
Appeal Decision

Site visit made on 22 August 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 24th August 2017

Appeal Ref: APP/R4408/W/17/3175804

Ivy Cottage, 108 Upper Hoyland Road, Hoyland, Barnsley, S74 9NL

- 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 Mrs Julie Skelton against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2017/0403, dated 24 March 2017, was refused by notice dated 12 May 2017.
 - The development proposed is conversion of existing annex into a single dwelling with associated amenity space, parking and new access to existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing annex into a single dwelling with associated amenity space, parking and new access to existing dwelling at Ivy Cottage, 108 Upper Hoyland Road, Hoyland, Barnsley, S74 9NL in accordance with the terms of the application, Ref 2017/0403, dated 24 March 2017, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16-115-02; 16-115-03B; 16-115-04A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Prior to the first occupation of the proposed dwelling, the windows in the eastern elevation of the building facing 108 Hoyland Road shall be fitted with obscured glazing and shall be retained as such thereafter.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the eastern elevation of the dwelling hereby permitted.

Main Issues

2. The main issues are the effect of the development, firstly, on the living conditions of the occupiers of No 108 Upper Hoyland Road, and future

occupiers of the proposed dwelling, with regard to outlook and natural light and, secondly, on the character of the area.

Reasons

Living conditions

3. The appeal building is a 2 storey structure that is currently used as an annex to No 108 Upper Hoyland Road. It is located in close proximity to the western elevation of that property, and contains 3 windows that face onto it.
4. The 3 windows in the appeal building's eastern elevation would be built up internally, and opaque film would be applied to the glazing. The retention of obscured glazing could be secured by condition. These measures would ensure that there would be no direct overlooking to the existing windows in the western elevation of No 108. Whilst I note the minimum separation distances stipulated in the Council's Designing New Housing Development Supplementary Planning Document (SPD), in this case the appeal building already exists. Accordingly, the conversion would not result in any loss of light or outlook to windows in No 108, over and above the existing situation. Accordingly, the failure to meet the SPD separation distances is not critical in this case.
5. The proposed boundary fence would be in close proximity to 2 ground floor windows to No 108 that serve a kitchen. However, the larger of those 2 windows is in an elevated position, and would be mostly above the proposed fence. Whilst the other, smaller, window would be more significantly affected by the fence, sufficient light and outlook would be provided to this room by the larger window.
6. The windows in the western elevation of No 108 serve a kitchen and a bathroom, which are less sensitive rooms. The proposed access and bin storage area would therefore not lead to significant disturbance to that property. These facilities would also be behind a 1.8 metre screen fence. This would not be an unusual arrangement within a residential area.
7. The proposed garden to the new property would be elevated relative to the retained garden area to No 108. However, the proposed screen fence would provide an adequate level of privacy to both properties in my view. The occupiers of No 108, who are the appellant in this case, could also supplement this boundary with additional planting should they consider it necessary.
8. Whilst the 3 windows in the appeal buildings eastern elevation would be built up internally, other new openings would be created. Each of the ground floor bedrooms would be served by a large window that would provide adequate light and outlook. The first floor lounge/kitchen/dining area would also be adequately served by 2 large windows in the southern elevation of the building, as well as a smaller window to the northern elevation.
9. For the above reasons, I conclude that the development would not significantly harm the living conditions of the occupiers of No 108 Upper Hoyland Road, and future occupiers of the proposed dwelling, with regard to outlook and natural light. It would therefore be in accordance with Policy CSP 29 of the Barnsley Core Strategy (2011) and Policies H8A and H8D of the Barnsley Unitary Development Plan (UDP) (2000). These policies seek to ensure, amongst other things, that new development does not result in harm to the amenities of existing residents. It would also accord with the National Planning Policy

Framework which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

10. The appeal building is located in a predominantly residential area. The majority of the surrounding properties are modern bungalows in spacious plots, although the character of the area is varied. In this regard, there are properties of various ages and sizes along Upper Hoyland Road, and there is no consistent building line. There are also a number of dwellings in backland locations along the street. In addition, the appeal building already exists and its outward appearance would not significantly change as a result of the development. Moreover, it is discreetly positioned and has only limited visibility from Upper Hoyland Road. In this context, I do not consider that the proposed conversion would be unduly harmful to the area's character.
11. I conclude that the development would not significantly harm the character of the area. It would therefore be in accordance with Policies H8A and H8D of the Barnsley UDP (2000). These policies seek to ensure, amongst other things, that new development is compatible with the surrounding area. It would also accord with the National Planning Policy Framework which requires good design.

Other Matters

12. A Lawful Development Certificate has recently been granted for proposed works to the appeal building. However, it appears highly unlikely that these works would be undertaken should this appeal be dismissed. This limits the weight I can attach to the Lawful Development Certificate as a fallback position.
13. Any concerns relating to the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

Conditions

14. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary for certainty and to ensure a satisfactory development. A condition requiring that the external materials match those used in the existing building is necessary to preserve the character and appearance of the area. Further conditions that require the fitting of obscured glazing, and that remove permitted development rights to create new openings in the buildings eastern elevation, are necessary to protect the living conditions of both the occupiers of No 108 Upper Hoyland Road and future occupiers of the proposed dwelling.
15. The Council also suggested a condition that would have required the submission and approval of a plan indicating the position of the proposed boundary treatment. However, the position of the proposed fence is already indicated on drawing No 16-115-04A, and so this condition is unnecessary. The Council also suggested a further condition that would have removed a number of permitted development rights from the new property. However, there is no evidence before me that exceptional circumstances exist that would justify the removal of these permitted development rights, and this condition is therefore unnecessary.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR