 serve a hallway only. Although the level of intrusion into the rear of the proposed dwelling is unlikely to be as significant as if the windows served habitable rooms, as a consequence of the position and elevation of these windows, there would nonetheless be an unacceptable level of visual intrusion into the private amenity space and potentially into the rear habitable rooms. Consequently, the living conditions of the future occupants would be compromised to an unacceptable degree.
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6. As a result of the very close relationship between the boundary of the rear amenity space and associated existing outbuilding at No 20 and the rear elevation of the proposed dwelling and its private amenity space there may be a degree of general domestic noise and disturbance. However, I do not find this relationship to be particularly unusual or likely to result in excessive noise and disturbance that would be harmful to the living conditions of the future occupants of the proposal.
7. In their reason for refusal the local planning authority indicates that the proposal by virtue of separation distances would be significantly detrimental to the residential amenity of the adjoining residents. This concern is not substantiated in the delegated report. In any case, I do not consider that the poor separation distance is harmful to the living conditions of the occupants of the existing property with particular reference to privacy, noise and disturbance.
8. I understand that the proposal would meet the requirements of the appellant's personal circumstances and that they would be likely to be the future occupants of the proposed dwelling. Nonetheless, I do not find that such circumstances justify such a significant compromise in terms of the living conditions associated with the proposal. Furthermore, I understand that boundary treatment may mitigate the potential harm; however, the height or density of the mitigation required would be such so as to compromise the living conditions of future occupants in terms of being dominant and visually prominent from the rear windows of habitable rooms.
9. Therefore, I conclude that the proposal would be harmful to the living conditions of the future occupants of the proposed dwelling with particular reference to privacy. As such it is contrary to the amenity requirements of Policy D9 of the Development Policies April 2009 and guidance in the Residential Design Guide November 1996.

Conclusion

10. For the reasons given above and taking into account other matters raised I conclude that the appeal should be dismissed.

Alastair Phillips

INSPECTOR