
Appeal Decision

Site visit made on 20 June 2017

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 03 July 2017

Appeal Ref: APP/A4520/D/17/3174655

18 Foxglove Court, South Shields, Tyne and Wear NE34 0BH

- 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 and Mrs Titus and Adenike Owoso against the decision of South Tyneside Metropolitan Borough Council.
 - The application Ref ST/1143/16/HFUL, dated 22 November 2016, was refused by notice dated 15 February 2017.
 - The development proposed is described as 'two storey rear extension'.
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Decision

1. The appeal is dismissed.

Procedural matters

2. During my site visit, I saw a two storey rear extension has been built at the appeal property. It is not disputed by the parties that the extension as built has a depth of 4 metres from the rear of the original dwelling. Whilst I have had regard to the Council's comments that the proposed plans show an extension with a depth marginally below 4 metres, I note however that the site layout plans indicate that the extension has a depth of 4 metres. I observed that a first floor window as built in the extension is smaller than that shown on the plans and for the avoidance of doubt, I have dealt with the proposal on the basis of the submitted plans.

Main Issue

3. The main issue for the appeal is the effect of the appeal scheme on the living conditions of the occupiers of 17 Foxglove Court with particular regard to outlook.

Reasons

4. The host dwelling is a two storey semi-detached property with a hipped roof. I saw at the site visit that No 17 has in its rear elevation, a set of French doors with a first floor window above, positioned towards the common boundary. The parties agree that the first floor window of No 17 serves a bedroom whilst the French doors serve a dining room. I note from the Council officer's report that the room served by the French doors has a dual aspect, with a living room window to the front. This has not been disputed by the appellant. I have had regard to the appellant's comments that a dining room is not a habitable room. However, on the balance of evidence, I am not convinced that the room served
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by the French doors would not be likely to be occupied for significant periods by the occupiers of the dwelling.

5. At about 4 metres in depth, the rear extension presents a significant area of two storey flank wall on the common boundary. Although the roof of the rear extension is hipped, due to its height and depth, position and the close proximity of the French doors and bedroom window of No 17, it has a material effect on outlook from these rooms. Consequently, the extension is an unacceptably dominant addition which makes these rooms less pleasant to use.
6. I have had regard to the comments that the Council's SPD 9: Householder Developments (SPD) does not provide any parameters to indicate what would or would not be acceptable in relation to overbearing issues and that it includes that site specific circumstances should be taken into account. However, although the extension does not give rise to unacceptable effects in terms of loss of privacy or shadowing due to the orientation of the dwellings, the effects of the proposal on the living conditions of the occupiers of No 17 are nevertheless unacceptable. I have also had regard to the appellant's comments regarding the design policies of the National Planning Policy Framework (the Framework), but these do not lead me to a different conclusion.
7. The appeal proposal has an unacceptable effect upon the living conditions for the occupiers of No 17, contrary to Policy DM1 of the South Tyneside Local Development Framework Development Management Policies 2011 which includes amongst other things, that it will be ensured that the development is acceptable in relation to any impact on residential amenity. It also conflicts with the guidance set out in the SPD in respect of the amenity of neighbours and with paragraph 17 of the Framework, which amongst other things, includes that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

8. I have had regard to the comments concerning the lack of objections to the appeal scheme from the occupiers of No 17, but in reaching my decision have taken into account the living conditions of both existing and future occupants of the dwelling. I have taken into consideration that the appellants have a 'rent to buy' arrangement and have financed the building work and fees for the extension, that they have lived in South Shields for many years and are active in the local community and church. These matters do not however lead me to a different conclusion.
9. I have also had regard to the comments regarding the Council's planning and building regulations processes, concerning the withdrawal of a letter of support from a neighbour and that the appellants were not made aware of the refusal of planning permission. These are matters however for local government and commercial accountability.
10. I have taken into account the comments that allowing the extension to remain would ensure that standard building work practices are achieved and would help in reducing the carbon footprint, contributing to achieving sustainable development. However, this does not overcome the harm identified.

Conclusion

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

Philip Lewis

INSPECTOR