



Appeal Decision

Site visits made on 5 September 2023 and 3 October 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2023

Appeal Ref: APP/X4725/D/22/3310510

32 Birchen Avenue, Ossett WF5 8HT

- 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 Ms Samantha Best against the decision of Wakefield Metropolitan District Council.
 - The application Ref 22/01226/FUL, dated 7 June 2022, was refused by notice dated 30 August 2022.
 - The development proposed is a part single, part two storey extension to side.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I visited the appeal site on two occasions. At the first visit I was unable to obtain access to the appeal site and I took the opportunity of viewing what I could of the site from the public realm. On that day I was also able to attend an arranged site visit to view the appeal site within the neighbouring garden of No 30 Birchen Avenue (No 30). I returned to view the appeal site, at the request of the appellant, on 3 October 2023 and took in views from the appeal site garden, and public realm once again.

Main Issues

3. The main issue is the effect of the development on the living conditions of the occupants of No 30 Birchen Avenue, with particular regard to outlook and sunlight.

Reasons

4. The semi-detached appeal property is located in a residential area. Like its neighbour at No 30 it has a long garden which affords extensive and impressive views across fields. Land levels change between the road level on Birchen Avenue and these garden areas. Gardens are subsequently at a much lower level than the main ground floor living accommodation.
5. The appeal property has an existing flat roof detached garage and separate summerhouse sited along the side boundary with No 30. The appeal garage also forms part of garden boundary with this property, and its height falls below the top of the window which is on the rear of No 30's gable. However, due to the lower garden levels this is already a tall boundary to the neighbouring garden. The existing summerhouse is lower than the appeal garage and there is a more open outlook along this section of the joint boundary.

6. The garage and summerhouse would be demolished, and the proposed extension would form one structure. It would provide living accommodation at the existing ground floor level linked to the orangery on the rear of the appeal property. It would also provide additional home office space at the lower garden level, which appears to be slightly excavated into the site. The appeal proposal would be sited almost on the same front and rear building line of the existing garage and summerhouse.
7. The axis of the proposed pitched roof above the new extension would run continuously along its length and at a consistent height. Although the height of the eaves would be similar to that of the existing flat roof garage the ridge would tie into the higher existing rear orangery extension. Whilst the proposed development would provide a new separation gap to the joint boundary, this is not a significant distance. By meeting the existing orangery roof level there would be a marked difference in the height of built development parallel to a large portion of the neighbouring boundary.
8. The proposal would create a long, tall, solid mass of wall projecting beyond the current existing garage and above the neighbouring screen boundary wall. At approaching one to two-storeys the new minimal gap would not offset the imposing height in close proximity to the boundary and closest rear window at No 30. The development would be visible in peripheral views from the rear window. Exceeding the existing lower screen boundary wall the development would erode the current level of openness and loom above the lower garden level. Although the garden is long, the development would be close and directly visible from the lower part of the garden. The proposal, comprising of a blank continuous wall would have stark appearance and would feel enclosing and overbearing.
9. Furthermore, the Council has calculated that the 45 degree line of sight, known as the '45 degree rule' contained in the Wakefield District Residential Design Guide Part 2: Guidance for householders Supplementary Planning Document (SPD), would be breached further. Whilst the appellant considers the Council's opinion regarding the effect on the No 30 as a perceived detrimental effect, the guidance is intended to provide advice to ensure good relationships between neighbouring properties and amenity areas are maintained. There is no evidence to the contrary on this aspect or that it would not continue to breach this rule or intensify the effects.
10. Due to the additional height and orientation of the development additional overshadowing would occur to No 30 and would be most apparent during the mid-day and afternoon period when the sun is to the south. I am not persuaded that there would be a significant difference to levels of light within the property given the current position and proximity of the garage, but there would be additional overshadowing of the garden as the development would occupy space above the existing Summerhouse. Although the neighbouring garden is long it is reasonable to expect outside gardens areas close the main house to be well used. The combined effects would make the garden area less pleasant to use as a result.
11. The appellant has suggested that the development would provide additional privacy for the occupiers of No 30. However, this is a residential area where a degree of mutual overlooking is almost inevitable. Whilst the loss of a view is not a material planning consideration, I have outlined my concerns in other

respects, and I disagree that the development would not have a harmful effect. It thus remains this is a matter of planning judgment. I do appreciate the development would facilitate a more modern living environment for the appellant. However, this is a private interest and also not a material planning consideration. Furthermore I have no substantive evidence before me to show that a similar level of development could not be achieved through a scheme which would be less harmful.

12. The proposal would therefore harm the living conditions of the occupiers of No 30 Birchen Avenue, with particular regard to outlook and sunlight. Consequently it would be contrary to policies D9 and D10 of the Wakefield Local Development Framework Development Policies Document. Combined and insofar as they are relevant to the appeal these seek to ensure development is appropriate for its location and avoids detrimental impacts on neighbouring residents. It would also not meet the aims of the guidance contained within the SPD, which I have set out above.

Other Matters

13. The Council has not raised an issue with the effect of the development on the living conditions of the occupiers of other nearby properties, the design and proposed materials. I have no reason to take a different view. Therefore while there might be compliance with the Council's policies and the National Planning Policy Framework here, these matters weigh neither for nor against the proposed development.
14. Although my attention has been drawn to the Council approving other two storey side extensions, I have not been provided with substantive details of these or evidence that they have a similar relationship with neighbouring buildings. Although I accept that larger extensions do fall within permitted development rights these are also subject to site specific parameters, and there is no evidence that a comparable 'fallback' position exists in this case. It is also acknowledged that the appellant sought to discuss the proposal with the neighbouring occupier and amend the scheme. These other matters can only be attributed very little weight and as such do not outweigh the harm.

Conclusion

15. For the reasons outlined above, and taking into account all other matters raised, the proposal does not accord with the development plan when read as a whole. I conclude that the appeal should be dismissed.

K Williams

INSPECTOR