

Proposed rear and side extension at 8 Back Lane Rimington

This is a new planning application which has been amended to minimise impacts on neighbouring residential amenity (living conditions) to an acceptable level in accordance with the findings of the Inspector in the recent appeal decision following the refusal of planning permission (ref: APP/T2350/D/19/3243899).

The appeal was dismissed by the Planning Inspectorate on 17.08.20 on the grounds that the proposal would have a significantly harmful effect on the living conditions of the occupiers of No 12 arising from a loss of privacy. In concluding his assessment the Inspector stated: *"There would also be some loss of light and outlook for the occupiers of No 10, as well as an increased sense of enclosure in the rear garden of No 10. **For the reasons I have described** [in paragraphs 7-9] **I do not consider that the proposal would cause significant harm to the living conditions of the occupiers of No 10 if looked at in isolation**".*

Following the issue of the Inspector's decision there was e-mail correspondence between the applicant and RVBC case officer. The applicant sought an informal view on the acceptability of the resubmission of a proposal that retained the two storey rear extension to the dimensions as previously submitted (under 3/2019/0777) and omitted the front extension. This was on the basis that the Inspector found that when considered in isolation, the proposed two storey rear extension would not result in any significantly harmful effects on the living conditions of the neighbouring dwelling (No 10).

At that time the case officer took the view that the proposal would not be supported as the Inspector identified some harm to the amenity of the residents at No 10 and accordingly the proposal would be contrary to Policy DMG1, which states that development must not adversely affect the amenities of the surrounding area.

In response to the case officers view at that time, I set out below the matters that are considered material to the consideration of this application and that demonstrate the harm to amenity is within the levels of acceptability and therefore not sufficient to warrant a refusal.

Interpretation of Policy DMG1:

In relation to the rear extension the Inspector found some harm to neighbouring amenity in that it would cause some loss of light and outlook and an increased sense of enclosure, but concludes that the harm is mitigated such that the proposal **would not cause significant harm to the living conditions** of No 10 when considered in isolation. The issue is whether the Inspector's findings that the harm would not be significant (ie not noticeable or of consequence) would be considered contrary to the relevant amenity clauses in Policy DMG1.

The amenity clause in Policy DMG1 states that: development should **"not adversely affect the amenities of the surrounding area"** and should **"provide adequate day lighting"**. It is noted that there is no relevant SPD and as such no interpretation on how the relevant policy clauses is to be applied and what is likely to have adverse impacts on living conditions or lead to inadequate day lighting.

The term **"adverse effect on amenity"** is not defined in planning legislation but is commonly replaced by the expression **"unacceptable harm to living conditions"**. This

term is used by the Inspector, in paragraph 12 of the appeal decision, where he interprets the aim of policies DMG1 and DMH5 as seeking to ensure that development "*does not cause unacceptable harm to neighbours' living conditions*". This supports the view that a degree of harm could be satisfactory insofar that it maintains acceptable living conditions.

A recent relevant householder appeal decision would also support this policy interpretation as follows:

APP/T2350/D/20/3247601 against the refusal of 3/2019/1021 (Birley Fold Farm). The Inspector concludes that "*the proposal would **not have a significant adverse** [harmful] **effect on the living conditions of the occupiers** of the adjacent residential property .. and that there is no conflict with Policy DMG1*". Accordingly, this interpretation of the amenity clause in DMG1 when applied to the Inspectors findings of "**not causing significant harm**" in the appeal decision for 8 Back Lane would not give rise to conflict with Policy DMG1.

Furthermore, the LPA has also interpreted the relevant amenity clause in Policy DMG1 in this regard, as referenced in recent Planning and Development Committee Reports under the headings Impact on Residential Amenity:

Application 3/2019/1011 (Rimington Caravan Park: 30/07/20 Committee) - At paragraph 5.2.1 the officer concludes that *the proposal would **not lead to "significant harm on residential amenity"***

Application 3/2019/1119 (Holden Clough Nursery: 25/06/20 Committee) - At paragraph 5.4.5 the officer states that *the proposed development is considered to result in some impact on the residential amenity of the neighbouring dwellings, however the mitigation put in place...are considered to be sufficient and as such, the proposal is **not considered to result in any "significant harm on the residential amenity"** of dwellings within the immediate area.*

To conclude, whilst the Inspector found some harm to neighbouring amenity through loss of light and outlook to one of the kitchen windows and an increased sense of enclosure to the garden. The magnitude of the overall harm when balanced against mitigating factors was such that he found the rear two-storey extension **would not cause significant harm to the living conditions** of No 10 when considered in isolation. On balance, the magnitude of harm found was found to be "not significant", meaning not of consequence.

Accordingly, I would ask that the conclusion reached by the Inspector is considered in light of the above policy interpretation.

Material Consideration

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Should the case officer retain their view that the proposal conflicts with Policy DMG1, I would draw their attention to the Planning Inspectorate's findings as a material planning consideration which should be given significant weight in the overall planning balance.

Erika Eden-Porter MTCP, MRTPI.