



Appeal Decision

Site visit made on 16 June 2020

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 June 2020

Appeal Ref: APP/X1355/D/20/3248994

26 Grove Road, Brandon DH7 8AR

- 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 Garry Richardson against the decision of Durham County Council.
 - The application Ref DM/19/03647/FPA, dated 13 November 2019, was refused by notice dated 5 February 2020.
 - The development proposed is a two storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for two storey side extension at 26 Grove Road, Brandon DH7 8AR in accordance with the terms of the application, Ref DM/19/03647/FPA, dated 13 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; existing plans; proposed plans and proposed sections.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order) no additional windows or other openings shall be formed in the first floor element of the side elevation of the two-storey extension facing east.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of occupiers of 1 Fir Avenue, with particular regard to daylight and sunlight.

Reasons

3. Policy Q9 of the City of Durham Local Plan (CDLP) is permissive of residential extensions subject to four main criteria. Thus, proposed that the design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area; the extension incorporates a pitched roof; respects the privacy of adjoining occupiers of property and doesn't result in multiple

occupation contrary to [CDLP] policy H9 such proposals, the policy states, will be permitted. Neither CDLP policy Q9 nor its supporting text makes any reference to the consideration of daylight or sunlight, or to living conditions beyond the matters of privacy of adjoining occupiers.

4. The Council's officer report is clear that the proposed extension at the side of No. 26 would not adversely affect the area's character or appearance. So too, the scale and style of the proposal relative to the host property. Notwithstanding the presence of habitable room windows at the rear of the adjacent 1 Fir Avenue, as noted by the Council in the officer report, the Council raises no concerns regarding the privacy of occupiers of that property, or any other neighbouring properties. I have not been presented with any compelling evidence which would lead me to reach an alternative conclusion to that reached by the Council. Thus, assessed against the stated criteria of CDLP policy Q9, I conclude that the proposed extension raises no conflict with that policy.
5. However, the reason for refusal refers to overshadowing and loss of light to the rear of No 1 arising from the proposed extension, 'contrary to the provisions of policy Q9' of the CDLP and part 12 of the National Planning Policy Framework (the Framework). However, although CDLP policy H9 and its supporting text make no such reference the Framework does refer, albeit in relatively general terms to a 'high standard or amenity'¹ in its section on achieving high quality design.
6. The extension at the side of No. 26 would be located broadly south of the rear of No. 1. In visual terms it would reduce the extent of the corner gap between the appeal property and No. 1 at first floor level, there already being attached single storey structures at the side of both No. 26 and No. 1. Given the orientation of the properties, I have no doubt that this gap is sufficient to afford some sunlight to penetrate the rear garden areas of both properties at certain times of the day and at certain times of the year, and to contribute to overall levels of light.
7. I accept that in reducing the extent of the gap between the properties, the proposed extension would have some seasonal and time-limited impact upon both sunlight and daylight at the rear of No. 1. However, there are a range of other factors present which already exert degrees of influence over levels of both sunlight and daylight at the rear of No. 1. These include trees, existing single storey elements of both buildings and, not least, the main body of the existing dwellings at Nos. 26 and 28.
8. The proposed extension would not close off the gap in its entirety, however, and the remaining gap would allow some sunlight and daylight penetration between them. Furthermore, setting aside the presence of the existing properties at Nos. 26 and 28 and the other features identified above, the general aspect from the rear of No. 1 away from those properties is generally open across rear gardens. Thus, although the proposed extension would have some impact on daylight and sunlight at the rear of No. 1 at particular times of the day, and at particular times of the year, occupiers of that property would still enjoy a largely open aspect to the west.

¹ Paragraph 127(f)

9. The proposal would not, for the reasons I have set out above, be in conflict with CDLP policy Q9, which does not address matters of daylight and sunlight. Nor, having regard to the broader consideration of residential amenity set out in the Framework, would the proposal cause material harm to living conditions of occupiers of No. 1 by way of a materially harmful loss of sunlight / daylight sufficient to warrant the dismissal of this appeal.

Conditions

10. I have considered the conditions suggested by the Council in their appeal questionnaire in the context of the provisions of the Framework and Planning Practice Guidance. I agree therefore that time limit and plans conditions are necessary and reasonable in order to provide certainty.
11. A materials condition is necessary to ensure matching materials and thus in the interests of character and appearance. Additionally, I agree that a condition restricting the installation of further windows or other openings on the extension's side elevation is necessary and appropriate in the interests of privacy.

Conclusion

12. For the reasons I have set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR