



Appeal Decisions

Site visit made on 25 February 2020

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2020

Appeal A Ref: APP/X4725/C/19/3239544

Appeal B Ref: APP/X4725/C/19/3239545

Land at 10 Silcoates Street, Wakefield WF2 0DU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Khizer Hussain and Appeal B by Mrs Najma Hussain against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The enforcement notice was issued on 24 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey extension to rear, on the Land.
 - The requirements of the notice are to demolish the unauthorised single storey extension to rear.
 - The period for compliance with the requirements is six months.
 - Appeal A is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
 - Appeal B is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a single storey extension to rear on land at 10 Silcoates Street, Wakefield WF2 0DU, referred to in the notice, subject to the following condition:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or doors shall be inserted in the side elevations of the extension overlooking 8 and 12 Silcoates Street.
2. I take no further action in respect of Appeal B.

Background

3. A prior approval application was approved by the Council on 27 February 2018, reference 18/00213/GPD, for a proposed rear extension with a maximum projection of 5.6m and maximum height of 3m. The extension, subject of the enforcement notice, has not been built in accordance with the prior approval application and is a breach of planning control.

Appeal A on ground (a) and the deemed planning application

4. The main issue is the effect of the extension on the living conditions of the occupiers of 8 and 12 Silcoates Street with particular regard to outlook.
5. The appeal property is a mid-terrace house. The extension, subject of the appeal, is roughly L-shaped and wraps around an existing two storey projection, infilling the space between the two-storey projection and the boundary with No.8. It has a total depth of around 6m and extends beyond the two-storey projection by around 3m.
6. The extension is sited in close proximity to the shared boundary with No.8, which is also a mid-terrace house, and projects above and runs along the boundary by a reasonable height and distance. There is a ground floor kitchen window in the rear of No.8, which is elevated above the garden level as there is a basement from where the garden can be accessed, and small windows situated around garden level.
7. The kitchen window is located in relatively close proximity to the shared boundary with No.10. However, whilst the extension will be visible from the kitchen window, given the elevated position of the window and as there are no projections to the rear of the neighbouring 6 Silcoates Street, the views out over the garden offer an otherwise open aspect. Furthermore, given the low-level position of the basement windows, the outlook from these windows was already limited by the existing boundary treatment. For these reasons, I conclude that there is no harm as a result of an overbearing impact on the outlook from within the house at No.8.
8. Although the extension is visible from within the garden at No.8, it does not extend along the entire length of the boundary and as views from the garden are otherwise largely unobstructed, I find there is no material harm as a result of an overbearing impact on the outlook from within the garden.
9. The extension is located further away from No.12, separated by a driveway. Consequently, due to the separation distance, although visible from the ground floor window and garden at No.12, the extension will not have an overbearing impact on the outlook from within the house or garden at No.12.
10. Overall, for the reasons given above I conclude that the extension causes no harm to the living conditions of the occupiers of No.8 and No.12 in respect of outlook. Therefore, the extension accords with Policies D9 and D10 of the Wakefield Metropolitan District Local Development Framework - Adopted 15 April 2009. Together these policies require development to have no significant detrimental impact on the amenity of neighbouring residents, existing or prospective. There is also no conflict with the National Planning Policy Framework which seeks a high standard of amenity for existing and future users.

Other Matters

11. In respect of privacy, the houses are located in an urban environment where some mutual overlooking of gardens is inevitable. Whether or not the outbuilding at No.8 was to be removed, given that there is only a small area at the top of the steps to the extension, there are no side windows in the extension, and as the gardens at both No.8 and No.12 are already overlooked

- from windows in neighbouring houses, I find there is no harm as a result of loss of privacy. I note that the Council also identified no harm in this regard.
12. Should windows or doors be inserted in the side elevations of the extension facing No.8 and No.12, this could cause harm as a result of loss of privacy. However, a condition removing permitted development rights for the insertion of windows and doors in the side elevations of the extension would safeguard the living conditions of neighbours.
 13. As already stated above, the basement level windows in No.8 are located close to garden level and consequently, there would previously have been limited daylight and sunlight to these windows. As the extension is located broadly north west of No.8, it will have no material effect on existing daylight and sunlight levels to the house and garden and I conclude there is no harm as a result of loss of daylight and overshadowing.
 14. The extension is located broadly south east of No.12 however, given the separation distances and flat roof form, I find there is no material harm as a result of loss of daylight or overshadowing of the house or garden. I note that the Council also identified no harm in respect of daylight/sunlight matters.
 15. Since the appeal development is located within close proximity to a neighbour whose health and wellbeing is a particular concern, I have had regard to this in my assessment. However, while taking this into account, the proportionate response and that supported by the Development Plan is that the appeal should be allowed.
 16. There is no substantive evidence to demonstrate that the extension increases the security risk to neighbouring houses and as such this is a matter of limited weight.
 17. That the occupier of No.8 did not receive a consultation letter in respect of the application for prior approval, is a matter that is between them and the Council and it is open to them, should they wish, to make use of the Council's own complaint procedure to resolve the matter.
 18. For the reasons given above, having regard to all other matters raised, the appeal on ground (a) therefore succeeds.

Conditions

19. A condition removing permitted development rights in respect of the insertion of windows or doors in the side elevations of the extension, facing No.8 and No.12 is necessary in the interests of safeguarding the privacy of the occupiers of those properties.

Conclusion

20. For the reasons given above, I conclude that Appeal A succeeds on ground (a) and planning permission will be granted. I shall grant planning permission for the development as described in the notice. The appeals on ground (f) do not therefore fall to be considered.

Felicity Thompson

INSPECTOR