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Development Control – Delegated Officer Report

Application Number: ADC/0583/07 Recommendation – REFUSE

Site: **29 Hammy Close, Shoreham-by-Sea BN43 6BL**

Proposal: **Retention of rear conservatory with obscured glass substituted in upper part of white UPVC side wall**

The Application

This conservatory forms the subject of an enforcement notice against which an appeal was lodged on 6 August 2007 and a decision is awaited. It had previously formed the subject of a retrospective planning application (ADC/0165/06) which was dismissed on appeal on 8 February 2007. The application had been refused by the Committee at their meeting on 31 July 2006, contrary to recommendation.

The property is a semi-detached bungalow. It has previously been extended with a rear extension in 1987 to which a gabled roof was added in 1998. A garage was also built. The unauthorized conservatory has been erected in the narrow space between this rear extension and the boundary with the attached bungalow (No.30) which has a flat-roofed rear extension approximately 1.2m from the boundary.

The conservatory measures approximately 3.9m deep by 1.75m wide and stands 2.3m high at its tallest point. It has an almost flat roof and is of white UPVC framework with white opaque panels for the side abutting the boundary. The present application proposes to change the upper part of the side panels from white UPVC to obscured glass.

The conservatory requires planning permission from the Council because it constitutes a building operation under the definition of 'development' in section 55 of the Act and it has resulted in the total volume of enlargements (70 cubic metres) that can be added to a semi-detached dwelling under 'permitted development rights' being exceeded. The applicants have stated that they originally received documentation from the Council, in the form of an e-mail to the conservatory suppliers, that planning permission was not needed and therefore they went ahead with the construction.

Consultations and Representations

Third Parties: A letter from the resident of the attached bungalow (No.30) states that the proposed obscure glazing makes little or no difference to the effect on the amenities of her bungalow and does not overcome the grounds for refusal. The tactics of the applicants in not abiding by the Council's previous refusal and the previous appeal decision are deplored

Relevant Planning Policies and Guidance

West Sussex Structure Plan 2001-16 (2005): DEV1
Adur District Local Plan 1993-2006 (1996): Saved policies as directed by the Secretary of State 25 Sept 2007 - AG1, AH7
Local Plan Appendix 11 'Supplementary Planning Guidance' comprising Development Control Standard No. 3 'Extensions and Alterations to Dwellings'
PPS1 'Delivering Sustainable Development' (ODPM 2005)

Planning Assessment

When refusing the previous application and deciding to take enforcement action, the Committee were of the opinion that the unauthorised conservatory should not be granted planning permission because of the detrimental effect it has on the residential amenities of the attached bungalow (No.30). Moreover, the refusal has been upheld on appeal against the conservatory for the reasons given by the Inspector.

The Inspector states in his decision on the section 78 appeal that "....the position of the conservatory has resulted in a deep recess to the rear of No.30 and it exceeds 3.5m in depth" (ie. the maximum depth referred to in the Council's supplementary guidance) "....the wall of the conservatory is higher than the fence and is in a position close to the boundary where it has a significant effect on the restricted space at the rear of No.30. As a result, it is excessively overbearing and I am satisfied that it has lead to an unacceptable loss of outlook from the adjacent rear garden and (rear) window of this property.....the bright appearance of the conservatory contributes to the overbearing effect that I have identified above."
However, he did not consider that the conservatory caused undue loss of outlook from the neighbour's side-facing window (as the room concerned also had a rear window) or unacceptable loss of daylight, sunlight or privacy to that property.

The Inspector's views amount to a conclusion that there is conflict with the relevant policies AH7 of the Local Plan and DEV1 of the Structure Plan referred to above. Amongst other things, AH7 (Householder proposals) requires extensions and alterations to dwellings "to be designed so that proposals would not result in an unacceptable degree of overlooking, loss of natural light or overbearing effect on neighbouring dwellings" and that "design and materials are sympathetic". DEV1 (High quality design), amongst other things, requires construction, layout, scale and appearance to integrate with neighbouring development and have regard to the local context.

Before embarking on enforcement action, the Committee deferred the matter to enable the installer's agent to put forward a possible compromise solution. A revised plan was received showing the material in the upper part of the side of the conservatory changed from white UPVC panels, to which the neighbour particularly objected because of glare, to obscured glass (as contained in the

present application) and also reducing the depth of the conservatory from 3.9m to 3m for the half immediately adjoining the boundary (ie. so that it would have had a 'stepped' rear elevation). However, the Committee found this still to be unacceptable.

With its depth of 3.9m adjoining the side boundary, the conservatory exceeds the Council's maximum standard of 3.5m for rear extensions contained in the Council's DC Standard No.3 'Extensions and Alterations to Dwellings' (para 3.2). Moreover, the DC Standard No.3 also states (para 3.3) that, where there are existing rear projections (as in this case), it would not normally be acceptable to build an infill extension that would leave a neighbouring rear room in a deep recess with poor outlook and insufficient light. The Committee did not consider that the lower profile of the conservatory compared to a normal extension, with its lightweight construction, was sufficient to make it acceptable.

The Committee considered that, in the instance of this case, the neighbouring attached bungalow No.30 suffers such an unacceptable degree of impact from the conservatory that it was not appropriate to require lesser steps than the complete removal of the conservatory to be undertaken. The position of the rear window (sittingroom) in the original rear wall of No.30 and the side window (diningroom) of its rear extension are in such a narrow recess that the effect of the conservatory on outlook from the neighbouring bungalow is overbearing. This is considered to remain the case whether or not its side is changed from opaque white panels to obscured glass.

Recommendation

REFUSE on the ground that:-

1. The conservatory, by reason of its position adjoining the boundary with the attached bungalow, is detrimental to the residential amenities of that bungalow, resulting in loss of outlook and an overbearing effect, and is consequently contrary to policies AH7 of the Adur District Local Plan and DEV1 of the West Sussex Structure Plan. The replacement of the opaque white panels in the upper part of the side wall with obscured glass would reduce glare and assist light penetration but would not overcome the objection to loss of outlook or overbearing effect.

Case Officer.....

Date....8/10/07....