



Appeal Decision

Site Visit made on 29 December 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal Ref: APP/P4415/D/20/3262462

23 Treherne Road, Broom, Rotherham S60 2TD

- 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 & Mrs Wahid against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2020/0730, dated 25 May 2020, was refused by notice dated 24 July 2020.
 - The development proposed is single and double storey extensions to side and rear.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the site address from the application form, save for the area within which the site is located which is confirmed as 'Broom' on the Council's decision notice.
3. The Council's decision notice does not refer to any development plan policies. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The relevant policies have been provided as part of the Council's appeal submission and I have therefore taken them into account as part of my assessment.

Main Issues

4. The main issues are:
 - the effect of the development on the living conditions of occupiers of No 25 Treherne Road with particular regard to outlook and light; and
 - if there is any harm to neighbouring living conditions, whether such harm is outweighed by the personal circumstances put forward by the appellants.

Reasons

Living conditions

5. No 23 Treherne Road is situated at a slightly higher level to the neighbouring property at No 25 Treherne Road. The common boundary between these dwellings is currently open. The dwelling at No 25 has side elevation windows

facing the appeal site including a clear glazed ground floor window. The evidence before me indicates this neighbouring window serves a kitchen.

6. The two-storey side extension would sit adjacent to the boundary with No 25 and parallel with the side elevation serving this neighbouring dwelling. It would also extend past the rear elevations of the host dwelling and this neighbouring dwelling. The height and mass of the extension and its close proximity to the boundary would have a dominating impact for occupiers of No 25, particularly in terms of the relationship with the neighbouring kitchen window.
7. In addition to the above, and taking into account land levels, the height and proximity of the extension to the neighbouring window would be likely to result in the loss of some daylight to the kitchen at No 25. I noted the glazed door to the rear elevation of No 25 which would assist levels of light to the affected room. However, the narrow nature of the glazed element to the door means provision of light from this source would be relatively minimal and it would not sufficiently compensate for the loss of light and outlook identified.
8. Whilst the above findings reflect my observations on site, the relationship of the development with the kitchen window at No 25 would also breach the minimum 45° clearance and a 25° vertical clearance guidance in the Rotherham Local Plan, Householder Design Guide, Supplementary Planning Document (2020) (SPD). This further persuades me that the development would result in significant harm to the living conditions of occupiers of this neighbouring dwelling.
9. My attention has been drawn to an extant planning permission on the appeal site which would occupy a similar footprint to the proposed two-storey side extension. Even so, its single storey height means the overall bulk and mass of that extension would not have the same overbearing or overshadowing impact as the appeal proposal. This fallback position does not therefore persuade me that the additional harm that would result from the appeal proposal would be acceptable.
10. I conclude that the development would have a significantly harmful effect on the living conditions of occupiers of No 25 with particular regard to outlook and light. In that particular regard, the development would conflict with the parts which seek to improve the way areas function and create decent living environments of Policy CS 28 (Sustainable Design) of the Rotherham Local Plan Core Strategy (2014) and Policy SP 55 (Design Principles) of the Rotherham Local Plan Sites and Policies (2018). The proposals also conflict with the Council's SPD and Paragraph 127 of the National Planning Policy Framework which amongst other things requires that decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Personal circumstances and the planning balance

11. I have carefully considered the reasons why the appellants have applied for planning permission and have taken into account the supporting documentation including that from the educational psychologist, the school and the hospital. Given the sensitive nature of the information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health condition of the individuals concerned. However, the proposed extensions would have the potential to facilitate care by providing all members of the

family with bedrooms at first floor level as well as improved ability for self-care through the provision of individual bedrooms with adaptations for the appellant's sons.

12. I have no doubt that the proposals would be of benefit to the appellants and their sons and that it would lead to improved living conditions for the family. These are personal circumstances to which I afford weight in favour of the appeal. In weighing the personal circumstances in the balance, this has to be considered against the very significant effect that the development would have upon the living conditions of the existing and future occupiers of No 25 Treherne Road.
13. I have given due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to the provisions of the Human Rights Act 1998.
14. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the existing and future living conditions of the occupiers of the neighbouring property can be reasonably safeguarded. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the appellant's (including their son's) human rights. Therefore, whilst I acknowledge the personal circumstances of the appellants, as well as their sons, I conclude that these are not matters which outweigh the harm that would be caused by the proposal in respect of my aforementioned conclusion on the other main issue.

Conclusion

15. On balance, and for the reasons outlined above, I conclude that the appeal should be dismissed.

M Russell

INSPECTOR