
Appeal Decision

Site visit made on 18 April 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 15th May 2017

Appeal Ref: APP/Z4718/D/17/3168839

5 Round Wood Avenue, Waterloo, Huddersfield HD5 9XS

- 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 Ms Vikki Corcoran against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/93117/W, dated 8 September 2016, was refused by notice dated 19 December 2016.
 - The development proposed is a two storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect the proposed development would have on the living conditions of the occupiers of the neighbouring property at 7 Round Wood Avenue.

Reasons

3. The development site at 5 Round Wood Avenue is the end house of a short terrace of four properties. The proposed development is a two-storey extension that would run along the boundary with No 7, projecting approximately three metres from the rear elevation of No 5. The rear elevation of No 7 has a ground floor kitchen window, a rear door and two first-floor windows. The first-floor window closest to the boundary with No 5 is identified as a bedroom window.
 4. The appellant said that the rear of the property is south facing and receives sunlight throughout the day. I visited the site in the morning and the rear elevation of Nos 5 and 7 were both in shadow and the front elevations were in direct sunlight. The appellant also said that there is existing overshadowing of No 7 from the properties at 1 and 3 Round Wood Avenue. At the time of my visit these buildings did cast a shadow but it did not reach the boundary of No 7. I take account of the fact that any shadow will change throughout the day and at different times of the year. However, it was clear to me that the orientation of the terrace is such that the rear elevation receives some late afternoon sunlight, by which time any overshadowing from Nos 1 and 3 would be on the side elevation of No 5 and not the rear elevation of No 7.
 5. The proposed development would rise to approximately the same height as the roof of No 7 and would therefore be higher than No 7's first-floor windows.
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Given the orientation of the property, the proximity of the extension to the boundary is likely to result in a substantial loss of direct afternoon sunlight to the rear elevation of No 7, and specifically to the first-floor bedroom window. This would cause significant harm to the living conditions of the occupiers of No 7 and would be contrary to saved policies D2 and BE14 of the Kirklees Unitary Development Plan 2007, which seek to ensure that development does not have a detrimental effect on the occupiers of neighbouring properties.

6. The appellant also states that a single storey extension would have the same effect on the living conditions of the occupiers of No 7 and would be permitted development. Whether such a structure would be permitted development is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. However, I am satisfied that the effect of the proposed development would be significantly more detrimental to the living conditions of the occupiers of No 7, in terms of loss of direct afternoon sunlight, than a single storey structure would.
7. The scale and height of the proposed development would also affect the outlook from No 7. The current outlook is across a short space towards buildings of similar height and design to the proposed extension. Therefore, I conclude that the impact of the extension would be unlikely to be significantly harmful. However, the fact that the extension would not be harmful to the outlook from No 7 is insufficient to overcome the harm caused by overshadowing.

Other Matters

8. The appellant states that the extension is required to accommodate a growing family, which is a matter that I give significant weight. However, I also have regard to the fact that the extension would remain long after the appellant's personal circumstances changed. I conclude that the need for additional accommodation does not outweigh the harm to the living conditions of the occupiers of No 7 that would arise from the proposed development.

Conclusion

9. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR