



Appeal Decision

Site visit made on 13 June 2023 by N Unwin BSc (Hons) MSc

Decision by Chris Forrett BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2023

Appeal Ref: APP/N2345/D/23/3321755

49 Lowthorpe Road, Preston, Lancashire PR1 6SB

- 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 Mrs Nafeesa Patel against the decision of Preston City Council.
 - The application Ref 06/2023/0089, dated 23 January 2023, was refused by notice dated 4 April 2023.
 - The development proposed is a rear single storey extension to form single level living space for a disabled person.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of 47 Lowthorpe Road, with particular regard to outlook and light.

Reasons for the Recommendation

4. The appeal site is comprised of a two-storey terraced dwelling with a substantial single storey rear extension close to the boundary with No. 47 which adjoins the appeal property to the northwest. There is a notably smaller single storey rear extension at No.47 both in width and length when compared to that of the appeal property. There is a ground floor window in the main rear wall of No.47 and a large window within the rear elevation of No. 47's rear extension. Both of these windows appear to be the primary window to a habitable room.
5. The proposal would project approximately five metres from the existing rear extension and would result in a total projection of around 9 metres from the original rear wall of the property. Whilst the extension would be set in from the side boundary, it would nevertheless introduce a substantial expanse of wall beyond the rear ground floor windows of No. 47 adjacent to the area of rear garden immediately behind the dwelling. Coupled with the narrow nature of the rear garden, the proposal would appear overbearing and create a sense of enclosure, particularly when viewed from the ground floor window in the main rear elevation of No. 47 and the area of rear garden adjoining the dwelling.

6. Due to the aspect of the windows within the ground floor rear elevation of No. 47 facing the rear garden, it is likely the highest levels of daylight and sunlight are obtained from this direction, with limited levels from the direction of the proposal. Furthermore, the eaves and ridge height of the proposal would be relatively low, further reducing its impact on the existing daylight and sunlight received from the rear ground floor windows of No. 47. Consequently, the proposal is unlikely to have an unacceptable impact on the levels of daylight and sunlight received by the windows within the ground floor rear elevation of No. 47.
7. The Council consider the proposal to breach the three-metre limit and 45° rule set out within Policy SP3 of the Extensions and Alterations Supplementary Planning Document (2013) (SPD). However, SP3 goes on to say that all planning applications are considered on their individual merits and the particular layout. I have not identified any harm arising from an unacceptable reduction to the levels of sunlight and daylight received by the occupiers of No. 47. There is thus sufficient justification to depart from the stance of the SPD in this regard.
8. The appeal scheme is required as ground floor sleeping accommodation for a disabled member of the appellant's immediate family. The Public Sector Equality Duty set out in Section 149 of the Equality Act 2010 (the Act) states that disability is a relevant protected characteristic for the purposes of the Act. I have had due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it.
9. Article 8 of the Human Rights Act is also engaged as the proposal could affect the health, well-being or living conditions of persons within their home and the rights of a child. In the context of Article 8, the best interests of a child must be a primary consideration and no other consideration can be treated as inherently more significant. However, although a primary consideration, a child's interest is not determinative of the planning issue and may be outweighed by the cumulative effect of other considerations.
10. Whilst I appreciate the requirement for the additional space, this does not outweigh the harm I have identified above. I am not convinced that an alternative form of development which would provide the required additional ground floor sleeping accommodation could not be achieved without giving rise to the extent of harm I have identified to the occupiers of No. 47.
11. Whilst the appeal scheme would not be harmful in terms of daylight and sunlight, it would still be harmful to the living conditions of the occupiers of 47 Lowthorpe Road due to an unacceptably poor outlook. Accordingly, the proposal would conflict with the objectives of Policies D13 and H8 of the Preston Local Plan (2004) and Policy AD1(a) of the Preston Local Plan 2012-26 (2015), which together broadly require new development to safeguard the living conditions of neighbouring residents.

Other Matters

12. The appellant suggests that the Council would accept an extension of up to three metres in length, questioning the impact of the additional two metres. However, in the absence of any extant planning approval for such a scheme

this does not represent a fall-back position. In any event, this does not provide a sufficient justification to permit an otherwise unacceptable proposal.

Conclusion and Recommendation

13. For the reasons given above, the appeal scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision not in accordance therewith. I therefore recommend the appeal be dismissed.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

Chris Forrett

INSPECTOR