



Appeal Decision

Site visit made on 6 July 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2021

Appeal Ref: APP/Z2315/D/21/3270377

120 Brownside Road, Burnley, Lancashire BB10 3JP

- 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 Jamie Etherington against the decision of Burnley Borough Council.
 - The application Ref HOU/2020/0531, dated 9 October 2020, was refused by notice dated 12 December 2020.
 - The development proposed is described as a 'two storey extension'.
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Decision

1. The appeal is allowed, and planning permission is granted to erect a two storey rear extension at 120 Brownside Road, Burnley, Lancashire BB10 3JP in accordance with the terms of the application, Ref HOU/2020/0531, dated 9 October 2020, and the plans with it, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: B.R 120/1; B.R 120/2 and B.R 120/3.
 - 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.
 - 4) No window(s)/door(s) or any other opening, other than those shown on the approved plans, shall be installed in the flank wall (facing No 122) of the proposed development hereby permitted without prior permission being first obtained in writing from the local planning authority.

Procedural Matters

2. For clarity, I have taken the description of development in the banner heading above from the application form. However, in my decision I have taken the description of development from the appeal form and Council's decision notice for both accuracy and precision purposes.
3. The date on the Council's decision notice is 12 December 2021, which is an error. I have therefore, used 2020 in the banner heading above.

Main Issue

4. The main issue of this appeal is the effect of the proposed development on the

living conditions of the adjoining occupier at No 122 Brownside Road, particularly regarding day/sun light, outlook, dominance and privacy.

Reasons

5. The appeal site comprises a traditional semi-detached house, with No 122 adjoining the host dwelling. Due to the flat roof single storey rear extension present at No 122 and the footprint of the host dwelling, a modest enclosed yard has been created within the site, which has also seen ground floor windows in the side elevation of the host dwelling blocked up. It is in this area that the proposed development would be located. The yard area backs onto the rear of No 122. However, the rear elevation of No 122 does not have any windows or other openings. Whilst the single storey rear extension at No 122 has windows and a door, they face away from the development in the direction of No 126 Brownside Road.
6. I acknowledge the unusual way that the appeal site overlaps with the rear elevation of No 122. However, the fact that the rear elevation of No 122 has no windows or openings in its rear elevation or facing the host dwelling would in itself ensure that no harmful effects would occur in respect of outlook. In addition to the lack of fenestration on the rear elevation of No 122, the presence of the existing flat roof single storey extension at No 122 along the shared boundary, and the proposed development not extending beyond the existing rear elevation of the host dwelling would ensure that the proposed development would not create any dominance issues to the occupier of No 122.
7. Additionally, given the extent of development proposed and its location on the host dwelling, I find little evidence has been provided to demonstrate that the occupier of No 122 would experience any harm in respect of the amount of day/sunlight that they would receive as a consequence of the proposed development, especially considering the orientation of the host dwelling and No 122. The windows in the rear elevation of the proposed development would face towards the garden area of the host dwelling, with No 122 and its garden area located at an oblique angle. Whilst, this would provide sufficient mitigation alone to prevent any loss of privacy to the occupier of No 122, I did note various mature trees including a number in the rear garden of No 122, which would provide additional screening.
8. For the reasons given above, I therefore conclude that the proposed development would not significantly harm the living conditions of the occupier at No 122, particularly through day/sun light, outlook, dominance and privacy. This would comply with the amenity aims of Policy SP5 of Burnley's Local Plan 2018 and the requirements of the National Planning Policy Framework.

Other Matters

9. In addition to those matters considered above, the occupier of No 122 has expressed a wide range of concerns including, but not limited to future maintenance and noise. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above.
10. Whilst I can understand the concerns of the local resident, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal

proposal on its own merits and concluded that it would not cause harm for the reasons set out above. Additionally, any potential damage to property or maintenance issues would be a private matter between the relevant parties and not within my jurisdiction.

Conditions

11. I attach a condition specifying the approved plans, for certainty, and a condition to ensure that the facing materials would match those used in the existing building is necessary in the interests of the character and appearance of the host dwelling. I have also included a condition preventing any further openings in the flank elevation of the proposed development, which is reasonable and necessary to ensure and preserve the privacy of the occupier at No 122.

Conclusion

12. For the reasons given above, I conclude that the appeal should succeed.

W Johnson

INSPECTOR