
Appeal Decision

Site visit made on 23 July 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Appeal Ref: APP/N4205/D/19/3228444
244 Rishton Lane, Bolton BL3 2EH

- 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 Mrs Nishat Khan against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 05234/19, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The development proposed is the erection of a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 244 Rishton Lane, Bolton BL3 2EH in accordance with the terms of the application, Ref 05234/19, dated 2 January 2019, 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: 01/01/REV B, 04/01/REV F and 05/01/REV H.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing dwelling.

Procedural Matter

2. Following the determination of the application, the appellant submitted a revised layout (drawing 05/01/REV I) showing two versions of the proposed development of different depths. In determining this appeal it is not for me to choose between alternative schemes, one of which has not been before the local planning authority. I shall determine the appeal on the basis of the plans submitted with the application and on which the Council made its decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions for occupants of the neighbouring property at 242 Rishton Lane, with particular regard to outlook.

Reasons

4. The appeal property is a two-storey mid-terrace house, with a rear two-storey outrigger adjoining 246 Rishton Lane. The rear yard is L-shaped and very narrow between the outrigger and the boundary with No 242, although it widens out beyond the rear of the outrigger. The yard slopes down slightly towards the rear lane, where a small WC and store is built against the boundary wall. The neighbouring property at No 242 also has a two-storey outrigger set away from the appeal property.
5. The proposed development would extend the existing outrigger at ground floor level by around 7 metres to the rear boundary wall, to provide a bedroom and bathroom. It would have a single pitched roof sloping up towards the boundary with No 246, with a hipped end facing the rear lane.
6. Both the appeal property and No 242 have tall bay windows to their rear principal ground floor rooms. The narrow gap between the existing outriggers and the height of the shared boundary fence mean that both properties already have a somewhat constrained outlook of limited breadth. However, the slope of the land away from the rear windows and the considerable separation from the houses in the next street gives a more open distant outlook.
7. Part of the extension would be visible from the rear bay window of No 242, particularly towards the rear lane where the slope of the land means that the boundary fence between the properties is relatively lower. The height and roof design of the extension mean that, although it would breach the '45-degree rule' described in paragraph 4.15 of the Council's 2012 'House Extensions' Supplementary Planning Document (the SPD), it would not have a significant dominating or enclosing effect on the outlook from the rear bay window of No 242.
8. The extension's roof ridge would be higher than the existing boundary wall with No 246. However, the impact on occupiers of No 246 would be limited by the properties' orientation, the presence of a covered structure occupying much of the rear yard of that property, and the fact that the rear ground floor window in the outrigger of No 246 serves a kitchen window. Taken together, these factors mean that there would be no significant harmful effects on outlook for the occupiers of No 246. In these regards, the extension would therefore comply with the guidance relating to terraced houses in the SPD.
9. The extension would be longer than the 4 metre threshold set out in paragraph 4.21 of the SPD. However, the presence of the existing outside WC and store makes the proposal a practical response to the specific circumstances of this property. While the extension would reduce the amount of yard space available to the residents of the appeal property, the SPD recognises that it is unlikely to be practical in terraced properties to apply a minimum outside amenity space standard without unduly restricting householders' ability to usefully extend their property.
10. I therefore conclude that, notwithstanding the limited conflict with parts of the SPD guidance, the proposed extension would not cause an unacceptable loss of outlook for occupants of 242 Rishton Lane. The proposal would consequently comply with Policy CG4 of the Bolton Core Strategy 2010, which among other things seeks to ensure that new development protects the amenity of surrounding occupiers.

Other Matters

11. The Council's decision notice referred to the proposed extension having a detrimental effect on the character and appearance of the area. However, the officer report provided to me describes the proposal as being acceptable in terms of its character and appearance. I agree with the assessment in the officer report that the proposal is appropriate in terms of its size, design and proposed materials, and therefore have not considered character and appearance as a main issue in this appeal.
12. The appellant has indicated that they could exercise permitted development rights to build an extension closer to the boundary with No 242. Although such a scheme would be smaller in area and volume than that now before me, it would be closer to the rear ground floor bay window of No 242 and could project some way above the existing boundary fence. As such it would be likely to have a greater enclosing effect on the outlook from that window than the current appeal scheme. It would be likely to reduce sunlight and daylight reaching the bay window of No 242. From the appellant's evidence there would appear to be a reasonable prospect of such a scheme being pursued if this appeal is dismissed. Therefore, in considering the effects of the current scheme on living conditions for occupiers of No 242, I have also taken into account the permitted development fallback position.
13. A neighbour has raised concerns about the potential impact of the proposed development on a shared boundary wall. Any damage or encroachment arising during construction would be a private matter between the parties involved, and is not an issue which can or should be settled by a planning appeal.

Conditions

14. In addition to the standard time limit condition I have specified the approved plans so as to provide certainty. In order to protect the character and appearance of the area I have also included a condition requiring materials matching the existing dwelling to be used for the extension.

Conclusion

15. For the reasons given above, and having taken into account all other relevant matters raised, I conclude that the appeal should be allowed.

M Cryan

INSPECTOR