



Appeal Decision

Site visit made on 30 August 2023

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 19 September 2023

Appeal Ref: APP/N4205/D/23/3324075

7 Briery Avenue, Bolton BL2 4AJ

- 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 Dr Caroline Bailey against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 15496/23, dated 20 February 2023, was refused by notice dated 11 May 2023.
 - The development proposed is the demolition of existing garage and side extension, and the erection of a two storey side extension and single storey extension at front.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the living conditions of the residents of 9 Briery Avenue, with particular regard to outlook and privacy.
 - Whether the proposed development provides adequate safeguarding of trees.

Reasons

Living Conditions

3. I appreciate that the proposal's first-floor front window would not directly face any of the neighbouring properties' windows. However, the proposed lounge window within the side elevation of the 2 storey element of the proposal has been orientated to directly overlook the rear garden area of No 9. The first-floor height and proximity of this window to the shared boundary with No 9's rear garden area would thereby result in a substantial amount of overlooking and a significant loss of privacy to the users of this garden area.
4. The Council has also raised concerns about the proximity of the proposal to a window within the side elevation of No 9's single storey side extension and its potential effect on outlook. However, the planning officer report confirms that this window is a secondary window that serves a kitchen/dining area. I am also satisfied that the angled relationship and the intervening distance between this window and the proposal is such, that large open aspects and a breadth of outlook would still be retained.

5. Whilst the proposal may conflict with some of the interface distances contained within the Council's Supplementary Planning Document 'House Extensions' 2012 (SPD) in this respect, the SPD sets out that these distances are a useful rule of thumb and should not be read as a minimum standard. In this context, I therefore consider that the proposal would not be of such a size, scale and height as to result in a significant loss of outlook to this window.
6. The appellant's willingness to make further amendments to the design of the proposal in order to provide screening measures suggested within the SPD is also noted. However, I must determine the appeal on the basis of the drawings submitted and the evidence before me.
7. In light of the above, I therefore find that the proposed development would have an unacceptably harmful effect on the living conditions of the residents of 9 Briery Avenue, in respect of privacy only. It would thereby conflict with Policy CG4 of Bolton's Core Strategy Development Plan Document 2011 (Core Strategy), which seeks to ensure, amongst other things, that new development is compatible with surrounding land uses and occupiers, protecting amenity, including privacy.

Safeguarding of Trees

8. The Council states that insufficient information has been submitted to assess the impact of the proposal on trees that adjoin the site. However, it is unclear which trees its concerns relate to and I was unable to be certain of this on my site visit. I am also mindful that the proposal would only be marginally wider than the existing single storey side extension, and the nearest tree that I saw was not in proximity to this.
9. As such, I am unable to find that the proposed development would not provide adequate safeguarding of trees. No conflict would therefore arise with Core Strategy Policy CG1, which seeks to safeguard and enhance biodiversity in the borough by protecting sites of urban biodiversity including trees.

Other Matters

10. My attention has been drawn to a previous planning permission at No 9 (Ref: 07370/19), however, on the evidence presented I cannot be certain that this represents a direct parallel to the proposal. Frustrations about the Council's lack of communication during the planning application stage are also noted. Nonetheless, this has not had any bearing on my decision as I have only had regard to the planning merits of the appeal proposal that is before me.
11. I am also mindful that the proposal would provide additional living accommodation for a member of the appellants' family. Whilst I have considerable sympathy for the appellants' household in this regard, personal circumstances seldom outweigh more general planning considerations, particularly where development would be permanent. Moreover, there is nothing in the evidence before me to indicate that the particular scheme proposed is the only way of achieving such benefits.

Conclusion

12. Although I have been unable to find that there would be an adverse effect in respect of outlook and trees, this is significantly outweighed by the harm that would be caused to the privacy levels of the residents of 9 Briery Avenue.

For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR