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# Appeal Decision

Site visit made on 16 May 2017

by **J C Clarke BSc(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 June 2017

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**Appeal Ref: APP/G4240/D/17/3167579**

**18 Fraser Street, Ashton-under-Lyne OL6 6LL**

- 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 Mrs Pearson against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 16/00595/FUL, dated 17 June 2016, was refused by notice dated 15 August 2016.
  - The development proposed is a Two Storey Side & Rear Extension & single Storey Rear extension.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed development on the living conditions of occupiers of 16 Fraser Street.

## Reasons

3. Number 18 Fraser Street is an end of terrace house with an existing part single and part 2 storey rear outrigger. The neighbouring house at 16 Fraser Street has, immediately next to the boundary with the appeal dwelling, a large rear facing ground floor window.
4. The Council's Residential Design Guide Supplementary Planning Document (SPD) states that, to help avoid issues such as overshadowing or reduced outlook from habitable room windows in neighbouring dwellings, the Council will limit the size of 2 storey and single storey rear extensions using, respectively, a 45 degree and a 60 degree rule. Whilst the SPD only has the status of guidance it is nevertheless material to my decision.
5. The proposed extension would project just over 4 metres from the main rear facing wall of the appeal dwelling<sup>1</sup>, the alignment of which is itself set further back than that of the wall containing the rear facing window in number 16. Whilst its 2 storey part would be set away from the boundary with number 16, its single storey part would run alongside this boundary.

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<sup>1</sup> Although a distance of 3.95 metres is given on drawing PL0415082/Rev A this is from the outer wall of the existing dining room bay window

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6. As it would be to the north of number 16, the proposal would not cause any substantive loss of sunlight for the occupiers of that dwelling. However, whilst the term 'overshadowing' used in policy H10 of the Tameside Unitary Development Plan (TUDP) 2004 is typically applied to loss of sunlight it can also have a broader meaning, applying to loss of daylight or outlook.
7. Furthermore, the ground floor part of the proposal would extend substantially beyond the '60 degree' line when drawn from the centre of the window in number 16 in accordance with the SPD. A small part of the 2 storey element would project beyond the '45 degree' line. Whilst the ridge and eaves line of the 2 storey part of the extension would be set below those on the main part of the dwelling, this would not substantially reduce the effects of the extension as a whole as perceived from the affected window in number 16. Having regard to all these points, the proposal would substantially restrict the outlook from, and to some extent the daylight available to, the rear facing window in number 16.
8. The proposed extension would project no further to the rear than the 2 storey part of an existing outrigger at number 16, which also has a single storey section projecting even further to the rear. However, the outrigger at number 16 is set away from the boundary with number 18. Its existence, and that of other outriggers at numbers 12 and 14, does not lessen the effects of the appeal proposal referred to above.
9. Having regard to all these points, I conclude that the proposal would cause substantial harm to the living conditions of the occupiers of 16 Fraser Street. Its approval would therefore conflict with policy H10(d) of the TUDP and the relevant provisions of the SPD and the National Planning Policy Framework (the 'Framework') related to this issue.

### **Other Considerations**

10. The proposed extension would provide independent living space for the appellant's mother, who has limited mobility and a range of other medical conditions. Furthermore, it would do so in an environment where she can have access to her own stair lift, cooking, washing and sanitary facilities and to a safe and secure garden, whilst having access to convenient practical and emotional support by the family if and when she needs it. It would reduce the risk of the mother having to move into a nursing home or other facility away from the family and be likely to reduce the need for home support to be sourced from outside the family. The provision of such space is supported by the Government housing policy as expressed in 'Laying the Foundations: A Housing Strategy for England' and would help address the needs of an ageing population. I have no reason to doubt that it would do so in an affordable manner.
11. However, whilst the above considerations are clearly important, they must be balanced against the harm that I have identified earlier and the fact that any planning permission would run with the property.
12. I acknowledge that the Framework sets a presumption in favour of sustainable development. However, this must be considered in the context of its core principles which include always seeking to ensure a good standard of amenity for existing and future occupants of land and buildings.

13. I agree that the proposal would not harm the character or appearance of the host property or the surrounding area. I also note that the property is not in a Conservation Area. However, these points constitute a lack of harm in relation to these issues rather than positive benefits to weigh in the planning balance.
14. I also agree that the proposal would accord with policy C1 and several of the criteria in policy H10 of the TUDP, and with policy RD2 of the SPD. However, this point does not outweigh the policy conflicts that I have identified earlier.
15. In coming to my decision I have also had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need amongst other things to advance equality of opportunity between people who share a protected characteristic, such as age and disability, and people who do not share it.

### **Planning balance and conclusion**

16. Against the proposal I have found that it would cause substantial harm to the living conditions of occupiers of 16 Fraser Street. Given the resultant conflict with development plan policy this matter carries substantial weight against allowing the appeal.
17. In support of the proposal it would provide supported independent living space for the appellant's mother. However, whilst this would be an important benefit I am not convinced that it is sufficient to outweigh the harm that I have identified. I conclude that the proposal would not accord with the development plan as a whole or constitute sustainable development in the terms of the Framework.
18. For the reasons given above I conclude that the appeal should be dismissed.

*Jonathan Clarke*

INSPECTOR