The Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Appeal Ref: APP/Z4718/D/20/3259583
23 Skipton Avenue, Fartown, Huddersfield HD2 2QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mrs Fouzia Rashid against the decision of Kirklees Metropolitan Borough Council.
- The application Ref 2020/91452, dated 19 May 2020, was refused by notice dated 1 July 2020.
- The development proposed is a single storey rear extension.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.

3. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply – or that the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with the conditions, limitations or restrictions that are applicable to such permitted development.

4. Paragraph A.4(7) to Part 1 requires the local planning authority to assess the impact of the proposed development on the amenity of all adjoining premises, taking into account any representations received.

Main Issue

5. I consider that the main issues in this appeal are whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the GPDO and the impact of the proposed development on the amenity of adjoining premises with regard to outlook and light.

Reasons

6. The appeal property is a semi-detached bungalow. It is situated in a cul-de-sac of other residential properties, that include some bungalows of similar design and scale.

7. The proposed development would extend no more than 6m from the rear wall of the original dwellinghouse and would not exceed 4m in height. As such it would exceed the limitations set out in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, subject to receiving notification from the local planning authority that prior approval is, or is not required, and whether such approval is granted or refused.

8. As an objection to the development has been received from the occupier of an adjoining property, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining occupiers.

9. The proposed extension would project 6m along the common boundary with the adjoining dwelling that sits to the north of the appeal property, where the extension would be 2.8m high to the eaves, with an overall ridge height of 3.95m. There is a habitable room window of the adjoining dwelling close to the common boundary. Due to its size, scale and length of projection along the common boundary, the proposed development would appear dominating and oppressive. It would have an unacceptable impact on the amenity of the occupants of the adjoining property with regard to outlook. For these same reasons, when combined with the siting of the dwelling and the orientation of the adjoining property, sitting to the north, the proposal would have an unacceptable impact on the amenity of the occupants of the adjoining property with regard to light. The proposal would therefore have an unacceptable impact on the amenity of the adjoining property with regard to outlook and light.

10. In such prior approval cases there is no statutory obligation to have regard to the development plan. Development plan policies may be relevant, but only insofar as they relate to the matters that may be taken into account, which in this instance are amenity. Such policies may be taken into account as a form of evidence.

11. Policy LP24 of the Kirklees Local Plan (2019) is cited in the Council's reason for refusal. The proposal would be contrary to this policy, which requires, amongst other things, that proposals should minimise the impact on residential amenity of neighbouring occupiers.

Other Matters

12. The appellant considers that as the proposal complies with the requirements for a single storey rear extension under the 'larger homes' scheme, the appeal should be allowed. As I have outlined, due to the receipt of objections, it is necessary to consider the impact of the proposed development on amenity, for which I have found there to be significant harm.

13. The appellant refers to the fact that there was previously a 6ft fence on the boundary. Be that as it may, I have determined the appeal on the basis of my findings on site, where I saw that there was no boundary treatment in place for the section of the gardens closest to the dwellings. In any event, for the

reasons I have outlined, I consider that the proposal would cause greater harm than the previous, or indeed a replacement fence, that was installed.

14. The appellant considers that the height of the ground behind the properties has been over estimated and that the area of the flat part of garden behind no.23 has been underestimated. Such factors have not been determinative in my decision and I therefore give this little weight.

15. The appellant refers to a number of trees and shrubs at the rear of the property being removed as they were oppressive, and they consider that these would have been far more detrimental than the proposed extension. As these trees and shrubs are no longer present, I am unable to give them sufficient weight in the appeal that would overcome the harm I have identified.

Conclusion

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

A M Nilsson

INSPECTOR