

Appeal Decision

Site visit made on 27th November 2017

by Alison Roland BSc DipTP MRTPI

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

Decision date: 19 December 2017

Appeal Ref: APP/X4725/D/17/3181195

8 Clayton Street, Wakefield, WF2 8TB.

- 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 Hussain against the decision of Wakefield Metropolitan District Council.
 - The application Ref: 17/00954/FUL, dated 31 March 2017, was refused by notice dated 30 May 2017.
 - The development proposed is rear first floor extension to form facilities for disabled child.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the implications of the proposal for the living conditions of occupiers of adjoining properties by way of the potential for overshadowing and overdominance.

Reasons

3. The appeal property is a mid terraced dwelling with a single storey flat roofed extension to the rear. The proposal would see a first floor extension introduced above this. Because of its height, depth and proximity to the side boundaries, this would loom large relative to the properties to either side and appear oppressive and over dominant, particularly when viewed from the rear yards. The effect would be particularly severe on No 10 as the extension would abut the boundary with that property and would present a high blank wall at very close quarters to its rear. The effect would be less severe on No 6 as the extension would be set away from the boundary with that property, but it would still be significantly harmful.
 4. As the extension would stand to the north west of No 10 it would likely have little appreciable impact on overshadowing. However, the converse would apply to No 6 as the extension would stand to its south east, thereby reducing natural sunlight penetration into its small back yard and into the rear of the house itself.
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5. I recognise that the occupiers of those properties supported the proposals at the planning application stage and whilst that does weigh in the balance, it does not render the proposal acceptable on its planning merits. This is particularly the case as the extension would likely have a lifespan of many years and I must also consider future occupants.
6. For these reasons, the proposal would be in conflict with Policies D9 and D10 of the Local Development Framework Development Policies Document (2009) and the guidance in the *Residential Design Guide* Supplementary Planning Guidance (1996), which seek to ensure that new development has no significant detrimental impact on the amenity of neighbouring properties.
7. I fully appreciate the health circumstances surrounding one of the appellant's children and the benefits the proposal would provide in terms of an environment for specialist care. I therefore consider that Article 8 of the Human Rights Act 1998 (the right for respect for private and family life) is engaged. In addition, Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children. This means this must be at the forefront of my mind in determining this appeal.
8. I must also have due regard to the Public Sector Equality Duty contained in Section 149(1) of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability.
9. However, the child's needs which I give significant weight, must be balanced with the adverse impacts of the proposal identified earlier. I consider the benefit to the appellant's family would be outweighed by the severely harmful impact the proposal would have on the living conditions of present and future occupants of adjoining properties; a situation which would be likely to persist for many years. This harm could not be mitigated by the imposition of planning conditions. I therefore consider that dismissal of the appeal would be a proportionate and necessary response having regard to the legitimate and well established planning objective of protecting residents living conditions.

ALISON ROLAND

INSPECTOR