

Appeal Decision

Site visit made on 17 January 2023

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/D0121/D/22/3305362
7 Bruton Close, Nailsea, BS48 4YW

- 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 Tom Densley against the decision of North Somerset Council.
 - The application Ref 22/P/0912/FUH, dated 7 April 2022, was refused by notice dated 20 July 2022.
 - The development proposed is the erection of first floor extension over existing garage, plus a two-storey front extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of first floor extension over existing garage, plus a two-storey front extension at 7 Bruton Close, Nailsea, BS48 4YW in accordance with the terms of the application Ref 22/P/0912/FUH, dated 7 April 2022, subject to the conditions set out in the attached Schedule to this decision.

Preliminary and procedural matters

2. In the interests of accuracy and brevity the description of the proposed development seen in the Council's decision notice has been used in preference to that contained in the original application form.
3. This is a resubmission of a previous proposal, which was refused permission by reason of its impact on the living conditions of the residents of 2 Becketts Lane. This time around the appellant submitted a daylight and sunlight study. The content of this document persuaded the Council not to repeat its objection on the grounds of loss of light to the neighbouring property.
4. I have no reason to disagree with the Council's assessment of the issues set out in the officer report regarding the design and appearance of the proposals or effect on highways and parking.
5. I note that objections were raised by neighbouring residents. I assessed the objections raised by the occupants of Nos 6 & 8 Bruton Close during my site visit. I understand why the Council did not uphold them, since the relationship between the respective properties is such that the feared consequences to living conditions would not, in my view, occur.
6. Part of the proposed development is alleged to impinge on land not in the control or ownership of the appellant, but this is not an issue for me, but relates a private matter to be resolved between the parties.

7. Arrangements had been made for me to view the proposal from within 2 Becket's Lane's curtilage, which I did.

Main issue

8. The main issue is the effect of the development on the residents of 2 Becket's Lane with reference to visual impact and outlook.

Reasons

9. The appeal property is a detached, modern dwelling tucked away from the main part of the close at the end of a private drive. It is set deep within its plot so that its front elevation is well set back in relation to the front elevation of the neighbouring property at No 6.
10. Of principal concern to the Council is the proposed front extension, and its alleged impact on the residents of the neighbouring property at 2 Becket's Lane. The latter property is older and more established than the appeal property, being brick-built of a Victorian appearance set in a spacious garden. As the appellant correctly says the main elevations of the neighbouring dwelling are to the front and rear, facing north and south respectively. On the western elevation facing the appeal property is an orangery, which at the time of my visit was being rebuilt. Smaller windows are also seen in the western elevation.

11. The Council consider the proposed front extension to breach some of the guidance provided in its SPD¹. The officer report says:

Para 2.2 of Residential Design Guide - Section 1, outlines the requirement that a minimum of at least 12 metres should be maintained from the side wall to the main elevation. The East side elevation of the two storey extension is approximately 8.5m to the elevation of the orangery of 2 Becket's Lane, and therefore it is considered to result in a overbearing impact.

12. The report adds:

The proposed does not comply with the 12m test contained within the Residential Design Guide (Section 1: Protecting living conditions of neighbours) and would result in a significant adverse impact upon the living conditions of neighbouring residents.

13. However, the 12m guidance in the SPD applies to the distance between the side wall of a proposed extension and the main elevations of neighbouring properties. As I saw on site, the orangery is an adjunct to the main house and its principal outlook is derived westwards from the side elevation of 2 Becket's Lane. A fence with a raised trellis separates the respective properties, and some leylandii are also in evidence, all of which affect outlook.
14. I saw that the proposed front extension would affect the view available from within the orangery, once building works were complete. However, the SPD also provides that 'the loss of a private view is not relevant to the consideration of a planning application'.

¹ The North Somerset Residential Design Guide Supplementary Planning Document (SPD)

15. To my mind, the outlook obtained from the orangery and other western facing windows would change but would not be affected to the extent that would prove harmful by reason of the proposed extension being overly dominant or oppressive. Whilst the extension would be clearly seen, the outlook obtainable to the west would still involve an acceptable degree of openness including significant areas of sky.
16. In conclusion, I find that the proposed development would not harm the living conditions of the residents of 2 Becketts Lane by reason of adverse visual impact or material harm to the outlook from the property. Accordingly, no conflict arises with those provisions of policies DM32 & DM38 of the Council's Development Management Policies – Sites and Policies Plan Part 1 (2016) requiring that new development should not prejudice the living conditions of adjoining occupiers.

Conditions

17. In the interests of visual amenity, I shall impose the Council's suggested condition in respect of external materials.
18. It is also necessary, in the interests of certainty, that the development shall be carried out in accordance with the approved plans.
19. To protect neighbouring residents from any possible adverse effects of future development which may be contemplated using permitted development rights, the additional but slightly modified condition proposed by the Council is imposed.

Other matters

20. I note the Council's reference to another appeal decision², which it says supports its case. However, the full circumstances of that case are not known to me, although I observe that the proposed development subject of that appeal appeared to affect the main rear elevation of a neighbouring property, rather than its side elevation. Accordingly, the appeal decision, whilst taken into consideration, does not attract significant weight in my determination.
21. All other matters raised in the representations have been taken into account, but no other matter raised is of such weight as to outweigh those matters which led me to my conclusion.

G Powys Jones

INSPECTOR

² Ref: APP/D0121/D/19/3230383

SCHEDULE OF 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 the following approved plans: Ref P001B; P010E; P011D; P015E; P020E; P021E; P022E; P025F; P030E; P031E; P032E; P033E; P040A; P041; P042; P043 & P044.
- 3). The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing dwelling.
- 4). Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)* (or any Order revoking and re-enacting that Order, with or without modification), no windows, rooflights or dormers (other than any expressly authorised by this permission) shall be inserted in the west or east elevations of the approved extensions without the prior written consent of the Local Planning Authority.