



Appeal Decision

Site visit made on 21 June 2022

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th July 2022

Appeal Ref: APP/Z4718/D/22/3298869

41 Jilling Ing Park, Dewsbury WF12 8DL

- 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 P Berry against the decision of Kirklees Council.
 - The application Ref 2022/62/90274/E, dated 21 January 2022, was refused by notice dated 24 March 2022.
 - The development proposed is described as 'conservatory at rear of house'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of 43 Jilling Ing Park, with particular regard to light and outlook.

Reasons

3. There are a set of large patio doors and tall windows located centrally within the rear elevation of No 43, spanning most of the width of the ground floor. This is the only glazing in the rear elevation at ground floor and it serves a kitchen and dining space. The glazing sits near the shared boundary with the appeal site and a high fence runs along this boundary, above a retaining wall. There is a noticeable difference in levels between the two properties, with the appeal site sitting higher than the adjoining neighbour. As No 43 is a mid-terrace property, it features a narrow and elongated rear garden, at the bottom of which is an even higher retaining wall and fencing stepping up to the properties to the north.
4. Given the existing topography, the rear garden of No 43 and outlook from ground floor windows is substantially enclosed by high boundaries to the north and west. As it is north facing, the immediate rear garden area and rear elevation already receive limited direct sunlight. The proposal would extend immediately along the shared boundary from the rear wall of the appeal property and project above the fence line, due west of this neighbour. This would create a greater sense of enclosure for this neighbour and further interrupt the direct sunlight reaching the rear windows and doors.
5. The Council's House Extensions and Alterations Supplementary Planning Document June 2021 describes "Dining kitchens" as "habitable rooms" and the proposal would appear to breach the "45° guidelines" set out for considering the impact of extensions adjacent to habitable room windows in neighbouring properties. Impacts arising from this will be exacerbated by the difference in

ground levels, which would amplify the height of the extension relative to No 43.

6. The proposed polycarbonate roof and gable would allow some light through however this would still worsen the existing situation. Furthermore, it would not prevent the overbearing impact and sense of increased enclosure that the structure would have and so the proposal fails to adequately protect the living conditions of the occupiers of No 43.
7. In relation to the main issue, the proposal would harm the living conditions of the occupiers of 43 Jilling Ing Park, and therefore would be contrary to Policy LP24 of the Kirklees Local Plan Adopted 27th February 2019, which seeks to provide a high standard of amenity for future and neighbouring occupiers.

Other Matters

8. I have also had regard to what could potentially be permitted through the exercise of permitted development rights (PDR), as highlighted in the appellant's grounds of appeal (the 'fallback' position). The proposal would extend much further beyond the rear wall of the appeal property than what may be permitted by virtue of PDR in this context. Even if there is a real prospect that the PDR fallback would be implemented as an alternative, it would have less impact than the present proposal on the occupants of No 43 given that it would be appreciably smaller. As such, this consideration does not outweigh my conclusion on the main issue or therefore the non-compliance with the development plan as a whole.

Conclusion

9. For the reasons given above I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR