



Appeal Decision

Site visit made on 12 February 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/P4415/D/23/3321697

11 Arbour Drive, Thurcroft, Rotherham, South Yorkshire S66 9DU

- 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 Mrs E Brailsford against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2023/0444, dated 22 March 2023, was refused by notice dated 25 April 2023.
 - The development proposed is an extended dining room.
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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 an extended dining room at 11 Arbour Drive, Thurcroft, Rotherham, South Yorkshire S66 9DU in accordance with the application ref RB2023/0444 made on 22 March 2023, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 1, Class A, paragraph A.4(2).

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'), planning permission is granted for the enlargement of a dwellinghouse subject to limitations and conditions.
3. Where an application is made for a determination as to whether prior approval is required for development which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g) to Part 1, paragraph A.4(3) provides that the local planning authority may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions that are applicable to such permitted development.
4. Paragraph A.4(7) to Part 1 requires the local planning authority to assess the impact of the proposed development on the amenity of all adjoining premises, taking into account any representations received.

Main Issues

5. The main issues in this appeal are whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class A of the

GPDO and the impact of the proposed development on the amenity of adjoining premises with regard to outlook and levels of natural light.

Reasons

6. The appeal property and its attached neighbour, No 9, form a pair of modest semi-detached houses. The proposed development would replace a small conservatory located to the rear of No 11 along the shared side boundary with No 9 with a dining room. The proposed room would project 6m to the rear, have an overall height of slightly less than 4m and would be 3m wide. It is not a matter in dispute that the dimensions of the proposed single storey rear extension comply with Article 3, Schedule 2, Part 1, Class A of the GPDO and I agree with that position.
7. The kitchen is the main room contained within the ground floor rear elevation of No 9. On the basis of the internal layout at No 11, it is likely that this room is also used for eating. At present the outlook from this room is enclosed by a very tall side boundary hedge. Although the proposed rear extension would be taller than the hedge, its mono pitch roof would slope down in height away from the house. As a consequence of this, and the location of the large window serving the kitchen at No 9 away from the side boundary, the extension would not materially enclose the outlook from this window more than is currently the case. Moreover, as the kitchen sink is located directly in front of the window, if an eating area is present in this room, it would be set further back from where the flank of the proposed extension would be even less noticeable.
8. The outside area closest to the rear elevation of No 9 is used for the storage of wheelie bins rather than as a patio, and the garden is long enough to accommodate sitting out and outdoor play away from the house. As a result, the proposed development would not be overbearing and spoil the enjoyment of the garden when the occupiers of No 9 are outdoors.
9. Taking all these matters into account, I therefore find that the proposed development would not enclose the outlook at No 9 to the extent that living conditions would be materially harmed.
10. In terms of natural light, during the latter part of the day the proposed extension would place the south facing kitchen and adjacent outdoor area in the shade. However, this would be short lived and for the same reasons given in relation to outlook from the kitchen and adjacent outdoor area this would not result in material harm. Given its south facing orientation, the extension would not be so large or so close as to materially reduce levels of daylight at No 9.
11. Policy SP55 of the Local Plan has been cited in support of the refusal of the application by the Council. Amongst other matters, this policy requires that new extensions protect adjoining properties from overshadowing. The supplementary planning document 'Householder Design Guide' has also been referred to by the Council. It guides that single storey rear extensions should not project more than 4m from the existing rear elevation and that mono pitch extensions should be avoided.
12. Prior approval applications are not determined as though the development plan and related guidance must be applied because the principle of the development is established through the grant of permission by the GPDO. Development plan

policies though are relevant insofar as they assist in assessing the impact of a proposed extension on the amenity of adjacent properties.

13. For the reasons given above, I therefore conclude that the proposed development would provide acceptable living conditions for the occupiers of No 9 with regard to outlook and natural light levels. As a result, in relation to overshadowing, it would accord with policy SP55 of the Local Plan.

Other Matters

14. A neighbour states that the side boundary fence and hedge are not owned by the appellants. However, as this is a matter of civil law, and this application has been determined on the basis of the GPDO, this is a consideration that has not altered my assessment of the appeal.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted. In granting approval the appellant should note that the GPDO requires at paragraph A.3(a) that the external materials used in the construction of the extension must be of similar appearance to those used in the external construction of the existing house.

Ian Radcliffe

Inspector