
Appeal Decision

Site visit made on 21 February 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 10 March 2017

Appeal Ref: APP/A1720/D/16/3162568

208A Swanwick Lane, Swanwick, Southampton SO13 9AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs V Harfield against the decision of Fareham Borough Council.
 - The application Ref P/16/0933/PH, dated 9 August 2016, was refused by an undated notice.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for a single storey rear extension at 208A Swanwick Lane, Swanwick, Southampton SO13 9AF in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A.4 (2) of the GPDO subject to the following additional condition:
 - 1) The extension hereby permitted shall not be occupied until the window in the side elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Procedural matters

2. This appeal relates to the refusal of prior approval required under Schedule 2, Part 1, Paragraph A.4 of the GPDO. The provisions of the GPDO require the local planning authority, once an objection from the occupier of an adjoining property is received, to assess the impact on the amenity of any of the adjoining premises, taking into account representations received. I have determined this appeal in the same manner.
 3. The copy of Council's decision notice supplied by the appellant is neither dated nor does it have the authority within the Council under which it was issued. However, taking account of the notice as a whole including the reason as set out and the statement of the applicant's rights it is reasonable to read as a notice of the refusal of prior approval.
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4. The Council has referred to two development plan policies which it considers the proposal would breach. These policies are material insofar as they relate to the impact on amenity as they provide me with guidance as to where the Council considered those effects to be.

Main Issue

5. The main issue is the effect on the living conditions of the occupiers of 208 Swanwick Lane in terms of light and outlook.

Reasons

6. The appeal property is a two storey terrace property on the north side of Swanwick Lane with outshoots to the rear of each of the properties. Both 208A Swanwick Lane and the adjoining property No 208 have windows in the rear elevations of the main section of the houses looking down the respective gardens. No 208 has two windows and a glazed door in the side elevation of the outshoot to the kitchen at ground floor facing the joint boundary and a window and rooflight in the end elevation. The current joint boundary is made up of an approximately 1.8 m high close boarded fence, with the landform sloping gently down away from the houses to the north.
7. The proposal is for the erection of a single storey extension to the rear of the property constructed behind the living room to the depth of the outshoot. It would be constructed to the boundary, with a high level window facing No 208, and bi-fold doors to the rear.
8. Unlike the appeal property, where the front and back rooms have been 'knocked through', No 208 retains two rooms with the window in the rear elevation providing the main light to the back room, with some filtered light coming through from the kitchen in the outshoot. As the proposed development would be taller than the existing fence it would harmfully restrict the amount of light to the living room and mean that the area to the rear would be enclosed thereby reducing the outlook.
9. While there would be a loss of light and outlook through the two windows and door in the side of the kitchen, having been inside of No 208 at the site visit, the main source of light and outlook was from the north. The proposal would not affect this so that, while there would be a change in outlook, the proposal would not have a material effect on the living conditions of the occupiers within the kitchen.
10. To ensure that the window in the side elevation of the proposal would not result in unacceptable overlooking, this window should be fitted with obscure glazing and be non-openable below 1.7 m above floor level.
11. As stated above the current proposal is being promoted under the prior approval regime set out in Paragraph A.4 of the GPDO. This allows for longer extensions than could be constructed under permitted development rights which do not require prior approval.
12. The appellant maintains it would be possible to construct a rear extension utilising these non-prior approval permitted development rights. While this appeal is not the forum to determine whether such an extension would be lawful, given the Council has not refused the current proposal as not complying

- with the relevant criteria it is reasonable to assume that such rights are still in place.
13. A permitted development extension could extend some 3 m to the rear of the property¹ rather than the just over 5 m in the proposal. In addition, being within 2 m of the boundary any eaves could be only a maximum of 3 m in height² rather than the 4 m stated by the appellant, although the height could then increase to 4 m. The eaves height could be slightly taller than the extension proposed.
 14. In the event the appeal was dismissed, and although creating less accommodation than the proposal, I consider that there is a greater than theoretical possibility that a non-prior approval permitted development extension would be constructed. This would have the same effects on the living conditions of the occupiers of No 208 within the living room. I give the possibility of this taking place substantial weight as there is nothing to prevent such an extension being constructed and it would provide the majority of the accommodation sought.
 15. In light of this, although the proposed extension would have harmful effects on the living conditions of the occupiers of No 208, the same effects would take place if non-prior approval permitted development rights were utilised.
 16. The proposal would be contrary to the principles of Policy CS17 of the Fareham Local Development Framework Core Strategy in that it would not create a high quality place and would be contrary to the principles of Policy DSP3 of the Fareham Local Plan Part 2: Development Sites and Policies which require that there should be no unacceptable adverse impact on living conditions for neighbouring development by way of daylight and outlook. It would also be contrary to paragraph 17 of the National Planning Policy Framework (the Framework) which seeks a good standard of amenity for all existing occupiers. However, I conclude that the fall back position available to the appellant outweighs the harm I have found and consequently the appeal should be allowed.

Conditions

17. I have considered the need for conditions against the requirements of the national Planning Practice Guidance and the Framework.
18. In granting approval the appellant should note that the GPDO requires at Paragraphs A.4 (13), (14) and (15) that the development shall be completed on or before 30th May 2019 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer; the address or location of the development, and the date of completion.
19. In addition Paragraph A.3 provides that development is permitted subject to the condition that the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. An additional condition relating to materials is therefore not necessary.

¹ See paragraph A.1.(f) of Schedule 2, Part 1 of the GPDO

² See paragraph A.1.(i) of Schedule 2, Part 1 of the GPDO

20. As set out above, in order to ensure that there is no unacceptable overlooking a condition requiring obscure glazing and non-opening below 1.7 m of the floor level of the window in the side elevation is necessary in order to ensure that there is no unacceptable overlooking leading to a loss of privacy.

Conclusion

21. For the reasons given above I conclude that the appeal should be allowed and approval granted.

RJ Jackson

INSPECTOR