
Appeal Decision

Site visit made on 20 June 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 30th June 2017

Appeal Ref: APP/W4223/D/17/3170268

42 Gartside Street, Oldham, Lancashire OL14 1BX

- 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 Sajid Hussain against the decision of Oldham Metropolitan Borough Council.
 - The application Ref HH/339428/16, dated 25 November 2016, was refused by notice dated 23 January 2017.
 - The development proposed is a single storey rear extension.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development on the planning application form describes the proposal as retrospective. From my site visit, it was apparent this is not the case as the existing rear single storey extension is different in design and form to that which is subject of this appeal. I understand from the Council submission that the existing extension was subject of a separate planning application (ref: HH/338866/16) that was refused. I have determined the appeal on the basis of the plans before me and attach very little weight to the presence of the existing extension.

Main Issue

3. The main issue is the effect on the living conditions of the occupiers of 44 Gartside Street, in respect of visual impact, outlook and light.

Reasons

4. The appeal property comprises a modest sized mid-terraced house, and contains a small rear garden. The boundary of the property with the rear of No 44 is formed by the side wall of the existing extension. No 44's rear garden abuts this boundary, and comprises of a grassed area with small trees, paving and domestic apparel, which is accessed from the property by a rear entrance door. No 44's kitchen window faces over its rear garden and is positioned approximately 0.5 metres (m) off the boundary with the appeal property.
5. The side wall of the proposal would extend along approximately two thirds of the boundary with No 44's rear garden, and at a height on the boundary of approximately 3m, No 44's rear garden forms an attractive environment for its

occupiers, with evidence that it is well used, and adds appreciably to the space available for use for a modest sized property. The massing that would result from the side wall of the proposal would markedly enclose this boundary and this would result in a significant and adverse visual impact on the enjoyment of the use of the rear garden.

6. No 44's kitchen window is the only window which affords the kitchen an outlook. The window is also located over the sink, so it is in a position where occupiers will be using the kitchen and can therefore appreciate the outlook. The close proximity of the side wall of the proposal would result in it been dominant in view from the kitchen window, severely and detrimentally affecting the outlook from this window. Although the modest size of the rear garden means the outlook is limited, this would be lessened even further by the proposal.
7. No 44 is also sited to the north of the appeal property, so with its orientation to direction of the sunlight and the proximity to the proposal, the rear garden and the kitchen window would be likely to suffer some loss of direct sunlight and overshadowing, although with the height of the sun over the proposal this would alleviate this effect, to an extent. Whilst this may not be determinative on its own, it would add to the unsatisfactory effects on living conditions.
8. There is also a small garden to the front of No 44. This is however more open to public view and it does not provide the same degree of enjoyment of use as the rear garden. It would not make up for the loss of living conditions resulting from the effects on the rear garden.
9. I therefore conclude that the proposal would have an unacceptable harmful effect on the living conditions of the occupiers of 44 Gartside Street, in respect of outlook, visual impact and light. It would therefore not comply with Policy 9 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies (2011) which requires development not to have a significant harmful effect on occupiers through impacts on visual appearance, daylight and other nuisances.
10. Paragraph 203 of the National Planning Policy Framework states that it should be considered whether otherwise unacceptable development could be made acceptable through the use of conditions. I do not consider that conditions could be reasonably imposed that would make the proposal acceptable without fundamentally altering what is subject of this appeal.

Other Matters

11. The proposal would be acceptable in respect of character and appearance, access, bin storage and effect on trees, although this does not address the concerns over living conditions.
12. I acknowledge the appeal property is modest in size and that the proposal is required to provide for a bigger kitchen to meet family needs. However this is a personal benefit to the appellant and this does not outweigh the harm I have identified.
13. I also note comments made about how the Council dealt with the planning application, although this is not a matter for me to comment on in the context of this appeal.

Conclusion

14. I conclude the appeal should be dismissed.

Darren Hendley

INSPECTOR