
Appeal Decision

Site visit made on 15 November 2017

by **S J Lee BA(Hons) MA MRTPI**

Decision date: 30th November 2017

Appeal Ref: APP/V2004/D/17/3181300

155 Westbourne Avenue, Princes Avenue, Kingston-upon-Hull HU5 3JA

- 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 P Cooper against the decision of Kingston-upon-Hull City Council.
 - The application Ref 17/00324/FULL, dated 8 February 2017, was refused by notice dated 10 May 2017.
 - The development proposed is infill side extension and alterations to rear extension retaining existing footprint.
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Decision

1. The appeal is dismissed insofar as it relates to the infill side extension. The appeal is allowed insofar as it relates to alterations to the rear extension and planning permission is granted for alterations to rear extension to increase eaves/roof height at 155 Westbourne Avenue, Princes Avenue, Kingston-upon-Hull HU5 3JA in accordance with the terms of the application, Ref 17/00324/FULL, dated 8 February 2017, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and 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 plans: 17001, 17002, 17003 except in respect of the infill side extension shown on plans 17001 and 17003.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matter

2. The description in the header above is taken from the original application form. For the avoidance of doubt, I have used the description used on the appeal form and decision notice in my formal decision as in my view this is the more accurate of the two descriptions given.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupants of 153 Westbourne Avenue, with particular regard to outlook.

Reasons

4. The appeal relates to a large detached dwelling in a predominantly residential street. The proposal comprises a side extension which would essentially fill in a gap between the kitchen and utility room and alterations to an existing rear extension to increase the height of the eaves and roof. The site lies within the Avenues and Pearson Park Conservation Area (APPCA). The neighbouring property has a projecting rear extension which is also inset from the common boundary. This contains what appears to be a kitchen window facing directly onto the inset part of the eastern flank of No 155. A window on the rear wall serves another ground floor room in between the extension and common boundary.
5. The utility room of the host property is located at the end of the building and is a short distance from the rear facing window of No 153. The utility room would also be viewed at an oblique angle from the kitchen window of the neighbouring property. While I recognise the extension would not go beyond the extent of the utility room, the current inset provides a small degree of openness to the outlook from these windows that would be lost as a result of the development.
6. While it would be reasonable to assume that the existing outlook from these windows is already constrained to an extent, the extension would bring more of the flank of No 155 closer to the common boundary than at present. The additional mass and bulk of the development would also be directly opposite the kitchen window and much nearer to the rear facing window. The effect of this would be considerably different and more intrusive than that of the utility room. This would result in a significant increase in the sense of enclosure and confinement, adversely affecting the outlook from both the kitchen and the south facing room. The overbearing nature of the development would tangibly diminish the enjoyment of these rooms to an unacceptable degree.
7. I do not accept the appellant's view that the extension would have no greater effect on outlook than the two storey flank of the dwelling. The additional bulk of the built form and the closing of the already narrow gap at ground floor level would lead to the clear degradation of the existing living environment within the effected rooms.
8. The Council raises no objection to the alterations to the rear elevation in terms of living conditions or any other reason and I saw nothing to suggest I should conclude differently. However, this does not alter my view regarding the negative impact of the side extension. I therefore find that this element of the proposal would result in unacceptable harm to the living conditions of the occupants of No 153. Accordingly, there would be conflict with policies BE1 and BE5 of the Hull City Plan (2000) which seek, amongst other things, to ensure that development protects the amenity of nearby residents, including by not having a serious adverse effect by virtue of over-dominance, creating an undue sense of enclosure or poor outlook.

Other Matters

9. The appellant has suggested that a side extension of similar dimensions to the proposal could be implemented under permitted development rights. It is clear however that any extension that met the required limitations of permitted development could not provide the same result in terms of the internal layout

of the property as the proposal. As a result, I am not convinced that such an extension would be built in the event that this appeal is dismissed. This limits the weight that I have attached to it as a fallback position. Any benefits in terms of design that the proposal may have over what may be acceptable under permitted development rights would also be very minor in nature. When considering the degree of harm identified above, I do not consider that this possibility outweighs my overriding concerns about the side extension.

10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is also reflected in paragraph 131 of the National Planning Policy Framework (the Framework) which states that in determining planning applications, the desirability of sustaining and enhancing the significance of heritage assets should be taken into account.
11. The Council raises no objection to the development in the context of the conservation area. Both elements of the development would be discretely located and would not be prominent in publically accessible views. As such, I am satisfied that the development would have only a neutral impact and thus would preserve the character and appearance of the APPCA. This does not, however, outweigh my concerns over the effect of the side extension on the living conditions of No 153.

Conditions

12. I have considered the suggested conditions from the Council in accordance with the Planning Practice Guidance (PPG) and paragraph 206 of the Framework. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty. In the interests of the character and appearance of the area, I have also imposed a condition requiring the materials used to match those of the existing dwelling.

Conclusion

13. I have found that the infill side extension would have an unacceptable effect on the living conditions of the neighbouring property and would thus conflict with the policies of the development plan. The material considerations considered above do not lead me to conclude that a decision other than in accordance with the development plan is justified in this case. However, I see no reason why the alterations to the rear elevation should not be approved. For the reasons given above I therefore conclude that the appeal should be allowed in part and dismissed in part.

S J Lee

INSPECTOR