



Appeal Decision

Site visit made on 17 January 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/V0728/D/22/3307222

35 Kettleness Avenue, Dormanstown, Redcar TS10 5EW

- 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 Ali Hussain against the decision of Redcar & Cleveland Borough Council.
 - The application Ref R/2022/0537/FF, dated 20 June 2022, was refused by notice dated 7 September 2022.
 - The development proposed is first storey extension to side/rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant expressed concern about which plans the Council based their decision on. However, it has subsequently been confirmed by the appellant that they are satisfied the Council appear to have based their decision on the amended plans submitted during the planning application process. As such, I have no reason not to proceed to determine the appeal and have done so on the basis of those amended plans as listed on the Council's decision notice.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of:
 - 32 Runswick Avenue with regard to privacy and outlook; and
 - 33 Kettleness Avenue with regard to daylight/sunlight.

Reasons

4. The appeal property is located within a residential area which has a dense built form. Dwellings are in close proximity to one another, with a number of ground floor extensions within reasonably short rear gardens. Kettleness Avenue comprises two storey semi-detached properties. Runswick Avenue, to the rear, comprises bungalows.
5. There is dispute regarding the separation distance between the appeal property and 32 Runswick Avenue. Irrespective of the precise measurements, the proposal would bring development closer to the boundary with no 32 and the first-floor extension would afford elevated views at close range into the property and garden, to the detriment of the privacy of these occupiers. The appellant suggests that the rear windows could be obscure glazed, however

one of the proposed windows would serve a bedroom which would be single aspect. As such, I cannot be satisfied that obscure glazed windows would be acceptable with regard to outlook and would not be harmful to the living conditions of the occupiers of the appeal site. Accordingly, this is a concern that could not be rectified by the imposition of a condition.

6. Given the height difference between the properties and the dense built form of the locality, the proposed extension at first-floor level to no 32 would be a dominant and oppressive feature. It would have an overbearing effect upon outlook from both the back garden and the rear facing rooms of this neighbour.
7. The rear boundary fence would not mitigate the elevated views at the first-floor level or screen the proposed extension. Even if the rear facing rooms at no 32 are not habitable rooms, the proposal would be detrimental to the levels of privacy and outlook that could reasonably be expected in a private garden.
8. While it has been suggested that a '45 degree rule' is complied with in respect of the relationship to neighbouring property, neither party has provided substantive evidence in relation to the effect of the proposal on daylight/sunlight levels at 33 Kettleness Avenue. However, given the dense built form of the area and that the rear elevation is southeast facing, the introduction of an extension of this size and location at first floor level would be likely to have a detrimental effect on daylight/sunlight levels in both the garden and property at no 33.
9. While there were no objections from neighbouring occupiers to the scheme, this is not a reason in itself to allow harmful development. The proposed hipped pitched roof reduces the bulk of the proposal, and the retained side alleyway contributes to an element of open character, but these features would not minimise the overall dominance of the proposed extension or sufficiently mitigate the shading effect of the proposal.
10. As such, the proposal would be harmful to the living conditions of the occupiers at 32 Runswick Avenue with regard to privacy and outlook, and the occupiers of 33 Kettleness Avenue with regard to daylight/sunlight. This is in conflict with Policy SD4 of the Redcar & Cleveland Local Plan (2018) which requires development to not have a significant adverse impact on the amenities of occupiers of existing buildings.

Other Matters

11. Reference is made to the separation distance to 32 Kettleness Avenue to the front of the property. The reason for this is unclear given the Council's concerns relate to 32 Runswick Avenue to the rear. Nonetheless, any policy compliance in this regard would be a neutral factor, as is a lack of harm in respect of the character and appearance of the area and in highways terms.
12. I note that a side window was removed from the proposal during the planning application process and the Council did not find any significant harm to the living conditions of the occupiers of 34 Kettleness Avenue with regard to privacy, to which I have no reason to disagree.
13. The appellant has indicated that the proposal would maximise the space available in the appeal property and incorporate space for disabled use. Disability is a protected characteristic and therefore I have had due regard to the three aims of the Public Sector Equality Duty set out in the Equality Act

2010, including removing or minimising disadvantages that may be suffered by this group. However, there is no particular evidence that people sharing the protected characteristic would be occupying the property, nor that the space proposed is required to address any particular need. Moreover, it has not been shown that the appeal scheme is the only option available to achieve the appellant's desired aims. Therefore, I conclude that the weight that I attach to this matter is limited in this case.

Conclusion

14. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR