
Appeal Decisions

Site visit made on 23 September 2019 by AJ Sutton BA Hons DipTP DMS MRTPI

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2019

Appeal Ref: APP/P4225/D/19/3233315
106 Hill Top Drive, Rochdale, OL11 2RL

- 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 Mohammad Rafiq against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref 19/00418/HOUS, dated 9 April 2019, was refused by notice dated 24 June 2019.
 - The development is described as 'Retrospective Planning Application for a single storey rear extension'.
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Decision

1. The appeal is allowed, and planning permission is granted for a single storey rear extension at 106 Hill Top Drive, Rochdale, OL11 2RL in accordance with the terms of the planning application ref 19/00418/HOUS dated 9 April 2019 and subject to the following conditions:
 - 1) The development hereby permitted shall accord with the approved plan: Drawing No. MR12719 dated 12 July 2019 and Proposed Site Plan.
 - 2) The window on the eastern side elevation shall be fitted with obscured glazing within a window frame, with non-opening casements and shall thereafter be retained as specified.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The development has been completed. It was observed on the site visit that, as built, the development does not accord with the drawing submitted as part of the planning application. The Council also noted this in its Officer report.
4. The appellant has requested that I consider a revised drawing which shows the development as constructed. I have considered the revised drawing under the principles established by the Courts in *Wheatcroft*^[1] and conclude that to consider it would not deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the revised drawing.

^[1] Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

5. It is understood that the appellant has submitted another appeal related to development at this site, details of which are not available at the time of considering this appeal. Therefore, my consideration of this case is limited to the evidence before me.

Main Issue

6. The main issue is the effect the development has on the living conditions of occupiers of No 108 Hill Top Drive, particularly with regard to outlook and light.

Reasons for Recommendations

7. The appeal property is a semi-detached dwelling situated in a residential estate. Properties in this part of Hill Top Drive are generally unaltered, forming a straight line with gardens to the rear bounded by low fences, backing onto an area of scrubland, beyond which is agricultural land. The dwelling is situated on the rise of a hill which slopes gently from west to east, creating a slight step change in ground levels between the appeal property and immediate neighbouring properties which is noticeable in the rear gardens. Part of the fences which form the boundaries with neighbouring properties have been removed.
8. The Council has calculated that the rear extension projects 4 metres from the rear elevation of the host property. It also extends over the majority of the existing rear elevation. There is no dispute that the rearward projection of the extension conflicts with the guidance for rear extensions contained within the Council's Guidelines & Standards for Residential Development SPD (SPD). It is however clear that the purpose of the guidelines contained within the SPD is to prevent rear extensions from being overbearing to neighbouring occupiers and to prevent undue loss of light and privacy.
9. In this case, the extension is located close to, but set off the party boundary with No 108. No 108 has a large ground floor window in its rear elevation closest to the party boundary, which the appellant submits serves a living room. Beyond this is a further smaller window.
10. The extension is visible from the rear rooms and garden of No 108. However, its rearward projection and design ensures that it does not form a prominent or dominant feature in the outlook from the rear rooms of No 108, nor does it have an overbearing effect upon the rear garden to this property. The pleasant open outlook to the south and east from the rear of No 108 is unaffected by the proposal.
11. Therefore, whilst the development has resulted in a change to the outlook from the rear windows of No 108, this has not resulted in harm to the extent that the rear rooms and garden are less pleasant to use. The development is unlikely to have had an adverse effect on the living conditions of the occupiers of No 108 as a result.
12. The new extension is located to the south west of the rear of No 108. The Council consider that it has affected light to the rear rooms of this property but has not provided evidence to substantiate this concern. However given the southern rear aspect of the rear of No 108 and its rear garden and the position and design of the extension relative to the rear of this property, it is unlikely that the development has affected light or sunlight reaching the rear rooms

and garden of No 108 to a degree that would be harmful to the living conditions of its occupiers.

13. For the reasons outlined above I conclude that the development is not harmful to the living conditions of the occupiers of No 108 Hill Top Drive. The development accords with Policy DM1 of the Rochdale Adopted Core Strategy October 2016 and the purpose of the SPD which, amongst other matters, requires development to safeguard the amenity of residents and be compatible with surrounding land uses.

Other Matters

14. The occupier of the neighbouring property has highlighted concerns regarding inconsiderate and poor workmanship and disturbance during the construction process. Whilst I note the concerns raised, they are not matters for me to consider in this section 78 appeal.

Conditions

15. The Council has indicated that it would wish to see a condition imposed requiring compliance with the approved plans, and I concur that such a condition is necessary for certainty. During the course of the appeal both parties agreed to a condition being imposed controlling the design of the window in the side elevation of the extension. Such a condition is reasonable and necessary to protect the living conditions of the occupiers of No 108. Accordingly, I have imposed a condition to this effect also, as set out above.

Conclusion

16. For the reasons outlined above, I recommend that this appeal should be allowed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and concur that the appeal should be allowed.

R C Kirby

INSPECTOR