
Appeal Decision

Site visit made on 28 February 2017

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 17 March 2017

Appeal Ref: APP/C2741/D/16/3160832

4 Heathfield Road, York YO10 3AE

- 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 D Rose against the decision of City of York Council.
 - The application Ref 16/01892/FUL, dated 10 August 2016, was refused by notice dated 11 October 2016.
 - The development proposed was originally described as 'two storey gable and rear extension with dormer loft conversion'.
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Decision

1. The appeal is allowed and planning permission is granted for two storey and single storey side and rear extensions, hip to gable roof extension and dormer to rear at 4 Heathfield Road, York YO10 3AE in accordance with the terms of the application, Ref 16/01892/FUL, dated 10 August 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: 308.001C.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building.

Procedural matters

2. The Council's decision notice refers to policies of the City of York Draft Development Control Local Plan 2005 (DDCLP). The DDCLP is, as stated a draft un-adopted local plan. The National Planning Policy Framework (the Framework) postdates this draft plan by seven years and according to paragraph 14, takes precedence where the development plan is absent, silent or relevant policies are out of date. Given that the DDCLP policies do not form part of a statutory development plan, I give them limited weight.
 3. I note from the Council's Committee Minutes references to the lawful use of the property as a House in Multiple Occupation (HMO). However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
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4. I have used the description of development as set out in the Council's decision notice in my decision above as it provides a more precise description of the appeal scheme than that set out in the application.

Main Issues

5. The main issues for the appeal are:

- The effect of the proposed development on the character and appearance of the area; and
- The effect of the proposed extension on the living conditions of the occupiers of 3 Heathfield Road, with particular reference to any overbearing effects.

Reasons

Character and appearance

6. The appeal property is a two storey semi-detached dwelling with a hipped roof and projecting two storey bay windows. I saw during my site visit that there is some variety in alterations and extensions made to dwellings in the cul de sac, including examples of single storey side extensions built up to the respective common boundaries. It is proposed that an extension is added to the side and rear of the dwelling which would include both two storey and single storey elements, a rear dormer and a hip to gable roof extension.
7. Both the appeal property and the neighbouring dwelling, 3 Heathfield Road, are set in from the common boundary by the accesses to their respective rear gardens. Whilst the proposed side extension would project beyond the existing flank wall of the host dwelling towards No 3, it would be set significantly back from the front of the property and a gap would be maintained to the common boundary. This gap would provide adequate space for access to the rear garden, such as for bins. I do not consider that the modest reduction in the space between the dwellings would give rise to significant harm to the street scene.
8. Therefore, given local context and the modest width of the proposed two storey side extension and the fact that it would be set significantly back from the front of the dwelling, I do not find it to be an uncharacteristic form of development. In addition do not find it out of proportion to the host dwelling. Furthermore, the proposed hip to gable and dormer extensions would not be discordant with development elsewhere on the street.
9. To conclude on this matter, I do not find that the appeal proposal would have a significantly harmful effect on the character and appearance of the area. The proposed development does not conflict therefore with the Framework which in paragraph 17 includes that planning should always seek to secure high quality design. The proposal also does not conflict with DDCLP Policy GP1 which is concerned with design including that development proposals are compatible with neighbouring buildings and DDCLP Policy H7 which is concerned with residential extensions including the design is sympathetic to the main dwelling.

Living conditions

10. I saw at my site visit that 3 Heathfield Road has a single storey rear extension and several windows and doors in its flank wall facing the appeal property. Whilst the appeal proposal would give rise to a two storey extension situated

nearer to No 3 than the existing dwelling and projecting out beyond the rear of the host property a similar distance to the extension at No 3, a significant gap would nevertheless be retained between the dwellings.

11. Due to the extent that the proposed extension would project out from the rear of the host property, its scale, position and gap between it and No 3, I do not consider that the appeal proposal would give rise to any unacceptable overbearing effects for the occupiers of No 3. Additionally, I consider that whilst the proposed development would have some effect on light for the flank wall windows of No 3, due to the orientation of the dwellings, scale and position of the proposed extension, I do not consider that any such loss of light would give rise to significant harm to the living conditions of the occupiers of No 3. Furthermore, I do not consider it has been demonstrated that the proposed enlargement of the dwelling would give rise to any significant harm with regards to noise or disturbance.
12. To conclude on this matter, I do not regard the proposed development to be an unneighbourly addition to the appeal property and find that it would not give rise to unacceptable effects for the living conditions of the occupiers of No 3. The proposal therefore does not conflict with the Framework which in paragraph 17 includes that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings. It also does not conflict with DDCLP Policy GP1 which includes that development should not unduly affect residents living nearby through overshadowing or domination by overbearing structures and DDCLP Policy H7 which includes that there should be no adverse effect on the amenity which neighbouring residents could reasonably expect to enjoy.

Other matters

13. I have had regard to the comments about the number of HMOs on the street and the effect on the community, but have nevertheless found the proposed extensions to be acceptable. In respect of car parking and access issues, I observed the narrow width of the street during my site visit, but consider that the proposed provision of 2 off-street parking spaces and cycle parking to be adequate to meet the needs of the proposal. I have considered the comments regarding drains and the proposed extensions giving rise to a wind tunnel effect, but there is no substantive evidence before me about these.

Conditions

14. I have imposed conditions regarding timescale and specifying the approved plan as this provides certainty. I have also applied a condition regarding the external building materials to match those of the existing building to safeguard the character and appearance of the area.

Conclusion

15. For the reasons given above and having considered all matters raised, I conclude that the appeal should be allowed.

Philip Lewis

INSPECTOR