
Appeal Decision

Site visit made on 5 April 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2022

Appeal Ref: APP/D1780/D/21/3277176

3 Bath Road, Southampton SO19 5ES

- 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 Nickolas Walker against the decision of Southampton City Council.
 - The application Ref 21/00491/FUL, dated 25 March 2021, was refused by notice dated 8 June 2021.
 - The development proposed is single storey 8m by 5.4m flat roof extension following demolition of conservatory and outdoor wc/utility.
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Decision

1. The appeal is allowed and planning permission is granted for single storey 8m by 5.4m flat roof extension following demolition of conservatory and outdoor wc/utility at 3 Bath Road, Southampton SO19 5ES in accordance with the terms of the application, Ref 21/00491/FUL, dated 25 March 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos. 221 Sheet 1 Rev 1 and 221 Sheet 2 Rev 1.
 - 3) The external materials to be used in the construction of the walls of the extension hereby permitted shall match those used in the existing dwelling.

Procedural Matter

2. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. I have taken the revised Framework into account where relevant to my decision.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of the occupiers of 1 Bath Road, having regard to outlook and overshadowing.

Reasons

4. The appeal property comprises a two-storey semi-detached dwelling on the north-west side of Bath Road, within an established built-up residential area. The property has brick finished walls under a tiled hipped roof. There are 2

single storey additions to the rear of the property, the largest of which is a conservatory with a glazed pitched roof, which is located close to the boundary with 1 Bath Road, the other half of the semi-detached pair of houses.

5. The appeal scheme would replace these structures with a flat-roofed single storey addition. This would extend across the width of the dwelling, to within around 0.5m of the boundary with No.1. The proposed extension depth would be more than double that of the existing conservatory to be replaced, and it would almost equate to the depth of the 2-storey element of the original property.
6. In considering the impact of the proposal on the living conditions of the occupiers of No.1, I have had regard to the existing solid boundary fencing between that property and the appeal site. With a height of about 1.8m, this fencing already has a notable impact on the outlook from the rear elevation of the property and the rear garden of No.1. It provides a significant degree of screening along this boundary, and would obscure much of the appeal scheme in views from that property. As such, impacts on the outlook from that property would be limited to those arising from the mass of new building which would project above the fence by about 0.9m.
7. Moreover, whilst not shown on the application drawings, No.1 also benefits from a single storey rear conservatory addition, which extends across the width of the house and to a similar depth as that of the existing conservatory on the appeal site. As a consequence, the amount by which the proposal would extend beyond the line of the rear wall of No.1 would be notably less than that indicated on the refused Block Plan.
8. Also, the proposal would only be immediately adjacent to a relatively small part of the long rear garden of the neighbouring dwelling at No.1. Taking this into account, in conjunction with the existing boundary fencing, the proposal would not result in any materially harmful enclosing effects upon the neighbouring garden.
9. I have also had regard to the Council's concerns in respect of the impact of the proposal on the outlook from rear habitable room windows of No.1. In this respect, my attention has been drawn to the Council's adopted *Residential Design Guide* (2006) (the RDG), in particular paragraphs 2.2.11 - 2.2.13 in relation to the '45 Degree Code'. The Council's view is that the proposal would breach a 45 degree line from the nearest ground floor habitable window of No.1, thereby harming the outlook, and dominating the view, from a rear habitable room.
10. The Council has not detailed which habitable room is specifically referred to. Notwithstanding this, the RDG defines habitable rooms for the purpose of this policy, and the definition does not include conservatory accommodation. Having regard to the existing conservatory extension across the rear of No.1, together with the aforementioned boundary fencing, I am satisfied that the outlook from any ground floor rear elevation habitable window of No.1 is already subject to a significant amount of enclosure from both the conservatory and the side boundary fencing. As such, the resulting impact of the appeal scheme would not unduly impact on their outlook, and I find that a relaxation of the 45 Degree Code is appropriate in this instance, having regard to paragraph 2.2.17 of the RDG. I therefore find no conflict with the RDG in respect of this matter.

11. I have also noted the position of the proposal to the north/north-east of the rear of the building of No.1 and the closest part of its rear garden, so that overshadowing effects on the site of No.1 would not be significant.
12. For the above reasons, I therefore conclude that the proposal would not result in demonstrable harm to the living conditions of the occupiers of 1 Bath Road, having regard to outlook and overshadowing. As such, the appeal scheme would accord with Policies SDP1, SDP7 and SDP9 of the *City of Southampton Local Plan Review (2015)*, Policy CS13 of the *Local Development Framework Core Strategy Development Plan Document (2015)* and the RDG, in so much as these policies and guidance seek to ensure that new development respects the amenity of the city's citizens.
13. This is generally consistent with paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

Conditions

14. I have considered the Council's suggested conditions in accordance with Paragraph 56 of the Framework and the national Planning Practice Guidance. In addition to the standard implementation condition, it is necessary to define the plans and ensure that the proposed external materials of the walls of the extension match those of the existing dwelling, in the interests of the character and appearance of the area.
15. I do not find that a condition put forward by the Council which would prevent any further openings within the side elevations of the proposal to be necessary, in the interests of protecting the living conditions of adjoining residential properties. In coming to this view, I have had regard to the high level of screening provided by the existing close-boarded fencing along the side boundaries of the appeal site and the non-residential use of the adjacent premises at No.9.

Conclusion

16. For the reasons given above, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR