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# Appeal Decision

Site visit made on 21 November 2016

**by Mrs Zoë Hill BA(Hons) Dip Bldg Cons(RICS) MRTPI IHBC**

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

**Decision date: 6 December 2016**

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**Appeal Ref: APP/A4520/D/16/3160508**

**45 High Meadow, Horsley Hill, South Shields NE34 6JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development)(England)Order 2015 (as amended)(GPDO).
  - The appeal is made by Mr N A Scholefield against the decision of South Tyneside Council.
  - The application Ref: ST/0822/16/HPN, made by letter dated 8 August 2016, was refused by notice dated 19 September 2016.
  - The development proposed is a rear extension of the following dimensions (i) a maximum height to ridge of 3.7 metres (ii) a maximum height to eaves of 2.6 metres (iii) a maximum projection of 6.0 metres along the adjoining boundary and inset from the boundary of 0.2 metres (iv) a maximum width of 4.0 metres.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(GPDO) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made in the same manner.
3. I note that the plan includes reference to an area of decking and ramps to be a maximum of 300mm above ground level. The appellant explains that this does not form part of the prior approval application and I note that paragraph I, which sets out interpretations for Part 1, explains that 'raised' in relation to a platform means a platform with a height greater than 0.3 metres.

## Main Issues

4. The main issues in this case are:
    - (a) whether or not the development would fall within permitted development under Schedule 2 Part 1 Class A.1 (g) of the GPDO and, if so,
    - (b) whether or not, having regard to the requirements of Schedule 2 Part 1 paragraph A.4(7) of the GPDO, the proposal would be acceptable having regard to the amenity of all adjoining premises. In this case I am
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mindful that the Council's concerns relate to 47 High Meadow and so the effect upon that property is the main issue between the parties.

## **Reasons**

### ***Would the proposal fall within permitted development***

5. The application was made on the basis that the proposal to extend this semi-detached house represents permitted development under Schedule 2 paragraph A.1(g) of the GPDO. This relates to provisions which, until 30 May 2019, allow for rear extensions to dwellings beyond the limit of 3 metres which normally applies by virtue of paragraph A.1(f). Under this paragraph the limit is temporarily increased to 6 metres for a dwelling of this type.
6. In addition to this limit the proposed extension must comply with other requirements of the GPDO. In assessing this matter I have had regard to the Government's *Permitted development rights for householders Technical Guidance* (April 2016).
7. As a result of the works the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original building) would not exceed 50%. At 3.7 metres in height with eaves of 2.6 metres in height the proposed development would accord with the requirements under paragraphs A.1(c), A.1(d), A.1(g)(ii) and A.1(i).
8. I therefore conclude that, on the evidence before me and the plans to be determined (drawing nos 45.HM.01, 45/HM/0, 45/HM/02 and the site location plan), the proposed development would constitute permitted development under Schedule 2 Part 1 paragraph A.1(g).
9. My conclusion is therefore the same as the Council's on this matter. Following the necessary consultation process a letter of objection was received from the occupiers of no.47. It was this that triggered the need to consider the impact on amenity to which I shall now turn.

### ***Impact of the proposal on the amenity of adjoining properties***

10. The proposed extension would be set away from the boundary with the unattached neighbouring property and the dwelling to the rear of the site. As such, the impact upon the living conditions for the occupiers of no.47 is the key area of amenity impact which requires consideration.
11. No.47 has a conservatory some 0.6 metres from the boundary with no.45 (although I note this may not accurately reflect the ownership boundary from which it may deviate a little). That conservatory projects some 3.6 metres from the rear of the host property parallel with the boundary fence. I understand that this conservatory does not have planning permission and is likely to have required it but, given the date of construction, it is likely to be immune from enforcement action.
12. The appeal proposal would not contain any windows in the side elevation facing the conservatory at no.47, a matter which could be conditioned. Whilst there would be a rear facing window, given the angles involved and the intervening garden fence, I am satisfied that this would not adversely affect privacy. Moreover, I note overlooking between windows and gardens currently exists such that any likely overlooking would not be materially detrimental.

13. In terms of outlook and visual effect, the proposed extension would be 6 metres deep and relatively close to the boundary with no.47. I am mindful that a 3 metre deep extension could be built under normal permitted development rights as could a 2 metre high boundary structure. It seems to me that this represents a realistic fall-back position and so is material to this appeal proposal.
14. Given that the conservatory at no.47 itself projects some 3.6 metres from the rear wall, the proposed extension would project some 2.4 metres beyond that structure. It would also be 0.6 metres taller to eaves than a permitted development boundary treatment might be and would have a pitched roof to 3.7 metres in height. Although the slope of the pitch would mean that the highest point of the roof would be away from the boundary, and the hipped design would mean that its bulk would be minimised, the height and the depth of the proposed extension would be such that there would be a significantly visually intrusive effect on views out from the rear facing elevation of the conservatory at no.47 and, as such, would be overbearing when viewed from no.47.
15. I note that the relatively modest gardens in the surrounding area have a sense of spaciousness partly because of the relatively low boundary fences and walls. These enable views over neighbouring gardens and the space above them. In this respect I disagree with the appellant that the area above eye level of some 1.5m is not significant because space above structures/boundary treatments can be significant in experiencing a sense of space. In the context of this garden the proposed extension would reduce the amenity enjoyed by the neighbouring occupier. However, that reduction would be relatively modest.
16. The neighbour at no.47 expresses concern about overshadowing from the proposed development. Whilst the proposal would be approximately to the south of no.47, the Council notes that there would be limited overshadowing of the neighbouring property itself due to the low height of the proposed extension and the massing of its roof. Indeed overshadowing would only be likely to occur for short periods during winter months when the sun is lower. Therefore this is not a matter to which I attach significant weight.
17. Nonetheless, and accepting that there is a realistic fall-back position, I conclude that the proposed development would have a materially harmful impact on the amenity of the adjoining property no.47 because of its overbearing impact.

### **Other Matters**

18. I appreciate that the temporary paragraph A.1(g) permitted development class is designed to facilitate development of larger extensions. However, it is clear that in introducing that provision a mechanism for assessing harm was considered necessary. That mechanism is in the form of requiring consultation and assessment where objection arises so that where development is considered to be materially harmful it can be resisted.
19. The fact that the conservatory at no.47 appears to have been erected without the necessary permission is not a matter for the planning merits of this case.
20. I concur with the Council that issues relating to drainage and ground stability would be a matter for Building Regulation consent.

21. Inter-visibility between the appeal property and no.47 could be prevented by means other than erecting a large extension close to the boundary.
22. The appellant also refers to the Government's agenda for growth and the facilitation of housing. However, refusal of this particular scheme is not at odds with that agenda which seeks to support high quality sustainable development. Moreover, refusal of this particular scheme does not mean that another form of extension would necessarily be unacceptable.
23. This scheme would assist in terms of economic growth, albeit in a small way. It would also assist in a social role by facilitating the housing of a lady with reduced mobility and thereby improving and adapting the housing stock. However, there would be harm to the amenity of the neighbouring property contrary to the aim of providing a high quality built environment sought under both the social and environmental roles of planning set out in the National Planning Policy Framework.
24. Being creative and proactive in making decisions does not mean all applications should be approved.
25. It is clear from the evidence that the appellant has some level of disability following a stroke and, as such, she has a protected characteristic under the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. PSED sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
26. However, it does not follow from the PSED that the appeal should succeed because the appellant considers the proposed development necessary to provide greater space and so make the dwelling more suitable for their needs. There is nothing before me to indicate why another form of development could not provide for their needs without causing harm to the amenity of no.47.

### **Conclusions**

27. For the reasons set out above, and having had regard to the matters raised, I conclude that the appeal should be dismissed.

*Zoë HR Hill*

Inspector