
Appeal Decision

Site visit made on 21 February 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2023

Appeal Ref: APP/F0114/D/22/3303760

6 Summerleaze, Keynsham, Bristol BS31 2BZ

- 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 Paul Bodman of Linebuild against the decision of Bath & North East Somerset Council.
 - The application Ref 22/00235/FUL, dated 19 January 2022, was refused by notice dated 11 May 2022.
 - The development proposed is a 2 storey side extension to provide additional living space.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of 7 Summerleaze, having particular regard to their outlook.

Reasons

3. Policy D6 of the Bath and North East Somerset Local Plan 2011-2029, Placemaking Plan, July 2017 (PP) requires development to provide appropriate levels of amenity. This includes existing development achieving appropriate levels of privacy, outlook and natural light. The Council's refusal reason only expressly mentions an overbearing impact. However, I have considered all three aspects as they were mentioned in representations made during the planning application.
4. No.7 is a broadly similar residential property to the appeal dwelling but is orientated at a right angle to it at the head of a cul-de-sac. There is also a notable difference in ground levels whereby no.7 is at a lower level by comparison. At my site I was able to visit both properties and observed the that the present relationship is not ideal. This is principally owing to the orientation of windows and patio to the side elevation of the appeal property relative to the outdoor sitting area used by the occupants at no.7. I noted the presence of garden furniture at my visit, which suggests that this is an area of the garden within which the occupants of no.7 might reasonably anticipate spending prolonged periods of time.
5. Nevertheless, the degree of harm is mitigated by the separation distance and the presence of a boundary fence. Moreover, there are only two upper floor windows in the side elevation of the appeal property, one of which is obscure

glazed. Hence, when seated at the patio of no.7, one would be less aware of the presence of the appeal property and intrusive overlooking is for the most part avoided.

6. The proposed side extension would result in the built form of the appeal property encroaching into the space that separates the building from the outdoor seating area at no.7. In addition, there would be five, rather than three, windows in the side elevation. One of the upper floor bedroom windows would involve double glazed doors and a Juliet balcony.
7. The combination of greater proximity, elevated height and increased fenestration would have several harmful effects on the garden area of no.7. Firstly, the building would have a disquieting looming presence when using the outdoor seating. Secondly, the number and configuration of windows, would afford direct views of the seating area. This would be exacerbated should the doors to the Juliet balcony be open. These factors would considerably reduce the privacy and enjoyment of the garden for the occupants of no.7 and would feel unreasonably intrusive.
8. Furthermore, the side extension would be brought markedly closer to the ground floor window serving a home office/study in the side extension of no.7. Notwithstanding the nominal setback of the proposed extension from the principal elevation of the appeal dwelling, the proposal would align with direct views from the window. Owing largely to the difference in levels whereby no.6 is raised in comparison, this would have an unreasonably confining effect on the outlook from the window of no.7.
9. For these reasons, the proposal would fail to achieve a high standard of amenity for existing and future users as stipulated in paragraph 130 of the National Planning Policy Framework.
10. I accept that due to the relative separation distance and arrangement of built form, unreasonable loss of light to the occupants of no.7 would be avoided. A 'right to light' has been mentioned but I have little conclusive evidence before me regarding the existence or nature of any such legal right. In any event, planning decisions generally concern land use in the public interest, and I have considered the likely impact on light levels in that context. It is not the purpose of the planning system to administer or safeguard private rights to light, which would have a separate means of redress in law.
11. Moreover, the proposal would remain a single dwelling and there is little basis to suppose noise levels would harmfully increase. However, the avoidance of harm in respect of light and noise impacts would not address nor outweigh the permanent and unreasonable degree of harm that I have identified. It follows that a condition to limit the timing of construction works would be insufficient to overcome my concerns.
12. Accordingly, I find that the proposal would result in intrusive overlooking and significant overbearing harm to the living conditions of the occupants of No.7. As such it would fail to maintain an appropriate level of amenity as required by policy D6 of the PP and consequently, would conflict with this development plan policy.

Other matters

13. In coming to my view, I have had regard to the timeline provided by the appellant, and his contention that the representations made by Keynsham Town Council were inconsistent. Be that as it may, I have made my determination on the planning merits of the proposal based on the entirety of the evidence before me, including my own observations.

Conclusion

14. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise¹. For the reasons given above I conclude that the proposal would conflict with the development plan, and this is not outweighed by other material considerations. Therefore, the appeal is dismissed.

Helen O'Connor

Inspector

¹ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.