



Appeal Decision

Site visit made on 26 June 2024

by Rebecca McAndrew, BA Hons, MSc, PG Dip Urban Design, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29TH July 2024

Appeal Ref: APP/P0199/D/24/3341788

125 Kingscote, Yate, South Gloucestershire BS37 8YG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Jacquie Barrett against the decision of South Gloucestershire Council.
 - The application Ref is P23/03137/HH.
 - The development proposed is a single storey rear extension to the existing main dwelling with a flat roof and a sky lantern.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the occupiers of adjoining property, No.124 Kingscote, with regard to loss of outlook and sense of overbearing.

Reasons

3. The proposed extension would provide additional living accommodation, in the form of a sensory room, to meet the special medical circumstances of residents of the property.
4. The appeal property is an end-of-terrace house, which benefits from existing extensions. The proposed extension would sit in-line with an existing rear extension, which is set away from the joint boundary with No.124. It would also adjoin a rear extension which sits on the joint boundary.
5. Together, the existing and proposed extensions would extend a significant distance beyond the rear elevation of the adjoining dwelling. I note that the proposed extension would include a flat roof and would be single storey height, which would limit the loss of light to the neighbouring property. However, having regard to the combined depth of the extensions, proximity to the boundary and the relationship with the neighbouring property, the proposal would create a sense of overbearing to both their garden and ground floor window which looks into this space. Consequently, the proposed extension would significantly harm the outlook of the residents of No.124.

6. I recognise that the appeal property benefits from an existing canopy in the position of the proposed extension. However, this is a retractable structure, so it can be reasonably assumed that it is not always in place. Also, given that it is a fabric structure, without sides, it is significantly less intrusive than the proposed solid structure would be when viewed from the neighbouring property. As such, the canopy has a significantly different impact to the proposed extension.
7. I note the appellant's comments regarding the impact of other potential structures, such as a higher fence or a gazebo. However, no details of these have been provided. I therefore attach limited weight to this in support of allowing the appeal.
8. Taking all of the above into account, the proposed extension would cause unacceptable harm to the living conditions of the existing and future occupiers of the adjoining dwelling and would reduce enjoyment of their property. It would therefore be contrary to Policies PSP8 and PSP38 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) and the guidance in the Householder Design Guide Supplementary Planning Document (2021) (SPD). Taken together, these seek to protect the living conditions of neighbouring residents.

Other matters

9. I have considered a number of other matters submitted by the appellants in support of the proposals. I note that no local objections have been received to the proposals, including from the occupiers of No.124. However, I must consider the living conditions of both existing and future residents. As such, I have found undue harm in this respect.
10. I note comments regarding the orientation of the properties and the level of sunlight received, including photographs to demonstrate this. I recognise that the proposal would not give rise to overlooking or loss of privacy. However, this would not outweigh the overall harm that I have identified to the outlook of the neighbouring property, in terms of sense of overbearing.
11. I acknowledge the appellant's comments that the reason for refusal would be overcome if the occupiers of No.124 were to construct a rear extension under permitted development rights. However, nothing before me suggests this is proposed. Therefore, I must consider the proposal in light of the current situation on site. As such, I have found unacceptable harm.
12. It is noted that there are special medical circumstances associated with the proposal. I acknowledge the information submitted regarding the need for a sensory room which cannot be accommodated elsewhere within the dwelling. I have carefully considered all information submitted in these respects.
13. Refusal of the scheme would engage Human Rights matters. Having regard to Article 8 and Article 1 of the first Protocol, there would be interference with the occupiers' rights in respect of private and family life, and the peaceful enjoyment of possessions respectively. However, there is a legitimate aim in protecting the character and appearance of the area and the scheme falls short of acceptability in this respect. The harm would be permanent and long standing. Consequently, these personal circumstances do not outweigh the

significant harm that I have described. Such a conclusion is necessary and proportionate to this case.

Conclusion

14. I have found the proposal would conflict with the development plan when taken as a whole. There are no other considerations which outweigh this conflict. I therefore conclude that the appeal should be dismissed. The proposal would not unacceptably violate the family's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Rebecca McAndrew

INSPECTOR