



Appeal Decision

Site visit made on 25 January 2021

by E Symmons BSc (Hons) MSc MA ArborA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2021

Appeal Ref: APP/W4515/D/20/3261361

14 Walton Avenue, North Shields NE29 9NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Michael Smith against the decision of North Tyneside Metropolitan Borough Council.
 - The application Ref 20/00777/FUL, dated 16 June 2020, was refused by notice dated 9 October 2020.
 - The application sought planning permission for alterations and rear extensions to form new kitchen and utility areas without complying with a condition attached to planning permission Ref 20/00199/FULH, dated 6 April 2020.
 - The condition in dispute is No 1 which states that: The development to which the permission relates shall be carried out in complete accordance with the following approved plans and specifications:
 - Application Form, 14 Walton Avenue, 09.02.2020.
 - Amended Proposed Plans and Elevations, Scale 1:50, Drawing No. 871/02A.
 - Amended Proposed Site Plans, Scale 1:100, Drawing No. 871/03.
 - Location Plan, Scale 1:1250.
 - The reason given for the condition is: to ensure that the development as carried out does not vary from the approved plans.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission Ref 20/00199/FULH is for two rear extensions, one at the end of the existing rear off-shoot and the other, a rear, side infill. The appeal against conditions relates to the 'plans condition' and solely to the rearward projection of the side infill extension. The consented scheme allows a projection of around 4 metres (m), and the Appellant applied to vary the condition to allow a projection of around 5m. All other aspects of the proposal would remain the same. This decision is therefore concerned solely with the side infill extension.
3. The main issue is whether varying the condition to increase the rearward projection of the side infill extension from around 4m to 5m would affect the living conditions of occupiers at 13 Walton Avenue (no 13).

Reasons

4. This two-storey mid-terrace property, in common with the other properties within the terrace, has an existing two-story rear offshoot. There is a brick boundary wall of around 2m in height separating this property from its neighbour at No 13. This neighbouring property has an opening on its rear elevation which looks out over the rear yard with the boundary wall visible on its right hand side. There is also a window on the flank wall of No 13's rear two-storey offshoot which faces the boundary wall. The extant permission for a 4m extension would project around 1.4m above the boundary wall. There was acceptance that this could affect access to light for No 13. However, this was not considered to be a significant issue.
5. Advice within the Council's Design Quality Supplementary Planning Document 2018 (Design SPD) recommends that extensions do not affect outlook and light to neighbouring properties. The two-story offshoot of No 14 already overshadows its own and the rear elevation of No 13 depending on the time of year from around late morning to noon. Photographs have been submitted showing the extent of current shading. However, there is no substantive evidence to confirm that the proposed increase in the rearward projection of the extension to 5m would not harm access to light to No 13, particularly at times of the year when the sun is lower in the sky.
6. Furthermore, as the rear amenity space between the two properties is in shade during much of the day, the presence of an extension stretching 5m along the boundary wall would exacerbate this by decreasing ambient light levels. This would be particularly evident within the rooms served by the openings adjacent to and opposite the boundary wall.
7. Currently, both adjacent openings at No 13 have limited outlook, due to the presence of the boundary wall. Increasing the projection of the extension along the wall would further restrict this outlook and have an overbearing effect when seen from within No 13 and when using its rear yard.
8. Policy DM6.1 and DM6.2 of the North Tyneside Local Plan 2017, together and amongst other matters, seek that proposals have a positive relationship to neighbouring buildings with regard to outlook and access to light. Varying the condition to allow an increase in the projection of the consented extension would have a harmful effect upon occupiers of No 13 with respect to their outlook and access to light. The proposal therefore conflicts with these policies and advice contained within the Design SPD.
9. For the reasons stated above, the appeal is dismissed.

E Symmons

INSPECTOR