



Appeal Decision

Site visit made on 30 July 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Appeal Ref: APP/D0121/D/19/3231459

1 St Pauls Road, Weston-Super-Mare BS23 4AB

- 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 & Mrs Lam against the decision of North Somerset Council.
 - The application Ref 19/P/0602/FUH, dated 9 March 2019, was refused by notice dated 15 May 2019.
 - The development proposed is erection of a first floor extension to detached garage to form home office and gym.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of Nos 68 and 70 Severn Road with regard to light and outlook and on the occupiers of No 33 Clarence Road North and No 3 St Pauls Road with regard to privacy.

Reasons

3. The detached garage block is located along the rear boundary in the garden of the appeal property, a large three storey Victorian dwelling. The garage lies adjacent to 68 Severn Road (No. 68) and is separated from 70 Severn Road (No. 70) by a car park. There are 2 storey buildings in close proximity and nearby examples of buildings located on the boundary of rear gardens. Therefore, a first floor extension to this garage would not appear incongruous considering the surrounding context.
4. The closest dwelling to the proposal is No. 68, the kitchen window of this property is approximately 3m away. The proposed first floor extension would be in very close proximity to this property and its private garden and due to its scale and massing would have a significantly imposing effect on the occupiers. I consider this would detrimentally affect the outlook from that property and would result in an unacceptable loss of light.
5. The Residential Design Guide-Section 1 Protecting living conditions of neighbours Supplementary Planning Document 2013 (SPD) requires a 12m separation distance from a two storey side wall of a new development from a main elevation of dwellings with windows. Whilst this guidance document

refers to side extensions, I consider it applicable given the height and massing of this proposed first floor extension and the separation distance between it and the main windows of No. 68 being significantly below 12m and therefore find it results in a loss of light and outlook to this property.

6. I have considered the appellants' argument that in applying the 45 degree rule the proposal would not significantly affect Nos 68 and 70. However, it would appear from the SPD, whilst referring to extensions, that the 45 degree rule should only be used when a proposed extension is at right angles to a neighbouring window and should not be used for windows which are opposite an extension. Notwithstanding this for the reasons identified above I find the proposal would be significantly harmful to the living conditions of the occupiers of No 68. Whilst I acknowledge the appellants' point that the right to a view is not a planning consideration, the issue with this proposal is that it would have an adverse overbearing effect on the occupiers of No. 68 affecting outlook from their window and garden and therefore would cause harm to their living conditions.
7. Turning to No. 70, the proposal would be seen in context with the neighbouring buildings. I have considered the fact the distance between the proposal and the habitable window falls approximately 1.5m below the 12m separation distance required by the SPD. Given the more substantial separation distance than that which exists between the development and No.68, together with the roof of the garage being set back behind the parapet wall, and that the roof slopes upwards away from No.70 it would not have the same effect as a two-storey vertical side wall as referred to in the SPD.
8. Accordingly, the shortfall in the distance is considered acceptable. Therefore, whilst acknowledging that the extension would be prominent in views from the window, I do not find it would result in a significant loss of light and outlook that would harm the living conditions of occupiers.
9. I turn now to 33 Clarence Road North and No 3 St Pauls Road. My attention has been drawn to the new dwelling constructed in the rear garden of 27 Clarence Road North. However, this includes rooflights which do not allow overlooking of rear gardens. The dormer windows to the front of the proposal would overlook the habitable windows and gardens of the adjacent properties to the appeal site. This together with the timber staircase that has an open elevation which would overlook the private garden area leads me to conclude that the proposal would have an unacceptable impact on the occupiers of No 33 and would cause harm to their living conditions.
10. The rear habitable room windows and garden area of No 3 St Pauls Road lie close to the appeal building which abuts the boundary between the two properties. With the dormer windows set forward from the existing footprint of the garage, the separation distance would fall below the required 21m to the habitable windows. The elevated nature of the windows and the deficient separation distances would result in the eastern most windows causing unacceptable overlooking of this property and adjacent garden area. I note there is vegetation screening on the boundary, but this is seasonal and would not have a marked effect on reducing the overriding sense of being overlooked for No. 3's occupiers. I therefore find the proposal would result in harm to the living conditions of the occupiers of No 3.

11. For the reasons outlined above, the proposal would conflict with Policies DM32 and DM38 of the adopted North Somerset Development Management Sites and Policies Plan (Part 1) (2016) and the North Somerset Residential Design Guide SPD (Section 1: Protecting living conditions of neighbours) 2013. These seek to ensure proposals do not prejudice the living conditions of adjoining occupiers.

Other Matters

12. The site is located within the Great Weston Conservation Area (CA). As such I have had regard to the duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. The proposal would be located to the rear of the dwelling and would not result in an adverse impact on views from the surrounding streets. The general character of the area surrounding the proposal is of 2-3 storey buildings of various styles within this residential area. Therefore, the proposal would be seen in context of these existing buildings and would not cause harm to the character or appearance of the CA as a whole. Thus, it would preserve the significance of this designated heritage asset.

Conclusion

13. For the reasons set out above, the appeal is dismissed.

Stephen Thomas

Inspector