The Planning Inspectorate

Appeal Decision

Site visit made on 20 December 2022

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/E0915/D/22/3306870
184 Dalston Road, Carlisle, Cumbria, CA2 6DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs Scott Thompson against the decision of Carlisle City Council.
- The application Ref 22/0122, dated 15 February 2022, was refused by notice dated 4 July 2022.
- The application sought planning permission for removal of existing conservatory and erection of single storey rear extension to provide kitchen/lounge together with enclosure of porch to front elevation (ref 21/0872) without complying with a condition attached to planning permission Ref 21/0872, dated 26/10/2021.
- The condition in dispute is No 2 which states that: *The development shall be undertaken in strict accordance with he approved documents for this Planning Permission which comprise: the submitted planning application form received 6th September 2021; the site location plan and block plan received 10th September 2021 (Drawing No. 21-384-DWG003); the proposed floor plans and elevations received 10th September 2021 (Drawing No. 21-384-DWG002); the Notice of Decision; any such variation as may subsequently be approved in writing by the Local Planning Authority*.
- The reason given for the condition is: *to define the permission*.

Decision

1. The appeal is allowed and planning permission is granted for Removal Of Existing Conservatory & Erection Of Single Storey Rear Extension To Provide Kitchen/Lounge Together With Enclosure Of Porch To Front Elevation at 184 Dalston Road, Carlisle, Cumbria, CA2 6DY in accordance with the terms of the application, Ref 22/0122, dated 15 February 2022, without complying with condition No 2 previously imposed on planning permission Ref 21/0872, dated 26/10/2021, but subject to the following condition:

   1) The development hereby permitted shall be carried out in accordance with the following approved plans: Ref 21-384-DWG003 Rev C – site plan and location plan; Ref 21-384-DWG002 Rev L – proposed plan and elevations.

Preliminary Matters

2. The name of the appellants in the appeal form is different to that of the applicants in the planning application form. As the appellants have confirmed that the spelling of their surname in the application form is incorrect, the appeal is proceeding in the name of the appellants in the appeal form.

3. Planning permission (ref 21/0872) was granted in 2021 for demolition of the existing conservatory and the erection of a single storey rear extension and the enclosure of porch to front elevation. Condition No 2 of the permission specified the approved plans. The permission has been implemented, but the rear extension has not been constructed in accordance with the approved plans. Accordingly, the application subject of the appeal sought to remove condition No 2 and replace it with a condition specifying the plans that reflect the amended design of the development which has been implemented.

4. The amended scheme differs from the permission in a number of ways. The rear extension that has been constructed is roughly 3.3m in height rather than the 2.5m approved. There have also been alterations to the window details and the external materials would not match the existing property. The Council considers that the windows and materials would be acceptable and I agree.

Main Issue

5. The main issue is the effect of varying condition No 2 on the living conditions of the neighbouring residential occupiers of No 182, with particular regard to light and overbearing.

Reasons

6. No 184 is a 2 storey detached property in a residential area characterised by dwellings in a variety of styles and sizes including single and 2 storey detached, semi-detached and terrace properties. Properties are set back from the street in relatively generous plots.

7. The neighbouring dwelling to the north, No 182, is a detached 2 storey property with a rear conservatory and outdoor seating area. The rear extension to No 184 is visible from the conservatory. However, taking into account the separation and the extensive conservatory glazing, the extension will not unduly shade nor will it be overbearing to the neighbours' conservatory. The neighbours' outdoor seating area lies between their conservatory and the extension. While the extension will be more visible than the approved scheme, it does not result in an undue sense of enclosure nor is it oppressive to the seating area, taking into account the tall boundary fence and hedge and the relatively large size of the neighbours' rear garden.

8. No 182 has a ground floor living room window in the rear elevation overlooking the outdoor seating area. There is a smaller secondary window in the front elevation, but the rear window is the primary habitable room window serving the neighbours' living room. The window looks into the garden of No 182 and towards the single storey properties on Wansfell Avenue to the rear. From locations close to the window, oblique views are afforded of a part of the appeal scheme above the boundary. However, it is not conspicuous from deeper within the living room. I accept there would be a greater visual impact than the approved scheme but, taking into account the relationship of the extension to the habitable room window and the limited views of it, I find that the appeal scheme does not result in a poor outlook and it is not overbearing to the neighbouring habitable room window.

9. The appeal property lies roughly south of No 182, and the rear elevations of the neighbouring properties face roughly west. As such, it seems likely that the rear habitable room window of No 182 will be in shadow for a large part of the

day. The increased height of the appeal scheme would cast more shadow than the approved scheme. However, taking into account the relationship of the properties, the path and angle of the sun, and the relatively modest increase in the height of the extension, any additional shading to the habitable room window would be later in the day when the sun was lower in the sky.

10. Understandably, the neighbours want to receive as much sunlight as possible to their living areas. However, there is little evidence that the increase in the height of the extension would result in a significant additional loss of direct sunlight or unacceptably low levels of natural light in the living room. On the basis of the evidence before me, the limited additional loss of sunlight over and above the approved scheme would not be significantly detrimental to the living conditions of the current or future neighbouring residential occupiers.

11. Therefore, I conclude that the appeal scheme does not harm the living conditions of the neighbouring residential occupiers of No 182. On the basis that the development is not detrimental to the neighbouring occupiers, the proposed variation to condition No 2 would not conflict with the aims of Policies HO8 and SP6 of the Carlisle District Local Plan Adopted November 2016. These require, among other things, that there should be no loss of amenity to surrounding properties including by overbearing and there should be no adverse effect on residential amenity. Also, it would not conflict with the aims of the Achieving Well Designed Housing Supplementary Planning Document Adopted April 2011.

Other Matters

12. The extension has been increased in height to meet Building Regulations requirements in relation to roof insulation. Details of the various constituent parts of the roof have been provided to evidence the need for the increased height. While the Council considers that the requirements could have been met by a height increase of 20cm rather than the 80cm as built, there is little detailed substantive evidence to demonstrate a lower viable alternative.

13. The neighbours consider that as built the extension is overbearing and dominant and it obscures sunlight to their living room and outdoor seating area. I have addressed these matters above. While I note the neighbours' concerns in relation to the accuracy of the submitted plans, this is not a matter raised by the Council and, based on what I saw, I see no reason to disagree.

Conditions

14. As the development has commenced, a planning condition limiting the timescale for implementation of the permission is not necessary. I have however removed the disputed condition No 2 and imposed a new condition to specify the approved plans in the interests of certainty.

Conclusion

15. For the reasons set out above, I conclude that the appeal is allowed.

Sarah Manchester

INSPECTOR