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Our ref.
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Dear Sir/Madam,

ERECTION OF 2 NO. REAR DORMER WINDOW – WOODCAP, GLEN WAY, ELDWICK, BINGLEY, WEST YORKSHIRE BD16 3HF

The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced.

Local planning authorities should approach decisions on proposed development in a positive and creative way.

The duty in Section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the Development Plan. It states: -

"If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise."

The correct approach to determining whether a proposal is in compliance with a development plan is uncontroversial: -

- All the relevant policies should be identified;
- An assessment should be made as to whether the proposal complies or not with each of those policies and the weight to be given to these;
- The development plan must be read as a whole;

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- It must be recognised that separate policies within the same development plan can pull in different directions; and
- A development can conflict with one individual policy and still comply with the development plan as a whole.

Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.

The reason for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the principle important controversial issues, disclosing how any issue of law or fact was resolved¹.

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out a general duty as respects conservation areas in the exercise of planning functions, indicating that *“with respect to any buildings or other land in the conservation area....special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

There is a presumption in favour of sustainable development. The presumption in favour of sustainable development does not however change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be allowed.

The development plan for this residential scheme comprises the following local documents: -

- the Bradford Local Plan Core Strategy 2013-2030 (CS) – recently adopted on 18 July 2017; and,
- ‘Saved’ policies of the Replacement Bradford Unitary Development Plan (RUDP) – adopted on 15 August 2005.

National Policy Guidance is provided by the National Planning Policy Framework (“the Framework”). The Framework is a significant material consideration.

The Proposal

The Applicant seeks a planning permission for the 2 no. dormer windows to the rear of the existing dwelling house.

¹ [2017] EWHC 664 (Admin)

Planning History

19/04291/HOU – Rear Dormer Window – Refused 12 December 2019

Prior to the determination of 19/04291/HOU the local planning authority had indicated that they were looking to support the Appellants proposals. The Appellant was obviously disappointed when the local planning authority changed its position.

20/00696/HOU – Two dormer windows to the rear – Refused 11 June 2020

Appeal Ref: APP/W4705/D/20/3257968 – Dismissed 29 October 2020

Heritage

The site lies outside but adjacent to the Eldwick Beck Conservation Area. The statutory duty set out in s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, does not extend to the setting of a conservation areas. Nevertheless, having regard to the approach in the Framework, taking into account the conservation area as a whole, the scale of the development proposed and previous considerations given to the matter (it has already been accepted that a similar proposal accorded with Policy EN3 of the Core Strategy), the Local Planning Authority (LPA) should be satisfied that the proposal would not harm the significance of the conservation area as a heritage asset.

Impact on the Built Environment

The Framework is at Paragraph 118 e) states that planning policies and decisions should “*support opportunities to use the airspace above existing residential properties and commercial premises for new homes*”. In this context it is self-evident that planning policies and decisions should also support development opportunities that mean individuals and families can remain in their current homes.

In the householder application report for 19/04291/HOU and 20/00696/HOU (both refused), concerns were raised by the local planning authority about the proposed design/appearance and the overall bulk of the dormers.

The revised proposals before the local planning authority show a number of significant amendments. The 2 no. dormers are now **1)** subservient to the rear roof elevation, **2)** introduce pitched roofs and **3)** are of a scale that now compliment the host dwelling and the wider street scene. There is now no conflict with the Policies DS1 and DS3 of the Core Strategy or the HSPD.

Impact on Neighbouring Occupants

Following recent comments from the local planning authority the Applicant has now revised the window detailing. High level windows are now proposed. These windows will still ensure the dwelling benefits from sufficient amounts of daylight, however more importantly it will address any previous concerns regarding

overlooking. Views from the dormer will now be directed skywards and away from the shared boundary with 'Overgreen'. Whilst these revisions should be supported it is also important to note that the existing windows in 'Overgreen' are obscurely glassed and there are no roof lights, therefore the potential for overlooking is already negligible. There is now no conflict with Policies DS5 of the Core Strategy of the HSPD.

Other Material Considerations

The Government has recently introduced two further Statutory Instruments amending the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the General Permitted Development Order"), together with a Statutory Instrument amending the Town and Country Planning (Use Classes) Order 1987 ("the Use Classes Order").

This follows the introduction of new permitted development rights for upwards extensions to purpose-built blocks of flats and forms part of the Government's promised package of radical planning reform to support economic recovery and housing delivery.

These amendments include: -

Permitted Development Rights for Additional Storeys to Dwellinghouses

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 (under Class A of Part 20) will confer permanent permitted development rights to allow existing houses to be extended by way of the addition of up to 2 storeys.

The rights apply to existing houses which are detached, semi-detached or in a terrace. They are subject to a maximum height limit of 18m, and where the house is in a terrace its height cannot be more than 3.5m higher than the next tallest house in the terrace. The rights only apply to houses built between 1 July 1948 and 28 October 2018 and do not apply in Conservation Areas. Whilst there is a requirement to obtain prior approval in relation to the impact on the amenity of neighbouring premises, the external appearance, and the impacts a taller building may have on air traffic and defence assets, this matter is clearly material to the planning case, and weight should be attached to it in reaching a determination.

Through the amendments to Class A the Government recognises the importance of families remaining in their current homes. The proposed dormers allow the Applicants to do just that. In this context the proposals should be supported.

At this time the Applicants are not considering using these permitted development rights, however if the provisions of Class A enable them to provide the additional space needed to accommodate their growing family, then it is something that will be considered in the future.

Planning Balance

A number of significant amendments have now been made to ensure the two dormers are subservient to the existing property and that there is no impact upon the visual and residential amenity of neighbouring properties. These proposals enable the Applicant to remain in their existing home. Further they will also be close to family and friends which is increasingly important as the Applicant is currently managing the early stages of Multiple Sclerosis (MS). Whilst a lift is not needed at this time, one may be required in the future and therefore the proposed dormers will also assist in providing the headroom need to accommodate a lift in the future.

Through the amendments to Class A the Government recognises the importance of families remaining in their current homes. The proposed dormers allow the Applicants to do just that. In this context the proposals should be supported.

Yours faithfully



Richard Mowat
Director