
Appeal Decision

Site visit made on 14 November 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 27 November 2017

Appeal Ref: APP/X4725/W/17/3181138
372 Leeds Road, Wakefield WF1 2JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Beech against City of Wakefield Metropolitan District Council.
 - The application Ref 17/01090/FUL, was registered by the Council on 10 May 2017.
 - The development proposed is described on the application as 'rear extension to kitchen'.
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Decision

1. The appeal is allowed and planning permission is granted for two storey extension to rear including veranda at 372 Leeds Road, Wakefield WF1 2JA in accordance with the terms of the application, Ref 17/01090/FUL, registered by the Council on 10 May 2017, 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: 2016/181/01 Rev B received 11.17.2017.
 - 3) 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 northern elevation.
 - 4) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Procedural Matters

2. The description of development within the decision above is taken from the Council's notification letter because the description on the application form did not make reference to the proposed veranda. I consider this to be a more accurate description of the proposal.
3. During the course of the application, an amended plan ref: 2016/181/01 Rev B, was submitted incorporating privacy screens to either side of the veranda in order to prevent overlooking. I have considered the appeal on the basis of this plan.

4. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction was taken away when the appeal was lodged. However, I note the assessment and conclusions submitted in the Council's statement and I have treated those as the basis of the decision the Council would have made, had it been empowered to do so. The Council is principally concerned by the effect that the proposed development would have on the living conditions of the occupiers of 374 Leeds Road. I have drawn on the Council's concerns, together with other evidence before me, to inform the main issue in this appeal.

Main Issue

5. The main issue is therefore the effect of the proposed development on the living conditions of the occupiers of 374 Leeds Road with particular regard to outlook and light.

Reasons

6. 372 Leeds Road is a two storey mid-terrace property, with basement and a three storey, half-width rear outrigger. The proposal comprises a two storey extension with hipped roof to the side of the three storey outrigger projecting approximately 3.1 metres and measuring around 4.8 metres in height. A veranda would extend from the rear wall of the extension to a depth of around 1.8 metres with privacy screens either side to avoid overlooking into neighbouring gardens. The Council is satisfied that no material overlooking or loss of privacy would occur and I share that view. However, the Council considers the scheme would breach the 45 degree rule resulting in overshadowing and that it would be perceived as overbearing by the occupants of No 374.
7. No 374's rear elevation is set back from the rear building line of the host property and further still from the rear elevation of the three storey outrigger. It is also set a lower level than the appeal site with a brick wall and fence running the length of the common boundary. There is a decked area to the rear of the property and rear windows which appear to serve habitable rooms.
8. No 374 lies to the north of the appeal property. Given the sun's normal daily trajectory, this means that the rear elevation and decked area would stand in a shadow cast by the wall and fence, the appeal property and the dwellings own bulk for most of the day and for most of the year. It is only in the early mornings that this part of the garden or rear elevation would receive sunlight. I cannot ascertain from the information before me whether the proposed extension would breach the 45 degree line. Nonetheless, in light of the above, and given the proposed extension would infill the gap between the fence and the outrigger and would not project any deeper, I consider that it would not materially worsen overshadowing experienced by the occupants of No 374.
9. The decked area within the rear garden of No 374 lies immediately to the rear of property and abuts the common boundary wall and fence. The presence of the host property close to the boundary and the wall and fence already give a degree of enclosure to this area. Whilst the extension would be noticeable, the height above the fence and the hipping of the roof away from the boundary would ensure that the extension would not be perceived as overbearing.

10. I therefore conclude that the living conditions of the occupants of 374 Leeds Road would not be materially harmed by the proposed development and find no conflict with Policies D9 and D10 of the Wakefield Local Development Framework Development Policies (2009) which seek, amongst other things, that proposals respect and have no significant detrimental impact on the amenity of neighbouring residents. I have not been provided with a copy of the Wakefield Residential Design Guide.

Conditions

11. I have imposed the Council's suggested conditions albeit with minor modifications in wording. It is necessary that the development is carried out in accordance with the approved plans to ensure certainty. Matching materials are necessary in the interests of visual amenity. So as to protect the privacy interest of the residents of 374 Leeds Road I have imposed a condition preventing any additional openings being made on the northern elevation of the proposed extension. As the extension has no south facing wall I have not included this.

Conclusion

12. For the reasons given above and taking all other matters into account, I conclude that the appeal should be allowed.

Caroline Jones

INSPECTOR