
Appeal Decision

Site visit made on 24 February 2022

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2022

Appeal Ref: APP/P4225/D/21/3282067
4 Crown Gardens, Rochdale OL15 5LG.

- 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 Muhammad Ilyas against the decision of Rochdale Borough Council.
 - The application Ref 21/00568/HOUS dated 14 April 2021, was refused by notice dated 23 June 2021.
 - The development proposed is part single storey part 2 storey rear extension following demolition of existing conservatory.
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Decision

1. The appeal is allowed and planning permission is granted for part single storey part 2 storey rear extension following demolition of existing conservatory at 4 Crown Gardens, Rochdale OL15 5LG in accordance with the terms of the application, Ref 21/00568/HOUS dated 14 April 2021 and subject to the following conditions:
 - 1) The development hereby permitted shall be begun no later than the expiration of 3 years from the date of approval.
 - 2) The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans:
MI14121 Rev B.
 - 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 development beyond floor slab level shall take place until a scheme of boundary treatment incorporating a 1.8metre high close boarded fence and soft landscaping has been submitted to the local planning authority and approved in writing. The boundary treatment shall be installed in accordance with the approved details before the extension hereby permitted is first brought into use and retained thereafter.

Main Issue

2. The main issue is whether the proposed development would have a detrimental effect on the present and future living conditions of occupants in Nos 3 and 5 Count Street in terms of privacy.

Reasons

3. The appeal site is located on the west side of Crown Gardens, a short cul-de-sac of two storey, semi-detached houses built in brick under tile roofs. The property has been extended to the side with a two storey extension and to the rear with a single storey conservatory running the full width of the house. A brick wall at the north end of the conservatory screens the rear facing window in No 2. The neighbouring properties in Count Street Nos 3 and 5 lie to the west and at a slightly lower level than the appeal property.
4. Following demolition of the conservatory the proposal would extend the rear of the property at ground and first floor by approximately 3 metres on the footprint of the current conservatory towards the boundary with Nos 3 and 5 Count Street. At ground floor therefore the building would be no closer to the boundary than is currently the case and assuming a boundary fence was reinstated, which could be conditioned, the ground floor windows would have no greater impact on privacy for Nos 3 and 5 than the existing conservatory. However, at first floor level there would be 2 windows in the extension facing towards Nos 3 and 5 Count Street namely an ensuite bathroom window which would be obscure glazed and one bedroom window. Whilst the total number of windows at first floor level would be the same as in the current first floor arrangement, the new bedroom window would be closer to the boundary and therefore Nos 3 and 5, than is currently the case.
5. I have been referred to the *Guidelines & Standards for Residential Development Supplementary Planning Document (SPD)* which amongst other things sets out advice in respect of separation distances.
6. The SPD sets out a requirement for 10.5 metres to the plot boundary from the development. The rear garden depth at No 4 Crown Gardens as originally built was less than this at about 7.2 metres and the Council's decision to permit the conservatory has already reduced this to about 4.2 metres. I accept the effect of the extension would reduce the distance between the 2 storey section of the house to its boundary to just over 4 metres. However, the total facing distance between principal windows at the appeal property and No 5 Count Street would just meet the SPD guideline of 21 metres. I acknowledge that in respect of No 3 the facing distance to that property would be slightly less at 18.5 metres however, the SPD does state that exceptions to the standard may be permissible where it would not detract from the general levels of privacy and amenity typical in the area.
7. The nature of the development in the vicinity of the appeal site is one of closely related properties where there is extensive intervisibility between upper windows and neighbouring gardens. A case in point is the distance between windows in the recently built Newton Place to its plot boundary and to neighbouring gardens, including the appeal site. With regard to window to window distance to No 3 Count Street from the proposed first floor bedroom in the appeal property the angles involved are slightly oblique and thus I am satisfied that the degree of overlooking possible would be limited. The slightly substandard separation distance in this case would be acceptable.
8. I acknowledge that boundary treatment in the form of a close-boarded fence and soft landscaping would principally mitigate any overlooking from main habitable rooms at ground floor level. However, it would in time, as soft landscaping developed, also assist in screening at least the eastern part of

the gardens of No 3 and 5 Count Street from overlooking from the proposed window to Bedroom 4 and is therefore important to condition.

9. A third party has objected to the effect of the proposal on No 2 Crown Gardens which is the semi-detached neighbour to the appeal property on the grounds that the extension will affect light levels to the rear elevation of No 2. At present the single storey rear conservatory projects 3 metres and terminates in a screen wall slightly higher than the conservatory nearest to the neighbouring window in No 2. The appeal proposal would include a single storey section of the extension to the same depth as the conservatory and 3 metres wide set slightly off the boundary to No 2 with a monopitch roof. The net effect of the new single storey section of the extension is therefore unlikely to have any greater effect on light to No 2 than in the existing arrangement. The two storey section is to the south of No 2 but, given the separation distance and the hipped pitch roof proposed and the fact that the sun is highest in the sky to the south, even in the winter additional overshadowing as a result of the two storey section would be unlikely.
10. Policy DM1 of the *Rochdale Core Strategy* (RCS) sets out the general requirements of development including amongst other things that development does not adversely affect the amenity of residents or users through visual intrusion, overbearing impact, overshadowing or loss of privacy. Whilst I accept the guidance in the SPD in respect of the facing distance would not be wholly met by the proposal, for the reasons above the additional impact on privacy from only one window to one property (No 3) would not be substantially different to the general levels of privacy and amenity typical of the area. As a result, I am satisfied that the impact on living conditions for neighbouring residents would be acceptable and the requirements of policy DM1 would be met.

Other Matters

11. A third party has also raised a concern about inadequate parking provision as a result of the enlargement of the house. The property currently has one parking space which would be unaffected by the proposal which would add only one small bedroom. The Parking Standards in the RCS propose a maximum of 2 spaces for 2+ bedroom houses outside the town centre but no minimum standard and therefore the retained provision of one space would be acceptable and there is no policy reason to support dismissal of the appeal on parking grounds.

Conditions and Conclusion

12. The Council suggested conditions to be applied in the event the appeal was allowed and permission granted and I have considered these in the light of the advice in the Framework and *Planning Practice Guidance*. Firstly, a condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty. Secondly there is a need to ensure that the extension is constructed using matching materials to those used in the existing house to protect the character and appearance of the property and its surroundings.
13. Although not proposed by the Council and whilst it is accepted that a boundary fence and landscaping will not significantly screen sightlines from first floor windows in the short term, it is important in the interests of maintaining privacy to the gardens of Nos 3 and 5 Count Street that a

boundary fence and landscaping scheme is put in place. As this would be an additional condition the parties have been consulted on it. The appellant agrees to the need for the condition in the event the appeal is allowed and permission granted. Despite requesting the views of the Council on two occasions no comments have been forthcoming. I will therefore impose a condition requiring submission of a detailed scheme incorporating a 1.8 metre close boarded fence and appropriate soft landscaping along the fence. I am satisfied that the condition is necessary, relevant to the development proposed, reasonable, precise and enforceable and therefore meets all tests.

14. I have considered the matters before me and, for the reasons given above, I conclude that the appeal should be allowed and permission granted for the proposed extension subject to the conditions set out above.

P. D. Biggers

INSPECTOR