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## Appeal Decision

Site visit made on 6 July 2015

**by Mrs A Fairclough MA BSc(Hons) LLB(Hons) PGDipLP(Bar) IHBC MRTPI**

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

**Decision date: 23/07/2015**

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**Appeal Ref: APP/Y2736/D/15/3013860**

**9 Ducks Farm Close, Kirby Misperton, Malton, North Yorkshire, England YO17 6XH**

- 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 Head against the decision of Ryedale District Council.
  - The application Ref: 14/01208/HOUSE dated 4 November 2014, was refused by notice dated 19 January 2015.
  - The development proposed is described as a "single story extension to rear of house to come out 3.3m".
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the living conditions of existing and future occupiers of No 9 Ducks Farm Close in terms of private amenity space.

### Reasons

3. No 9 Ducks Farm Close is a 4-bed, end of terrace property within a terrace of three modern dwellings. The proposal comprises the erection of a single story brick extension to the rear of the appeal dwelling. It would have a hipped slate roof and the highest point of the roof would sit slightly below the existing first floor window cills. The plans indicate that it would be close to the shared party boundary with No 8, which is a high timber fence, and would project some 3.3m rearwards from the existing rear elevation into the rear yard.
4. Policy SP20 of the *Ryedale Plan - Local Plan Strategy*<sup>1</sup> (RPLPS) states, amongst other things, that new development will not have a materially adverse impact on the amenity of present or future occupants.
5. One of the Core planning principles of the *National Planning Policy Framework* (the Framework) is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
6. The private amenity space associated with the appeal dwelling includes a flagged yard area to the rear, which is some 39.5sqm. The proposal would

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<sup>1</sup> Local Plan Strategy with Main Modifications and Additional Modifications- Text only version dated 5 September 2013.

- reduce this amenity space by approximately half. Although there is additional space to the side and front of the dwelling with garden furniture and pots, these areas are highly visible from the street on the basis they have low-level walls. In any case part of this space is allocated for car parking<sup>2</sup>.
7. In my view, a well-designed family size dwelling, such as a 4 bed house, can reasonably be expected to provide outdoor space for, amongst other things, children to play safely, the occupiers to sit out in privacy and space for drying clothes. However, the proposal would result in a rear yard which would be an awkward tapered shape. The remaining rear amenity area would provide insufficient space to carry out these activities.
  8. I note that the appellant contends that the use of the space around his dwelling is his choice and that he has no intention of moving. If he were to do so then future occupiers could choose to buy his house or not. However, occupation of property is not permanent in nature in the same way as development is. Although future occupiers would have the choice of seeing the development first and then the choice of moving in or not, that does not, in my view, justify allowing something that I consider would unacceptably harm the living conditions of whoever occupied that property.
  9. I also note the appellant's reference to flats without gardens and other properties in the area with less land than the appeal dwelling. However, the appeal property is not a flat and as such is distinguishable. In addition, I have not been made aware of other similar properties in the locality. In any case, I am required to determine each appeal on its planning merits in the light of current policy. I have done so in this appeal.
  10. I consider that the proposal would have a materially adverse impact on the living conditions of the existing and future occupiers of the property and as such would conflict with RPLPS Policy SD20 and the Framework.

### **Other Matters**

11. Concerns have been raised by a neighbouring occupier in terms of impact on character of the area, loss of light, loss of privacy as well as harm as a result of noise and disturbance. I will deal with each in turn. In terms of character, the proposal would be located at the rear of No 9 and it would be a modest extension, which has been designed to complement the existing dwelling. Although there would be an increase in the overall mass of the appeal dwelling and in relation to the ratio of the garden area, this would not significantly harm the character of the locality and would not be visible from nearby roads. With regard to light, No 8 is positioned to the north east of the appeal dwelling. Given the orientation of the dwellings and the existence of a high fence between Nos 8 and 9, I consider that there would be little change to the amount of daylight or sunlight received to the rear habitable room windows of No 8 as a result of the proposal. This reduction, if any, would be so marginal that it would not materially harm the living conditions of the occupiers of the dwelling. With regard to privacy, the proposal would include 4 ground floor windows and a pair of double doors, which would face approximately westwards and to the south away from the party boundary with No 8. Given the presence of the high party fence separating the appeal dwelling from the

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<sup>2</sup> As part of the planning permission Ref: 07/00328/FUL

ground floor habitable rooms at No 8, I consider there would be no overlooking of the rear habitable rooms or garden of No 8 from the proposal.

12. Regarding the reference to noise and disturbance, the appellant confirms that the existing fence would not be removed and that the construction would not cause disruption. The appellant also states that any construction material, including rubble, would remain within the appeal site. Given that the proposal would be constructed some 0.2m from the party boundary, I have no reason to disagree with the appellant that there would be no need to remove the party fence or that the proposal would result in a safety hazard for the children at No 8. In terms of noise during the construction phase, any noise created would be relatively short lived and would be low impact.
13. I note the appellant's dissatisfaction about the way that the planning application has been handled by the Council. However, that is not a matter for me in the determination of this appeal. I also note that there are concerns that further building at the site would be likely to increase surface water run off from the site. However, given the development relates to a modest extension and that the external area is already hard surfaced, there would be negligible change to surface run off such that it is not material to my decision in this case.

### **Conclusions**

14. Although I have concluded that there would be no harm to neighbours' living conditions in terms of daylight/sunlight, privacy or noise and disturbance, I consider that there would be a materially harmful impact on the living conditions of the existing and future occupiers of the appeal dwelling in terms of loss of private amenity space. This is the determining factor.
15. For the reasons given above, the appeal is dismissed.

*Mrs A Fairclough*

INSPECTOR