

Appeal Decision

Site visit made on 15 March 2022

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2022

Appeal Ref: APP/M2325/W/21/3282412

35 Lightburne Avenue, Lytham St Annes FY8 1JE

- 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 Alan Nester against the decision of Fylde Borough Council.
 - The application Ref 21/0283, dated 18 March 2021, was refused by notice dated 19 August 2021.
 - The development proposed is for the demolition of existing outbuilding and construction of a new single storey residential unit.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the absence of the appellant for the access required site visit, I undertook and unaccompanied site inspection, and was satisfied that I could gather sufficient information to determine the appeal.

Main Issues

3. The main issues of this appeal are:
 - whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to noise and outlook; and,
 - the effect of the proposed development on the living conditions of the adjoining occupiers at 33 Lightburne Avenue, with particular regard to outlook, overshadowing and dominance.

Reasons

Living conditions of future occupiers

4. The appeal site is a semi-detached building, which comprises residential and commercial uses. The proposed development does not involve the whole of the host property, only part of the ground floor of the main building to provide a bedroom and en-suite. Following the demolition of the existing outbuilding located in the rear yard a single storey building with a mono-pitch roof would be erected with a flat roof link to the main building. Access would be taken from the existing side gate through the remaining area of yard.
5. Concern has been raised in relation to the outlook of future occupiers from the proposed bedroom. Although, the outlook from this window would be limited due to the constrained nature of the yard, I do not consider that this would be

to the detriment of the living conditions of future occupiers, especially considering the current arrangement of ground floor windows in the rear elevation in the host property, and the respective outlook from them. Consequently, I do not find any significant harm would occur to the living conditions of future occupiers in this respect.

6. The proposed development would not share the existing garage wall, as in the case of the current outbuilding. This is due to the proposed construction of a separate wall, including a 50mm cavity. However, whilst I accept that the proposed development would require Building Regulations approval, given the proximity of the commercial garage, I cannot be certain that the living conditions of future occupiers would be satisfactory.
7. Whilst I appreciate that it only represents a snapshot in time, during my site visit on a Tuesday afternoon, I heard a range of noises from plant and machinery from the neighbouring garage, including the bay adjoining the site. Indeed, it was the type and level of sound and activity that might be expected of a commercial garage.
8. The Planning Practice Guidance (PPG) advises that 'good acoustic design needs to be considered early in the planning process to ensure that the most appropriate and cost-effective solutions are identified from the outset'¹, amongst other things. Whilst recognising details of the proposed acoustic lining to the party wall on drawing PHA/570/200 A, in the absence of a noise assessment undertaken by a suitably qualified professional, I am not convinced that the future occupiers would not experience any adverse issues with regards to noise and general disturbance from the adjoining commercial garage.
9. Paragraph 174 of the National Planning Policy Framework (the Framework), advises that decisions should contribute to and enhance the local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Similarly, paragraph 185 of the Framework, requires that decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
10. The effects of the proposal on existing businesses that are sources of noise in the area should also be considered. The issue is acknowledged in the PPG² and paragraph 187 of the Framework, which advises that planning policies and decisions should ensure that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Given the proximity of the commercial garage, which generates noise, there is a realistic prospect that such complaints would arise. This aspect also weighs against the proposal.
11. For the reasons given above, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers, with particular regard to noise. Consequently, it would fail to accord with the amenity aims of Policy GD7 of the Fylde Local Plan to 2032 (LP) and the requirements of the Framework, particularly paragraph's 130 f), 185 a) and 187.

¹ Paragraph: 001 Reference ID: 30-001-20190722

² Paragraph: 009 Reference ID: 30-009-20190722

Living conditions of neighbouring occupiers

12. Between the rear of No's 33 and 35 is an existing brick wall comprising a number of brick courses and coping. I accept that this structure already has an effect on the ground floor window closest to the wall at No. 33 (the neighbouring window), due to its proximity. The habitable status of this window has not been disputed by the appellant and in the absence of evidence to the contrary and my own findings during the visit, I have little reason to disagree with the Council observation on this matter.
13. On the submitted drawings, it is not clear if the proposed development would replace the existing wall and form the boundary treatment between the rear of No's 33 and 35. In any event, even if the existing wall was to be retained, the proposed development at 2.45m in height would be notably taller than the existing wall. Thus, given the modest distance from the proposed development to the neighbouring window at No 33, coupled with the southerly orientation of the site to No.33, the proposed development would unacceptably impede further on the already restricted outlook of the neighbouring window and the amount of sun light that it currently receives. Additionally, due to the projection of this element of the proposed development along the shared boundary, an unacceptable sense of enclosure would be created for the occupiers of No 33.
14. For the reasons given above, I conclude that the proposed development would significantly harm the living conditions of the occupiers at No 33, with particular regard to outlook, overshadowing and dominance. Consequently, it would fail to accord with the amenity aims of LP Policies H3, GD7 and the requirements of the Framework, particularly paragraph 130 f).

Planning Balance and Conclusion

15. I accept the lack of harm in respect of the outlook from the proposed bedroom for future occupiers, and the absence of other harm arising from the proposed development. There is also a modest contribution to the Council's supply of homes, and modest economic and social benefits through the construction phase and subsequent occupation of the proposed development.
16. Nonetheless, these factors do not outweigh my assessment on the living conditions for future and neighbouring occupiers, which would result in significant harm. Given my findings above, the proposed development conflicts with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It is also at odds with the requirements of the Framework.
17. For the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR