



# Appeal Decision

Site visit made on 22 August 2023

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 September 2023**

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**Appeal Ref: APP/R2330/D/23/3319269**

**61 Oakwood Road, Accrington BB5 2PG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
  - The appeal is made by Mr Syed M Kadir against the decision of Hyndburn Borough Council.
  - The application Ref 11/23/0053, dated 25 January 2023, was refused by notice dated 1 March 2023.
  - The development proposed is a rear single storey extension.
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## Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a rear single storey rear extension at 61 Oakwood Road, Accrington BB5 2PG in accordance with the application Ref 11/23/0053 made on 25 January 2023, and the details submitted with it including plan nos. 1799 Rev 2 Page 1/2 (Existing & proposed layout) and 1799 REV 2 Page 2/2 (Proposed layout), pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

## Preliminary Matters

2. The Council's decision notice suggests the development would not be in keeping with the character and appearance of the area and refers to Policies including Policy DM26 (Design Quality and Materials) of the Hyndburn Borough Council Local Plan Development Management DPD (2018) (LP).
3. However, the provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis. While the policies of the development plan referred to in the Council's decision notice have therefore not on their own been determinative, I have taken them into account as a material consideration, insofar as they are relevant to an assessment of the effect on amenity.
4. The Council's delegated report notes that the submitted plans are not entirely consistent with the existing rear elevation of the host dwelling. I saw for myself that the existing windows on the rear elevation are not accurately drawn on the plans. Even so, this has not hindered my ability to assess the potential effects of the proposal based on its specific design, its position relative to neighbouring dwellings and my observations on site.

## **Main Issue**

5. The main issue is the effect of the proposed extension on the living conditions of occupiers of neighbouring dwellings with particular regard to outlook.

## **Reasons**

6. I am aware that there was a previously dismissed appeal on the site<sup>1</sup> which also proposed a single storey rear extension. I understand that particular proposal was 6.0 metres in depth and abutted the boundary with No 59 Oakwood Road. On my site visit, I also saw that the relative levels between these neighbouring dwellings means that the ground floor windows on the rear elevation of No 59 are set slightly lower than those on the rear elevation of the appeal dwelling.
7. Even so, the extension would be smaller than the previous proposal at 5.0 metres (m) in depth. The eaves of the extension would not be much greater in height than the top of the existing boundary treatments to this boundary. In combination with the position of the extension, set away from the shared boundary with No 59 by 0.5m, these factors would ensure that the development would not dominate or unacceptably effect outlook when experienced from the garden and ground floor windows to the rear of No 59.
8. The Council's delegated report suggests that the proposal would breach a '45 degree rule'. However, no such rule is set out in the GPDO or the development plan policies provided. In any case, I find that in this particular instance the projection of the extension beyond a 45 degree line drawn from the nearest edge of the neighbouring window would not in itself be harmful having regard to the site-specific circumstances and design elements described above.
9. Due to the single storey scale of the development, the intervening boundary features and the distances between the development and other neighbouring properties on Oakwood Road and Woodfield Avenue, the proposal would also have no material effect on outlook for any other neighbouring occupiers.
10. The evidence before me indicates that the Council has a Householder Design Guide Supplementary Planning Document which suggests that the depth of single storey rear extensions on semi-detached houses should be limited to 4.0m. However, as the Inspector that dealt with the previous appeal pointed out, the provisions of the GPDO indicate that larger extensions may be acceptable. In this particular case, the proposal would have a depth only 1.0m deeper than the guidance and for the reasons already outlined would not be materially harmful to the living conditions of neighbouring properties.
11. I conclude, the development will have an acceptable relationship with the living conditions of occupiers of neighbouring dwellings with particular regard to outlook.
12. Whilst this prior approval appeal has not been determined on the basis of Section 38(6) of the Planning and Compulsory Purchase Act 2004, I have given regard to Policies ENV7 (Environmental Amenity) of the Hyndburn Borough Council Core Strategy (2012) and Policy DM29 (Environmental Amenity) of the LP insofar as they seek to protect the amenity of neighbouring occupiers and

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<sup>1</sup> Appeal Ref APP/R2330/D/22/3305247

are therefore relevant to my considerations. Given my conclusion, I am also satisfied that the development would not conflict with these requirements.

**Conditions**

13. Any planning permission granted under Article 3(1) and Schedule 2, Part 1, Class A is subject to the conditions in sections A.3 and A.4. In addition, the formal decision includes within it reference to the approved plans.

**Conclusion**

14. For the reasons given, the appeal is allowed.

*M Russell*

INSPECTOR