



Appeal Decision

Site Visit made on 7 September 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/M4320/D/21/3276976

77 Scarisbrick New Road, Southport PR8 6LJ

- 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 Howie against the decision of Sefton Council.
 - The application Ref DC/2020/02568, dated 9 December 2020, was refused by notice dated 20 May 2021.
 - The development proposed is a retractable enclosure for outdoor swimming pool and erection of fence to boundary wall.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework was published in July 2021 (the Framework). Whilst the paragraph numbers have changed in regard to those relevant to the main issue of this case, the substance thereof remains the same as the 2019 iteration. I have sought comments from the main parties and taken any comments made into consideration.
3. I have utilised part of the Council's description of development from the decision notice rather than the application form as this includes the erection of the fence albeit the appellant has indicated that they would be happy for the fence to be omitted.
4. The retractable enclosure for the swimming pool was in place at the time of my site visit, and permission is therefore sought retrospectively.

Main Issue

5. The main issue is the effect of the development on the living conditions of neighbouring occupants of No 2A Balfour Road, with particular regard to outlook, sunlight, privacy, light and noise.

Reasons

6. The appeal property is a large, detached property on Scarisbrick New Road in a predominantly residential area. It is situated close to the junction with Balfour Road, where the rear of No 2A Balfour Road faces the side boundary of the rear garden of No 77.
7. The enclosure around the swimming pool is situated close to the boundary between the appeal site and No. 2A. I note the reference to the height of the enclosure being only around 2.865m and that this is at the ridge, which is away

from the boundary with No. 2A. Nevertheless, the enclosure is of a significant size and extends along most of the length of the common boundary between the appeal site and No. 2A, where it is clearly visible from the elevated ground floor windows and from first floor level. Given the very shallow depth of No. 2A's rear garden, the enclosure is in close proximity to this neighbouring dwelling, whose occupants experience a strong sense of intrusion from the large glazed structure.

8. I note the comments by the appellant that the fence could be omitted, but it forms part of the appeal development before me. Whilst this element of the development would partly screen the swimming pool enclosure, it would result in a taller combined wall and fence on the boundary. The height and close proximity of this would, in addition to that of the pool enclosure, have an overbearing impact on users of the garden area of No. 2A. This boundary being to the east of this neighbouring garden would also result in unacceptable overshadowing.
9. The Council have raised concerns on the loss of privacy but I consider the views into the swimming pool structure from the upper floor of No. 2A are limited due to the obscure roofing material and the narrow angle of view above the boundary wall through the glazed side elevation of the pool enclosure. I note the reference to the perceived loss of privacy, but irrespective of the appeal scheme, there would be views between the upper floor of No. 2A and the rear garden area of the appeal site, including the swimming pool.
10. Lighting from the swimming pool enclosure would be visible from the neighbouring property at No. 2A and I have been provided with a photograph which shows the swimming pool illuminated at night. I don't however consider that this lighting, which is focussed on illuminating an internal space, would be so bright or give rise to glare that could cause unreasonable disturbance to neighbouring occupiers living conditions.
11. I also appreciate the concerns in relation to noise and disturbance, but it must be borne in mind that the swimming pool or garden can be used irrespective of the appeal proposal, which would be capable of generating noise. Although an indoor pool could be used through the year, I am satisfied that disturbance from utilisation of this space could be mitigated by a condition controlling the hours of use had the development been otherwise acceptable.
12. Despite this, I conclude that the development would unacceptably harm the living conditions of neighbouring occupants of No 2A Balfour Road, with particular regard to outlook and sunlight. As such, it would be contrary to Policy HC4 of the Local Plan for Sefton, which seeks, amongst other matters, to ensure that there is no significant reduction in the living conditions of the occupiers of neighbouring properties. It would also be contrary to the House Extensions Supplementary Planning Document (June 2018) and the Framework, which seek, amongst other matters, a high standard of amenity for existing and future users.

Other Matters

13. The appellant has stated that a swimming pool structure that was 365mm lower would be allowed without the need for planning permission. Be that as it may, the additional height of the appeal scheme when combined with the extensive length close to the property boundary with No. 2A, results in greater

harm to neighbouring occupants living conditions. This limits the weight that I can attach to it in favour of allowing the scheme.

14. I also note that not all of the moveable panels exceed 2.5m, but I need to consider the swimming pool enclosure as a whole. I have considered all other representations, but they do not alter my finding on the main issue.

Conclusion

15. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

F Rafiq

INSPECTOR