
Appeal Decision

Site visit made on 20 February 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 7 March 2017

Appeal Ref: APP/X1355/D/16/3165184
34 St Johns Road, Nevilles Cross DH1 4NU

- 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 Beattie against the decision of Durham County Council.
 - The application Ref DM/16/03135/FPA, dated 27 September 2016, was refused by notice dated 14 November 2016.
 - The development proposed is demolition of existing single storey rear element and construction of new single storey wrap around extension plus conversion of attic space to bedroom (revised scheme).
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing single storey rear element and construction of new single storey wrap around extension plus conversion of attic space to bedroom (revised scheme) at 34 St Johns Road, Nevilles Cross DH1 4NU in accordance with the terms of the application, Ref DM/16/03135/FPA, dated 27 September 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: drg.no. 1602:P:20 Rev B.
 - 3) Before any above ground development hereby permitted is commenced, samples of the materials to be used in the construction of the external surfaces of the extension shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
 - 4) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no openings of any kind shall be inserted within the northwest facing elevation of the single-storey extension hereby permitted without the prior grant of planning permission from the Local Planning Authority.

Preliminary Matter

2. The appeal site consists of a mid-terraced property facing St Johns Road and located within Durham City Centre Conservation Area. The property is part of a residential area of varied character at the western edge of the Conservation
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Area. The site is some distance from and consists of a different character to the central area and historic core of Durham, including the Durham Castle and Cathedral and the surrounding medieval townscape. Consequently, the existing appeal property makes little contribution to the significance of the Conservation Area.

3. There is no dispute between the parties that the proposed demolition works and replacement with a single storey side and rear extension would cause no harm to the character or appearance of the host building. I have no reason to take a different view. The effect on the significance and setting of the Conservation Area would be neutral given the fallback position of an alternative rear extension and loft conversion granted planning permission by the Council (ref DM/16/01339/FPA), the limited prominence of the extension from public vantage points and the presence of similar rooflights in the street scene. The proposal would, therefore, preserve the character and appearance of the Durham City Centre Conservation Area. The Council's concerns relate specifically to the relationship of the development with 36 St Johns Road.

Main Issue

4. The main issue is the effect on the living conditions of the occupiers of neighbouring properties, with particular regard to 36 St Johns Road (No 36) and matters of outlook.

Reasons

Living conditions

5. The appeal property is a two storey mid-terraced house, with a shared two storey rear outrigger with No 32 which appears to be an original feature and a single storey rear extension beyond. No 32 has an existing single storey rear outrigger of significant depth with a hipped roof that is located away from the common boundary with No 34.
6. The proposed single storey rear extension, would replace an existing rear extension and due to its side return would reduce the gap between the existing outrigger of the appeal property and the common boundary with No 36. The extension would include a projection beyond the side return of the existing two storey outrigger to form a single storey wraparound style of extension at the rear with a hipped roof design. The wraparound design of the rear extension would introduce a depth of built form of approaching 6m in close proximity to the boundary with No 36. The extension would be visible above an existing boundary wall and supplementary wooden trellis that defines the boundary between properties.
7. The depth of built form immediately adjacent to the boundary would be greater than the fallback position of the extant planning permission granted by the Council for a single storey rear extension with a side return element that would match the depth of the existing outrigger. Furthermore, the difference in height of the proposed extension relative to the boundary wall would be increased through a hipped roof form. However, due to that roof design, the scale, bulk and massing of the extension would be reduced in close proximity to the boundary with No 36 and at its furthest extent beyond the outrigger. Consequently, the limited scale, bulk and massing of the single storey extension, when compared to the existing two storey outrigger, would not

introduce an unacceptable or intrusive overbearing effect or sense of enclosure upon the nearest ground floor habitable window of No 36 and its adjoining rear garden area.

8. The Council's reason for refusal related to an overbearing effect on the outlook from No 36 rather than an overshadowing effect. A Daylight and Sunlight Report submitted by the appellant includes an assessment relating to Building Research Establishment (BRE) criteria which indicates that the extension would only result in a very low impact on daylight receivable to the nearest ground floor window at the rear of No 36. It is not unreasonable that the report did not assess direct sunlight provision given the orientation of the rear elevation of No 36 toward the north east, the single storey nature of the proposal and the presence of an existing two storey outrigger. However, I can give limited weight to the conclusions of the document as the full calculations of the daylight assessment to reflect different periods of day and time of year have not been provided.
9. Based upon my own observations, the north east facing aspect of the rear elevations of the appeal property and those surrounding would be generally afforded some sunlight in mornings and daylight at other times of day. The availability of direct sunlight and daylight levels to habitable windows and rear gardens would be influenced by the time of day and the position of the sun at different times of year. The presence of the existing two storey outrigger at the rear of No 34 has resulted in more restricted direct sunlight and daylight levels to windows serving rooms in the main elevation of the property and those closest to the boundary in the neighbouring No 36. To my mind, the reduced height, bulk and massing of the extension relative to the existing two storey outrigger and its siting to the south east of the No 36 would not significantly alter that relationship. Consequently, I consider that the proposal would not result in an unacceptable overshadowing effect or a detrimental loss of sunlight and daylight to No 36 or its rear garden.
10. The single storey extension would not have an increased rear projection when viewed from No 32 or No 38 at the rear when compared to the fallback position of the extant planning permission. Consequently, there would be adequate separation distance and boundary screening to prevent a harmful effect on the living conditions of the occupiers of those properties. The roof lights are positioned above eye level and the absence of facing windows in the north western side elevation of the extension would prevent overlooking and a harmful loss of privacy to No 36.
11. I conclude that the development would not have a harmful effect upon the living conditions of neighbouring properties, including the occupiers of 36 St Johns Road. The proposal, therefore, would not conflict with Policy Q9 of the City of Durham Local Plan, adopted May 2004. The policy is consistent with the core principle of the National Planning Policy Framework that seeks a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

12. The submitted plans indicate that the extension would be constructed off the boundary and any overhang of drainpipes and guttering would not be beyond the common boundary. The rendered side wall of the extension would likely require access from the neighbouring property for long term maintenance. However, such matters reflect private legal rights relating to land ownership

that are not within my jurisdiction. The possibility of a lack of long term maintenance of the side wall of the extension does not justify withholding planning permission on that basis given the limited public vantage points of the northwest facing elevation.

Conditions

13. I have had regard to the planning conditions that have been suggested by the Council, where necessary I have amended the wording to ensure consistency with paragraph 206 of the Framework.
14. The standard conditions relating to the time limit of the permission and plans compliance are necessary in the interest of certainty, particularly given that an amended plan was submitted to the Council (drg.no. 1602:P:20 Rev B) prior to its decision to amend the design of a front rooflight. A condition to secure the submission and agreement of samples of materials identified on the submitted plans is also reasonable and necessary to ensure a satisfactory relationship of the extension to the host property within a Conservation Area. A further condition is required to prevent the insertion of windows on the northwest facing elevation of the extension to ensure no harmful overlooking or loss of privacy to No 36.

Conclusion

15. For the reasons given above, I conclude the appeal should be allowed and planning permission granted subject to the conditions set out previously.

Gareth Wildgoose

INSPECTOR