The Planning Inspectorate

Appeal Decision

Site visit made on 10 December 2019

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/Y3805/D/19/3240236
164 Manor Hall Road, Southwick BN42 4NP

- 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 Andrew George against the decision of Adur District Council.
- The application Ref AWDN/1103/19, dated 11 July 2019, was refused by notice dated 13 August 2019.
- The development proposed is first floor extension to rear with cladding.

Decision

1. The appeal is dismissed.

Procedural matters

2. The proposed development has taken place which allowed me to judge its effects on site.

3. Prior to refusing the current proposal, the Council granted planning permission for a similar scheme except that, instead of the built development being 0.8m from the boundary with 162 Manor Hall Road as is shown in this appeal proposal, it was to have been amended so that it would be 2.0m[1] from this boundary.

Main Issue

4. The main issue is the effect on the living conditions of the occupiers of 162 Manor Hall Road in terms of light and overbearing effect.

Reasons

5. The appeal property is a mid-terrace two storey property where the roof has been converted to living accommodation with the provision of a centrally located dormer in the rear elevation across the vast majority of its width.

6. The appeal proposal relates to a first floor flat roofed extension which is located across most of the width of the property. It is located asymmetrically on the rear elevation so that it is very close to the adjoining property on the eastern side, No 166, but set in from western boundary by 800mm. It is 3.0m deep from the previous rear elevation of the property.

[1] The dimension on drawing 18/27 SK1 Revision B is "20000". This in millimetres would be 20.000 metres. However, this is clearly incorrect and by interpolation should be read as 2.00 metres.

7. The Council has referred to its Development Management Standard No 2 (DMS2). DMS2 sets out the principles used by the Council in assessing planning applications for this type of development. DMS2 stresses that any extension should not reduce the daylight to neighbouring properties to an unacceptable extent and that the outlook of neighbouring properties should not be dominated by an extension. As these principles are in accordance with Policy 15 of the Adur Local Plan 2017, which requires development not to have an unacceptable impact on adjacent residential dwellings including unacceptable loss of daylight, I am able to give DMS2 significant weight.

8. I note that No 162 has a ground floor extension adjacent to the appeal property of similar depth> This means that the appeal scheme would not have any material effect on those in the ground floor of No 162. Therefore, any effects are on those within the first floor. On this basis the appellant argues that the proposal should therefore be considered as if it was for a single storey extension only, arguing that it would have a similar overbearing effect on those within the first floor as a single storey extension would have on those within a ground floor. This is pertinent in that DMS2 allows for deeper single storey extensions within 1m of the boundary than at first floor. However, the proposal is closer to the boundary than 1m and I therefore give this proposition little weight. In any event, as a matter of fact, the proposal is not for a ground floor extension. The appellant also refers to permitted development rights for rear extensions, but as this would not allow the proposal as a fall-back position in the event that this appeal was to be dismissed, I also give this little weight.

9. The Council advises that the window closest to the extension in No 162 is used as a bedroom. The appellant therefore considers that this should be given less weight when compared to other habitable rooms on the basis that it is principally used at night when the proposal would have, in the appellant's view, no material effect. However, it seems to me that this is not a good argument, since there is nothing to prevent the occupier of No 162 from using this room for other habitable purposes, such as a home office. I consider that it should be considered as simply 'a habitable room'.

10. DMS2 indicates in paragraph 3.2 that first floor rear extensions should be no deeper than 2m where they are within 1m of a side boundary, as here. This paragraph also indicates that extensions abutting the boundary, and it can be implied to be referring to first floor extensions, will not normally be permitted.

11. The appellant argues that the 2m dimension given in DMS2 should only be given limited weight as this would not be deep enough for a room. However, this is not necessarily the case since alternative internal layouts to that proposed to be utilised here may allow for appropriately sized rooms, particularly as this 2m dimension does not apply further than 1m from the boundary.

12. The appellant has referred to the Building Research Establishment's guidance 'Site Layout Planning for Daylight and Sunlight 2011' (the Guidance). This refers to the 45° 'rule'. The appellant refers to the Guidance indicating that both 45° lines need to be intersected before a proposal "may well cause a significant reduction in skylight received by the window". The appellant has demonstrated in elevation the extension does not breach the 45° line, but it would be breached in plan form.

13. In any event, neither DMS2 nor the Guidance are rules to be slavishly followed but, rather, they need to be considered as part of an overall planning judgement.

14. From my inspection on site, I am of the view that the extension results in a harmful loss of light and a significant harmful overbearing effect within No 162 due to its proximity and depth. It is the closer proximity of the appeal proposal to No 162 when compared with the permitted scheme that results in these harms. In my view, the benefits to the appellant of the development set out in the grounds of appeal do not outweigh these harms.

15. Consequently, the proposal would be harmful to the living conditions of the occupiers of 162 Manor Hall Road in terms of loss of daylight and overbearing effect. As such the proposal would be contrary to Policy 15 of the Adur Local Plan and the principles and detail of DMS2 as set out above. It would also be contrary to paragraph 127 of the National Planning Policy Framework which indicates that planning decisions should create places with a high standard of amenity for existing users.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

R J Jackson

INSPECTOR