



Appeal Decision

Site visit made on 9 March 2022

by M Clowes BA (Hons) MCD PGCERT (Arch con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/G4240/D/21/3289671

103 Wilshaw Grove, Ashton-Under-Lyne OL7 9QT

- 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 Mr Phil Chadwick against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 21/01107/FUL, dated 14 September 2021, was refused by notice dated 29 November 2021.
 - The development proposed is described as proposed single storey rear conservatory.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice and officer report indicate that the development has already been carried out. During my site visit I saw that there was a partially constructed extension consisting of a raised concrete slab and low brick walls. Whilst the development carried out to date, appears to accord with the submitted plans in terms of its overall size and footprint, it is further away from the boundary with 101 Wilshaw Grove than indicated on the proposed ground floor plan.
3. Having compared the submitted plans, it is clear that the proposed site and ground floor plans do not correlate, with each showing the conservatory in a different position in relation to the boundary with No 101. However, these were the plans determined by the Council. As there is little difference in the position of the side elevation, I am satisfied that I have sufficient information before me, to properly assess the impact of the proposed development on the living conditions of the adjacent dwelling. In reaching my decision, I have assessed the development as shown on the submitted plans.

Main Issue

4. The main issue is the effect of the proposed development upon the living conditions of the occupiers of 101 Wilshaw Grove, with particular regard to outlook and light.

Reasons

5. The appeal relates to a 2 storey semi-detached dwelling on a corner plot, in a residential area of similarly designed houses. The property has previously been extended with 2 storey and single storey additions to the side that further

- wraps around the full width of the rear elevation, into a single storey lean-to extension.
6. The Council have referred me to the Tameside Residential Design Supplementary Planning Document 2010 (SPD). Amongst other things, it aims to ensure extensions do not cause unacceptable overshadowing, loss of natural light or privacy reduction to neighbouring properties. Described as a conservatory, the proposed development would be akin to a sunroom with a large number of windows set in brick walls, under a tiled hipped roof. RED3 of the SPD states that single storey rear extensions should not intercept the 60° line when applied to the nearest ground floor habitable window. The Council advises that the conservatory would fail to comply with this standard when applied to the ground floor window of No 101.
 7. Notwithstanding the discrepancy with the plans, it is clear that the extension would lie next to or very close to the boundary with No 101, which is formed by a close boarded fence that follows the decreasing topography of the rear garden. The eaves of the conservatory would match those of the existing lean-to rear extension and would be considerably higher than the fence, which did not include trellising at the time of my visit. The hipped roof would be higher still. As a result, the combined height, depth, and proximity of the extension would serve to enclose and reduce the current outlook from the rear ground floor window of No 101.
 8. As the rear garden faces north-east, a small proportion of early morning sunlight is likely to be lost from the rear ground floor window of No 101, particularly in winter months when the sun is lower in the sky. Given that the conservatory would be higher than the fence, a degree of shading would also occur to the garden area next to the window, which is used for sitting out. Although an evergreen tree exists close to the boundary, its tapered form allows light to filter through. Consequently, the presence of the tree does not justify the erection of a permanent and solid structure that would diminish the level of light currently afforded to the occupants of the neighbouring dwelling.
 9. An interested party advises that there have been 2 previous refusals of this development and an appeal dismissal. However, no details of these previous decisions have been provided and therefore, I cannot determine whether the development now proposed is the same. In addition, the appellant refers to a former garage, said to have extended 6m from the rear building line. Previous development that no longer exists or the presence of a large garden, does not justify new development that is harmful to the living conditions of neighbouring occupants. Each development has to be assessed in accordance with the development plan and material considerations relevant at the time of the decision. The conservatory would fail to comply with the development plan for the reasons given above. These matters do not alter my findings on this appeal.
 10. I conclude that the conservatory would have an adverse effect upon the living conditions of the occupiers of 101 Wilshaw Grove, with particular regard to outlook and light. Therefore, the proposed development conflicts with Policies H10 and C1 of the Tameside Unitary Development Plan Written Statement (2004) which amongst other things, seek to consider the relationships between buildings and prevent unacceptable impacts on neighbouring properties. It would also conflict with the guidance contained in the SPD and paragraph 130

of the Framework, which requires new development to have a high standard of amenity for existing users.

Other Matters

11. The appellant suggests a fallback position of the erection of a 3m rear extension without planning permission. However, such extensions must extend off the original rear wall of the dwelling. Here the dwelling already benefits from a lean-to rear addition. As any further rear extension would require planning permission, there is no real prospect of a similar development coming forward under permitted development rights. This matter does not therefore affect my overall findings.
12. It is suggested that the conservatory would not affect the privacy of the occupants of No 101 due to the use of obscured glazing in the side elevation. Impact on privacy was not a reason for refusal and therefore I have not dealt with this issue further.

Conclusion

13. As a whole, there are no considerations that would warrant taking a decision otherwise than in accordance with the Development Plan. I conclude that the appeal should be dismissed.

M Clowes

INSPECTOR