The Planning Inspectorate

# Appeal Decision

Site visit made on 10 August 2021

**by C Rafferty LLB (Hons), Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 September 2021**

**Appeal Ref: APP/P4225/D/21/3275765**
**6 Kay Brow, Heywood OL10 3ES**

- 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 Peter Mulligan against the decision of Rochdale Borough Council.
- The application Ref 21/00330/HOUS, dated 3 March 2021, was refused by notice dated 30 April 2021.
- The development proposed is the demolition of existing conservatory and construction of new single storey extension to rear of property.

## Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing conservatory and construction of new single storey extension to rear of property at 6 Kay Brow, Heywood OL10 3ES, in accordance with the terms of the application 21/00330/HOUS dated 3 March 2021 subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision;

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing floorplan, elevations and location plan MMD015.02.21.01 dated 24 February 2021; Proposed floorplan and elevations MMD015.02.21.02 dated 26 February 2021; Block Plan MMD015.02.21.03 dated 3 March 2021; and Proposed Block Plan MMD015.02.21.04 dated 20 March 2021;

   3) The materials to be used in the external surfaces of the development hereby permitted shall be as stated on the application form.

## Procedural Matter

2. The appellant has submitted a 45 degree plan as part of its appeal statement. This was not before the Council at the time of its decision and there has been no opportunity to comment on this during the appeal process. As such, I have not considered this plan in making my decision.

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (Framework). Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am

therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by this.

## Application for Costs

4. An application for costs was made by Mr Peter Mulligan against the Council. This application is the subject of a separate decision.

## Main Issue

5. The main issue is the effect of the development on the living conditions of neighbouring residents at 4 Kay Brow, with particular regard to outlook and overshadowing.

## Reasons

6. The appeal site comprises a semi-detached dwelling with a half-width conservatory and stepped garden to the rear, enclosed by a tall boundary fence. The rear elevation of the main house sits slightly behind, and angled towards, that of the neighbouring dwelling at No. 4.

7. The proposal would replace the conservatory with a full width rear extension. The Council's Guidelines and Standards for Residential Development SPD adopted June 2016 (the SPD) represents guidance rather than policy but remains a material consideration. It advises that single storey rear extensions should not project beyond 3 metres from the rear elevation of adjacent dwellings, with allowances made for any set back from the common boundary. The parties agree that the proposal would exceed this guidance by 0.3 metres.

8. The Council's reason for refusal relates specifically to the ground floor rear window at No. 4. The proposed extension would introduce a solid element of built form near the common boundary, where it would be viewed from the ground floor rear window. Given its full width nature, the visibility of the proposal from this location would be greater than that of the conservatory. However, the outlook in this direction is already somewhat diminished due to the boundary fence, which rises in height along the stepped garden. As a result, the proposal would be largely screened from view. While a modest portion would rise above the fence, it would not appear as a dominant feature when viewed from this window, particularly given the proposed flat roof.

9. Accordingly, the proposal would result in minimal change to the outlook experienced from the ground floor rear window of No. 4. As such, it would not affect the residents' enjoyment of the associated room to an unacceptable extent, notwithstanding that its depth is marginally greater than that recommended in the SPD.

10. For similar reasons, the proposal would not lead to a significant loss of light at this location. Due to the existing fence, the increase in solid built form capable of causing overshadowing at this point would be minimal. It would therefore not greatly alter the current situation. While the proposal may cast some additional shadow, it would not be of such a degree that it would substantially affect the neighbours' enjoyment of their rear habitable room.

11. While not part of the reason for refusal, the Council also refers to the proposal impacting the enjoyment of the rear garden at No. 4. However, as above, the fence rising along the boundary would ensure the proposal would be largely

screened and not appear overbearing from this location. Due to the modest portion of the proposal that would rise above the fence, and the fact that the garden would remain sufficiently open, there would not be significant overshadowing. Accordingly, the proposal would not cause significant harm to the ability of the residents at No. 4 to enjoy their rear garden.

12. For the reasons given above I find that the development would not have a significant adverse effect on the living conditions of neighbouring residents at No. 4 Kay Brow with particular regard to outlook and overshadowing. While it would exceed the limits set out in the SPD guidance, it would accord with Policy DM1 of the Rochdale Adopted Core Strategy October 2016 and the provisions of the National Planning Policy Framework, which together seek to ensure adequate living conditions.

**Conditions**

13. The standard time limit condition and a condition that the development is in accordance with the approved plans are necessary for the avoidance of doubt and in the interests of proper planning. I have also imposed a condition to ensure that the materials are as stated in the application form to safeguard the character and appearance of the dwelling and area.

**Conclusion**

14. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the conditions at paragraph 1 of this decision.

*C Rafferty*

INSPECTOR