

Appeal Decision

Site visit made on 6 February 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 14 February 2017

Appeal Ref: APP/Z4310/D/16/3162112

3 Brampton Drive, Liverpool L8 7ST

- 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 Campbell against the decision of Liverpool City Council.
 - The application Ref 16H/1548, registered on 13 June 2016, was refused by notice dated 03 October 2016.
 - The development proposed is a two storey rear extension and a loft conversion incorporating a rear dormer.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant's planning application form does not include a declaration date. I have therefore referred to the Council's registration date in the banner heading above.

Main Issue

3. The main issue is the effect of the development upon the living conditions of the occupiers of No 4 Brampton Drive in respect of outlook.

Reasons

4. The appeal property comprises a semi-detached dwelling positioned within a cul-de-sac on a relatively modern housing estate. It is proposed to erect a two storey pitched roofed rear extension projecting 3 metres from the rear wall of the house. There would be a box dormer within the roof slope of the two storey rear extension and four velux roof lights are proposed within the front roof slope.
 5. The appellant has considered the effect of the proposal upon levels of light to the neighbouring dwelling (No 4 Brampton Drive). As the rear of the semi-detached properties face south, I agree that any negative effects of the proposal upon the windows/garden area of No 4 Brampton Drive, in respect of overshadowing, would essentially be confined to the very early mornings. For most of the day there would be no overshadowing effect and therefore I do not consider that a refusal based upon loss of light would be reasonable. However, and notwithstanding the appellant's appeal statement, I consider that there is a difference between assessing the impact of a proposal upon levels of light and levels of outlook: the two are very different matters.
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6. Paragraph 25 of the Council's Supplementary Planning Guidance Note 1 "House Extensions" 2002 (SPG) states that "*planning permission will not normally be granted for two storey extensions to larger terraced properties (or terraced properties with larger amenity areas), and semi-detached houses, where they adjoin the party boundary of an adjoining property*". Paragraph 26 of the SPG states that "*two storey extensions away from the party boundary should have a maximum projection of 3m and be at least 3m from the party boundary if the adjoining property has not been extended at ground floor level*". The neighbouring property has not been extended at ground floor level and the proposed extension would not be 3m from the party boundary. Therefore, the proposal would not accord with the SPG.
7. The appellant has commented that the SPG is now quite old and that it is effectively out of date because it does not take into account what can be done utilising permitted development rights. I accept that the SPG is now of some age. However, it remains adopted and supplements saved Policy H8 of the Liverpool Unitary Development Plan 2002 (UDP). I do not consider that it conflicts with the amenity aims of the National Planning Policy Framework (the Framework) and I therefore consider it to be a weighty document for the purposes of determining planning applications.
8. The proposed two storey extension would be built alongside the party boundary with No 4 Brampton Drive. I acknowledge that the immediate first floor window belonging to No 4 Bampton Drive serves a bathroom and that on the ground floor, and next to the party boundary, there is an opaque glass back door. However, next to the door is a clear glass window which serves the dining area part of the kitchen. Beyond the door/window is a further ground floor kitchen window. As the first floor window serves a non-habitable room, I do not consider that the proposed extension would have an unreasonably enclosing impact when viewed from the rear of the first floor of the property.
9. Notwithstanding the above, and as part of my site visit, I was able to consider the effect of the proposal from inside (and also from the garden) No 4 Bampton Drive. I consider that the proposed extension would be particularly noticeable from the two aforementioned ground floor kitchen windows and owing to its height, projection and close proximity to the common boundary it would have a dominant impact when viewed from this room. In addition, by virtue of the position, rear projection and overall height of the proposed extension, it would have a very overbearing impact upon those that use the rear garden patio. The rear garden area of this neighbouring property is not particularly large (it is smaller than the rear space belonging to the appeal property) and hence there would be limited opportunity for the occupiers of No 4 Brampton Road to escape from the oppressive and enclosing impacts of the two storey development.
10. The appellant has referred me to the relationship of property No 34 with No 35 Bampton Drive and property No 44 with No 45 Bampton Drive which have rear elevations that are staggered. However, the appellant says that these dwellings were originally built in this way and so the occupiers of these properties will have always known about these relationships. I do not consider that the existence of these developments justifies allowing a new extension which would cause harm to the living conditions of the existing and future occupiers of No 4 Brampton Drive.

11. I accept that it may be possible to erect a two storey rear extension utilising permitted development rights. However, such a permitted development rights extension would not be as high as that proposed and, in any event, I have determined this planning application on its individual planning merits and against adopted planning policies. The appellant has also referred me to the possibility of erecting a single storey rear extension which would project up to six metres in length. However, such a proposal would need to be the subject of a prior approval application (including consultation with the occupiers of neighbouring residential properties) and, in any event, would be a different proposal in terms of scale. In this case, the permitted development fall back positions do not outweigh my conclusion on the main issue.
12. For the collective reasons outlined above, the proposal would have an unacceptably overbearing and enclosing impact upon the occupiers of No 4 Bampton Drive leading to a material loss of outlook. Therefore, I conclude that the proposal would not accord with the amenity aims of saved Policy H8 of the UDP and paragraphs 25 and 26 of the SPG.

Other Matters

13. I have taken into account representations made by other interested parties including the occupiers of Nos 1&2 and No 4 Brampton Drive. It is alleged that the property is being used for commercial purposes. This is a matter which would need to be separately investigated by the Council's Planning Enforcement service. It is not relevant to the determination of this appeal.
14. Comments have been made that the proposal would result in a reduction in property values. I have no evidence to substantiate this claim and, in any event, the courts have held that this is not a material planning consideration.
15. I have considered the effect of the proposal upon levels of light, privacy and outlook for the occupiers of other surrounding residential properties. In this regard, I do not consider that the proposal would result in material harm being caused. Furthermore, taking into account the position of the dwelling relative to the neighbouring property and its position in the cul-de-sac, I do not consider that the proposed velux roof lights or the height of the roof would cause unacceptable harm to the character and appearance of the area.
16. None of the other matters raised alter my conclusion on the main issue.

Conclusion

17. For the reason outlined above, and taking into account all other matters raised, I conclude that the proposal would not accord with the development plan for the area. Therefore, the appeal should be dismissed.

Daniel Hartley

INSPECTOR