
Appeal Decision

Site visit made on 7 August 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 18 August 2017

Appeal Ref: APP/W4223/D/17/3173658

2 Yewdale Drive, Failsworth, Manchester, Lancs M35 0XE

- *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 I King against the decision of Oldham Metropolitan Borough Council.
 - The application Ref HH/339670/17, dated 23 January 2017, was refused by notice dated 22 March 2017.
 - The development proposed is a part double and part single storey extension to the rear.
-

Decision

1. The appeal is allowed and planning permission is granted for a part double and part single storey extension to the rear at 2 Yewdale Drive, Failsworth, Manchester, Lancs M35 0XE in accordance with the terms of the application Ref HH/339670/17, dated 23 January 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (dated 25 January 2017); 01214 (Site Plan); AB01220/1; AB01220/2; AB01220/3; AB01220/4; AB01220/5.
 - 3) The first floor window in the side elevation facing 5 New Oak Close hereby permitted shall be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Main Issue

2. The main issue is the effect on the living conditions of occupiers of neighbouring properties, with particular regard to 5 New Oak Close and matters of outlook.

Reasons

3. The appeal property is a two storey detached house with a rear conservatory. The layout of Yewdale Drive results in Nos. 2 and 4 having a different alignment and building lines, with the rear garden of No 4 adjoining the rear boundary of No 2. Nos. 3, 5 and 7 New Oak Close lie to the east with rear elevations and gardens that face toward the side and rear boundaries of the appeal site. The side and tapered rear boundary fences are supplemented by

intermittent landscaping, except for a section of tall and dense landscaping along the boundary with the rear garden of 5 New Oak Close.

4. 5 New Oak Close has an existing rear conservatory which together with habitable windows at first floor level is located close to the side gable of 7 New Oak Close, due to the set back building lines of the latter property. The side gable of the appeal property is also close to its rear boundary, together with the supplementary section of landscaping. Consequently, the rear elevation and rear garden of 5 New Oak Close experiences some existing enclosure by built form and overshadowing in afternoons and early evenings due to the position, scale and massing of the appeal property, 7 New Oak Close and the presence of tall landscaping at the rear.
5. The proposal would replace the existing rear conservatory with a part single and part two storey rear extension. The maximum depth of the extension at the rear would be comparable to the existing conservatory, with a reduced depth at first floor level. The extension would also incorporate a hipped design of the main roof to minimise its scale, bulk and massing, together with a set in from the existing side elevation which faces towards 5 New Oak Close.
6. Having regard to the above, the extension would increase the overall depth of the appeal property at first floor level. However, it would also have an increased separation distance to the rear elevation of 5 New Oak Close and its rear garden when compared with the side gable of the existing property. Taking account of the extent of existing built form in closer proximity, the separation distance would be sufficient to ensure that the scale, bulk and massing of the extension would not result in an increased sense of enclosure, overbearing, overshadowing or a loss of outlook for occupiers of 5 New Oak Close. In reaching that finding, the presence of existing tall landscaping is not an influential factor as it could be reduced in height or removed in the future.
7. The relationship of the extension to the main elevations of other neighbouring properties would be more oblique with a greater separation distance to habitable windows and rear gardens. Consequently, the extension would not result in overbearing, overshadowing, a sense of enclosure or loss of outlook for occupiers of 4 Yewdale Drive or Nos. 3 and 7 New Oak Close.
8. Turning to matters of privacy, although not forming part of the Council's reason for refusal, the occupier of 5 New Oak Close has expressed concern relating to a new window in the side elevation of the main property as indicated on the submitted plans. There is no evidence that the property has had permitted development rights removed within Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 which, amongst other things, is relevant to the insertion of windows. However, those permitted development rights are subject to restrictions that any upper floor window located in a wall forming a side elevation must be obscure-glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. It is, therefore, reasonable that if planning permission is granted for the insertion of the window that a similar condition be imposed to prevent overlooking of the rear elevation and rear garden of 5 New Oak Close.
9. The proposed windows in the rear elevation of the extension would be closer to 4 Yewdale Drive and 7 New Oak Close. However, due to the different alignment of the neighbouring properties the relationship between habitable

windows in the respective rear elevations would be at an oblique angle which would prevent any harmful overlooking between properties. The rear garden of 4 Yewdale Drive would be largely unaffected due to the indirect relationship and partial screening afforded by the position of a detached garage.

10. The first floor window of the extension would be closer to the rear garden of 7 New Oak Close. However, the rear garden is already overlooked by the appeal property and other neighbouring properties. The extension would not significantly alter that relationship and therefore, would not result in an unacceptable loss of privacy for the occupiers of 7 New Oak Close.
11. The issue of property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as the value of land and property.
12. I conclude that the development would not have an unacceptable impact upon the living conditions of occupiers of neighbouring properties, including 5 New Oak Close. The proposal would not conflict, therefore, with Policy 9 of the Oldham Local Development Framework Joint Core Strategy and Development Policies Development Plan Document, adopted November 2011, which, amongst other things, seeks to ensure development does not cause significant harm to the amenity of existing and future neighbouring occupants. The policy is consistent with the core planning principle of the National Planning Policy Framework (the Framework) that seeks a good standard of amenity for all existing and future occupants of land and buildings.

Conditions

13. The Council suggested a number of conditions which I have considered relative to paragraph 206 of the Framework and Planning Practice Guidance. Time limit and plans compliance conditions are necessary in the interest of certainty as to the development for which planning permission is granted. The design of the development would be of a complementary scale, bulk, massing and materials relative to the existing property and those surrounding. Matching materials are specified on the approved plans, therefore, a condition in that respect is not necessary.
14. As previously mentioned, an obscure glazing and opening restriction on the proposed window in the side elevation facing 5 New Oak Close is imposed in the interest of preventing a loss of privacy to the occupiers of that property.

Conclusion

15. For the reasons given above and taking all other matters into consideration, I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out in the formal decision.

Gareth Wildgoose

INSPECTOR