



Appeal Decision

Site visit made on 5 January 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2022

Appeal Ref: APP/M2372/W/21/3279173

The Coach House, Oldfield Avenue, Darwen BB3 1QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Julie Kershaw against Blackburn with Darwen Borough Council.
 - The application Ref 10/21/0060, is dated 3 February 2021.
 - The development proposed is a detached garden office/studio, 20m2.
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Decision

1. The appeal is dismissed, and planning permission is refused for a detached garden office/studio at The Coach House, Oldfield Avenue, Darwen BB3 1QY.

Applications for costs

2. An application for costs was made by Ms Julie Kershaw against Blackburn with Darwen Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused the application for planning permission. I have had regard to this statement in framing the main issue.
4. The Council's statement includes reference to the effects of a fence shown on the submitted plans. However, this is not referred to in the description of the proposed development appearing on the planning application form; it therefore lies outside the scope of this appeal.
5. There is a potential disagreement between the main parties as to the lawful planning status of a decking area to the rear of the dwelling on the site. It is not for me, under a section 78 appeal, to determine whether or not operational development has subsisted for sufficient time to become lawful. To that end it is open to the appellant to apply for a determination under s191 of the Act and my determination of this appeal under s78 does not affect the issuing of a determination under s191 regardless of the outcome of this appeal.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to outlook and sense of enclosure.

Reasons

7. The appeal site incorporates a detached dwelling presenting as a 1½-storey building to the residential street frontage. To the rear of the house the land falls away sharply towards the site's rear boundary from below a stone retaining wall and deep rear gable. A green corridor about Sunnyhurst Brook lies beyond the rear fence line. A large platformed area supported on masonry columns has been created to the rear of the building. A driveway along the side of the dwelling forms part of a gap between the house and the neighbouring building at 20 Oldfield Avenue.
8. The proposed outbuilding would be located immediately behind the retaining wall just beyond the line of the dwelling's rear elevation and close to the common boundary with No20. It would be finished in timber cladding with a shallow-pitched composite roof. The change in levels between the driveway and sloping rear garden requires that the outbuilding would need to be supported on stanchions, or similar, to level the building with the decking and driveway. The supporting structure would be enclosed by cladding in materials to match the exterior of the outbuilding.
9. Views of the office/studio along the driveway would appear as a typical domestic outbuilding, having a modest and subordinate scale with a timber finish in contrast to the stone-built dwelling. However, the combined height of the building and enclosed supporting structure would be considerable viewed from the opposite direction. The proposed enclosure of the space below the floor level of the building would cause it to appear of significantly greater scale along its side and rear elevations.
10. It is proposed to partly mitigate this effect through planting within the lower garden area to provide some softening and screening from the seasonal open views available from the footpath to the rear of the site. However, there is little opportunity to achieve the same to views from the adjacent property at No20.
11. The building would lie close to the common boundary and beyond the screening benefits of an existing high conifer hedge located within the neighbouring property. At the time of my site visit, the remainder of the common boundary alongside the proposed location of the building was substantially open and only intermittent planting within the neighbouring plot was present.
12. By virtue of the considerable height of the combined structure, which would extend some way further down the slope than the existing masonry columns supporting the deck area, I find it would form an imposing building so close to the side boundary. The building would enclose about half of the length of the common rear side boundary behind the retaining wall which crosses the adjacent plots. Its large blank western elevation would be highly visible and loom large over the nearest part of the neighbouring garden.
13. In the absence of existing screening within the appeal site or demonstration that such screening could be suitably achieved, the proposal would be highly obtrusive in the outlook from the neighbouring building which has side ground floor windows facing that area. The effect of the scale and position of the building and supporting structure would cause significant harm to the living conditions of those neighbouring occupiers.

14. For the reasons above, I find the scale and position of the structure would enclose a significant part of the boundary to impose on the neighbouring garden area and outlook from the adjacent property at 20 Oakfield Avenue. It would conflict with Policy 8 of the Blackburn with Darwen Borough Local Plan Part 2 – Site Allocations and Development Management Policies [2015] and the National Planning Policy Framework as they seek development to contribute positively to the area and secure a high standard of amenity for neighbouring residential occupiers.

Other Matters

15. I note the concerns of neighbouring residents in relation to loss of privacy. The main window aperture of the building would address the rear garden area of the appeal site. Although some sideways overlooking of the lower garden area of No20 would result, this is not an unusual scenario in a residential setting and would not therefore cause significant harm to the living conditions of those neighbouring occupiers. Although the extent of the building would provide some screening to prevent overlooking of that property from other parts of the appeal site, this would not outweigh the harm I have identified on the main issue.
16. The proposed doorway would face the site's north-eastern boundary and the gardens beyond. However, this would be at some distance and such that any overlooking would be limited and to no greater extent than from other parts of the site. Accordingly, I find that no significant harm to those neighbours' living conditions would result through undue overlooking.
17. I acknowledge that the proposal would provide additional space to accommodate home working and studying for the occupiers of The Coach House. However, that benefit is not necessarily dependent on the specific detail of the proposal before me. It is not therefore a strong argument in favour of the development, a development which I have considered on its own planning merits.

Conclusion

18. The proposal would harm the living conditions of some neighbouring residents and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

R Hitchcock

INSPECTOR