



Appeal Decision

Site visit made on 23 July 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Appeal Ref: APP/Z4718/D/19/3226234 52 Deighton Lane, Batley WF17 7EU

- 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 Mohammed Ashad Bostan against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2018/62/94136/E, dated 8 December 2018, was refused by notice dated 18 February 2019.
 - The development proposed is described as '2 storey living accommodation link and conversion of garage to domestic use'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Kirklees Local Plan has been adopted since the planning application was refused by the Council. In its decision notice, the Council referred to saved policies from the Kirklees Unitary Development Plan as well as policies in the emerging Local Plan. Now that the Local Plan is adopted, saved policies from the Unitary Development Plan are superseded and I do not make any further reference to them. As the objectives of both sets of policies are similar with regard to design and protection of amenity, this change in circumstances has not prejudiced either party.

Main Issues

3. The main issues are the effect of the proposal on the:
 - living conditions of the occupiers of No 50 and No 54 Deighton Lane, with particular regard to privacy and outlook
 - the character and appearance of the area

Reasons

Living conditions

4. The proposed two storey extension would be sited along the boundary with No 54 Deighton Lane (No 54) with a length of approximately 5 metres. Although I acknowledge that the properties have long back gardens and the extension would only impact on part of it, the effect would be felt on the area of outside space closest to the house which is likely to be the most well used, and therefore the most sensitive, part of the outdoor space. Given the scale

and bulk of the extension and its proximity to No 54, I consider that it would have an enclosing effect on the neighbouring property which would be dominant and overbearing.

5. The two storey extension would have a bedroom window at first floor level which would directly overlook the outdoor amenity space of the adjoining property, No 50 Deighton Lane (No 50) to an unacceptable degree. The appellant has suggested the use of privacy glass to reduce the impact, but I do not consider this to be an appropriate solution for a bedroom window as it would not provide a satisfactory outlook for the occupiers.
6. The appellant has also suggested additional landscaping along the boundary as a means to reduce the impact. There is an opportunity for planting along the boundary with No 50, however this would take time to become established and would need to be maintained at a reasonable height to overcome the harm. I am not convinced that this could be relied upon to satisfactorily mitigate the harm.
7. Overall, I conclude that the proposed development would cause harm to the living conditions of the neighbours at No 50 and No 54 Deighton Lane with particular regard to privacy and outlook. It fails to comply with Policy LP24 of the Kirklees Local Plan (2019) (LP), which is concerned with minimising the impact of developments on the amenity of future and neighbouring occupiers. In addition it fails to comply with paragraph 127 of the National Planning Policy Framework (the Framework) which has a similar objective.

Character and appearance

8. The appeal property is located on Deighton Lane, a residential street characterised by properties of a variety of ages, styles and materials which are set back from the road behind low stone walls and front gardens. The appeal property is a more recent property than many in the street and has been added to the end of a row of traditional two storey stone terraces. The neighbouring property, No 54, is a large detached stone villa.
9. Whilst the proposed extension would be significant in scale it would be set back by the entire length of the house, approximately 14 metres from the front elevation. Given this significant set back, I do not consider that the extension would dominate the host property when viewed from the street. The Council has expressed concern that the hipped roof would not match that of the main house, however I consider that the effect on the host property would be acceptable given the subservience of the extension. Furthermore, I note that the existing garage already has a hipped roof, as does the rear extension.
10. I conclude that the proposed development would have an acceptable effect on the character and appearance of the area. I find no conflict with Policy LP24 of the LP as it relates to the design of extensions. Likewise there is no conflict with the good design objectives of the Framework.

Conclusion

11. Whilst I have found that the proposal would not cause harm to the character and appearance of the area, this does not overcome the harm to the living conditions of the occupiers of neighbouring properties which I have identified.

12. I have sympathy with the needs of the growing family for private space, but again this does not justify the harm the proposed development would cause.
13. For the reasons given on balance the proposal would not accord with the development plan and the appeal is therefore dismissed.

Rosie Morgan

INSPECTOR