



Appeal Decision

Site visit made on 22 October 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Appeal Ref: APP/W4705/W/19/3234561

Land Adjacent to 81 Hebden Road, Haworth, Keighley BD22 8RE

- 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 George Emmott against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 19/01340/FUL, dated 25 March 2019, was refused by notice dated 14 May 2019.
 - The development proposed is described as 're-submission of detached dwelling with parking.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal the appellant has included revised plans¹ that were not submitted to the Council as part of the planning application. The drawings show a revised land section and a revised shadow area. It is important that what is considered by the Inspector is what was considered by the Council and on which interested people's views were sought. However, as the revised drawings are an attempt to rectify an error in relation to the existing levels on site and do not change or evolve the proposed development in any way, I am willing to accept them for information purposes only. I do not consider that any main party has been prejudiced by this approach.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of No 34 Jacobs Lane, with regard to privacy, outlook and light.

Reasons

4. The appeal site sits at a lower level than Hebden Road and the land drops very steeply between it and the properties to the north and north west on Jacobs Lane. The property and private outside amenity space to the side and rear of No 34 Jacobs Lane (No 34) are located immediately adjacent to, and sit well below, the appeal site. During my site visit I viewed the appeal site from the private outside amenity space of No 34.

¹ Drawing 19/006 Rev A Revised Land Section and Drawing illustrating Revised Shadow Area

5. Policy DS5 of the adopted Bradford Core Strategy Development Plan Document 2017 (CS DPD), amongst other things, states that development proposals should make a positive contribution to people's lives through high quality inclusive design and should not harm the amenity of existing or prospective users and residents. In addition, the Council's Householder Supplementary Planning Document 2012 (Householder SPD), states that extensions and alterations should not cause unacceptable harm to the privacy of neighbours and should not over dominate, seriously damage outlook or unacceptably reduce natural daylight reaching any neighbours' property.
6. The proposed development comprises a detached, two storey dwelling which is single storey from the road level on Hebden Road with a lower ground floor level within the site. The rear, two storey elevation would be sited approximately 5.76m from the boundary with No 34. The windows to a stairway and en-suite bathroom at ground floor level would have obscure glazing and any openers would be at high level. The windows to a dining kitchen and bedroom at lower ground floor level would have clear glazing.
7. I acknowledge that, given the type of rooms and the obscure glazing to the windows, which could be retained by condition, there would be no actual overlooking into the private outside amenity space of No 34 from the rooms of the proposed development at ground floor level. However, I consider that its close proximity to the boundary with No 34 combined with its elevated position, would result in an unacceptable degree of overlooking into the private outside amenity space of No 34 from the rooms of the proposed development at lower ground floor level. This would have an unduly harmful effect on the privacy of the occupiers of No 34.
8. I note that the appellant states that any site line from the lower ground floor level within the proposed dwelling would extend over the single storey extension to the rear of No 34 and so there would be no views into the private outside amenity space. However, this is not illustrated on any of the plans submitted as part of the appeal and, therefore, I have no substantive evidence to show that this would actually be the case.
9. In addition to the above, taking into account the proximity, elevated position and two storey form of the proposed dwelling, I consider that it would also be an overly dominant and overbearing structure when viewed from the private outside amenity space of No 34. In this respect, it would have an unacceptable effect on the outlook of the occupiers of No 34.
10. Although not stated in its refusal notice, in its delegated report the Council considers that the proposed development would result in significant overshadowing of the private outside amenity space of No 34. It is apparent that, due to the location of the proposed dwelling to the south east of No 34, it would cast a shadow over some of the private outside amenity space of No 34 for the majority of the day. I have had regard to the sunlight / daylight assessment prepared by the appellant in accordance with guidance provided in the Building Research Establishment (BRE) document, Site Layout Planning for Daylight and Sunlight- A guide to good practice. This shows that the proposed dwelling would cause some overshadowing of the private outside amenity space to the side and rear of No 34. However, it would still allow over 50% of the private outside amenity space of No 34 to receive at least two hours of sunshine on 21 March, which is in line with the guidance provided in the BRE

document. On this basis, I consider that it would not have a significantly harmful effect on the living conditions of the occupiers of No 34, with regard to loss of light.

11. I am aware that the Council's Householder SPD states that, in many cases, extensions and outbuildings that have an overbearing impact upon their neighbours', will also cause an unacceptable loss of light to neighbouring properties and their gardens. On this basis, the appellant contends that, conversely, as it has been shown that the proposed development would not cause an unacceptable level of overshadowing and loss of light then it would also not be overbearing. The Householder SPD does not state that this will be the case for all extensions and alterations, and it highlights that where significant changes in level exist between two neighbouring properties, the guidelines may be adjusted and that such cases will be judged on their own merits. Furthermore, the extent and impact of any overshadowing would vary at different times of the year, however, the overbearing presence of the proposed dwelling would be constant.
12. Accordingly, notwithstanding that the proposed development would not cause an unacceptable loss of light to the private outside amenity space of No 34, I conclude that it would have a harmful effect on the living conditions of the occupiers of No 34, with regard to privacy and outlook. As such it would conflict with Policy DS5 of the CS DPD and the Householder SPD. In addition, it would not comply with Paragraph 127(f) of the National Planning Policy Framework which seeks to create places with a high standard of amenity for existing and future users. The Council also cite conflict with Policy SC9 of the CS DPD in its delegated report but not in its refusal notice. However, as this relates to the creation of high quality places and attractive, cohesive, sustainable settlements, it is not relevant to the main issue.

Other Matters

13. I have had regard to the fact that, in order to mitigate any harm caused by overlooking and loss of privacy, the appellant has proposed and is willing to accept a condition being imposed, for the planting of mature evergreen conifer trees, with possibly the addition of a temporary 2.5m high screen fence, to the boundary with No 34. I acknowledge that this would be likely to reduce any overlooking from the lower ground floor of the proposed dwelling into the private outside amenity space of No 34. However, given the nature and rapid growth of conifer trees, I consider that it is highly probable that the planting would increase the extent and degree of overshadowing of the private outside amenity space of No 34 and add to the oppressive and overbearing impact of the proposed development. On this basis, it would increase the harm to the occupiers of No 34, not mitigate it.
14. The site is located within the 2.5km buffer zone of the South Pennine Moors Special Protection Area / Special Area of Conservation. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Therefore, given my overall conclusion on the main issue, it is not necessary for me to consider this matter in any further detail.
15. I am aware that Haworth, Cross Roads and Stanbury Parish Council raised no objections to the proposed development. I also note that, subject to conditions

being imposed, no technical objections were received from Building Control and no comments were received from Highways. However, these are neutral considerations in the balance and do not outweigh the harm that I have found.

Conclusion

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

F Cullen

INSPECTOR