



Appeal Decision

Site visit made on 4 December 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/P4415/D/19/3237734

15 Aughton Road, Aughton, Rotherham S26 4TF

- 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 Adam Sheldon against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2019/1020, dated 26 June 2019, was refused by notice dated 16 September 2019.
 - The development proposed is: erection of detached summer house to rear of 15 Aughton Road.
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Decision

1. The appeal is dismissed.

Procedural matter

2. On my site visit I viewed the appeal site from the rear garden of no 41 Beech Way. The house owner came out of the house to speak to me and offered to show me photographs showing the summerhouse as erected, which I declined.

Main Issue

3. This is the effect of the proposal on the living conditions of the occupiers of houses at Beech Way.

Reasons

4. The appeal property (the property) backs onto 2 storey semi-detached properties on Beech Way. The houses in Beech Way are at a significantly lower level to the appeal property. Although the rear garden of the property backs onto a number of houses on Beech Way, the closest neighbour is no 41.
5. In 2019 a detached summerhouse was constructed in the rear garden of the property, following the grant of planning permission. Work commenced on the erection of the summerhouse, however it was found to be not sited in accordance with the approved plans. The appeal follows the submission of a further planning application for the works as carried out, the second application having been refused.
6. At the time of my site visit the summerhouse had been dismantled and was lying in sections within the rear garden. The solid base for the summerhouse remained in place. According to the plans submitted with the appeal the summerhouse would be erected in a position 2.1m from the boundary with no 41, and the Council describes the distance as being approximately 2m. The gap between the base and the boundary line with no 41 did not appear to be

uniform however I treat the appeal proposal on the basis that the summerhouse would be erected at a minimum distance of 2.1m from the rear boundary.

7. The section which has been supplied shows that a 25° line taken from the midpoint of a ground floor window in no 41 would not be infringed by the the summerhouse. My attention has been drawn to the use of this guideline in the South Yorkshire Residential Design Guide. It is clear that the guidance contained in the document is intended for use in new residential development. In any event, I base my decision on the level of impact which would be caused by the proposal, taking into account the actual context of the site.
8. The reason for refusal asserts that the proposal would not comply with the Council's Interim Planning Guidance – The Householder Design Guide September 2019 (the IPG). The IPG does not include a dedicated section on incidental garden structures such as the proposal¹, however the advice stating that extensions should not unreasonably impair the outlook from neighbouring properties is of some relevance. There is disagreement over whether a standard distance of 12m should be applied between the rear elevation of the proposal and the rear elevation of no 41, the appellant taking the view that such a distance would only be applicable if the proposal were a 2 storey extension.
9. It has also been suggested that the impact on neighbours would be mitigated to some extent by the timber construction, as opposed to say concrete blocks. That may be the case, however the rear elevation of the proposal facing the neighbour at no 41 would nonetheless be a continuous blank façade across the joint boundary.
10. When viewed from within the garden area of no 41 the rear elevation of the summerhouse would present a dominating feature and obscure a significant part of the east sky. There would be some effect on the outlook from the adjoining properties in Beech Way, but the effect on no 41 would be most pronounced. The effect would be accentuated by the change in ground level between the rear gardens, the presence of the boundary fence and hedge, and other vegetation. Under the proposal, the rear garden of no 41 would be a significantly less pleasant space, and the outlook from rear facing habitable rooms would be affected by the overbearing presence of the summerhouse.
11. The appellant has suggested that the structure may not have required planning permission and has submitted information from the Planning Portal on Class E permitted development rights for incidental buildings in gardens². What is normally called the 'fallback position' – in this case what could be constructed without planning permission under permitted development rights – is relevant. However, it is clear that the proposed building, with a mono pitch roof of 3.4m height, would exceed the relevant permitted development rights and therefore I attach limited weight to the fallback position as a material consideration and it does not override the harm which I have identified.

¹ Section 2.7 covers Garages and Buildings, although the guidance relates to the former.

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Conclusion

12. For the reason given I conclude that the proposal would harm the living conditions of the occupiers of houses at Beech Way, and would therefore not comply with Policy SP55 of the Rotherham Local Plan and the associated IPG, which seek amongst other things to ensure that development does not adversely affect nearby sensitive land uses, Policy CS28 of the Rotherham Local Plan Core Strategy (2014) which requires, amongst other things, that proposals should be responsive to their context, and the Framework which includes the requirement that development should maintain high standards of amenity for existing and future users.
13. The appeal is therefore dismissed.

Tim Wheeler

INSPECTOR