
Appeal Decision

Site visit made on 2 December 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Appeal Ref: APP/M4320/D/19/3237604

17 St Clair Drive, Southport PR9 7LF

- 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 Gareth Roberts against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2019/01130, dated 17 June 2019, was refused by notice dated 11 September 2019.
 - The development proposed is a part 2 storey extension to the rear with dormer loft conversion above.
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Decision

1. The appeal is allowed and planning permission is granted for a part 2 storey extension to the rear with dormer loft conversion above at 17 St Clair Drive, Southport PR9 7LF in accordance with the terms of the application, Ref DC/2019/01130, dated 17 June 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 10/271/01 and 10/271/01 Rev A.
 - 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.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the area and the living conditions of the occupants of 19 St Clair Drive, with regard to outlook.

Reasons

Character and appearance

3. St Clair Drive is a residential cul-de-sac predominantly comprising two-storey, semi-detached dwellings, although there are examples of single-storey and three-story properties. The two-storey, semi-detached properties along the western end of the street are similar in their style and design, having hipped roofs. This uniformity of design makes a positive contribution to the character and appearance of the area.

4. The appeal property is a two-storey, semi-detached dwelling. It has an existing single-storey extension on the rear, which is set back from the boundary with the adjoining dwelling, 19 St Clair Drive. The front of the property is largely unaltered, with the existing hipped roof contributing towards the uniformity of the roofscape.
5. The proposed first-floor extension would sit atop the existing extension and would not be readily visible from the streetscene. Its design and size would ensure that it appears subservient to the original dwelling. Overall, this element of the proposal would not be harmful to the character and appearance of the area.
6. The proposed roof conversion would include a hip to gable extension. Given that the prevailing roofscape along St Clair Drive is composed of hipped roofs, with the only exceptions to this being the small number of semi-detached properties towards the eastern end of the street, the proposed hip to gable extension would unduly interrupt the otherwise uniform roofscape, introducing an incongruous feature within the streetscene. Furthermore, it would create a visual imbalance between the host dwelling and the adjoining dwelling, which would be in marked contrast with the other pairs of semi-detached properties along the street which are read as mirrored pairs.
7. I find therefore, as a result of the hip to gable extension, the proposal would significantly harm the character and appearance of the area, contrary to Policies HC4 and EQ2 of the Local Plan for Sefton (LP) 2017, which, amongst other things, seek to ensure that development is of a high quality design and responds positively to the character of its surroundings.

Living conditions

8. The proposed first-floor extension would be set back from the boundary with No.19 by approximately 2.9m with a depth of approximately 5.3m. No.19 has a ground floor window in its rear elevation. As a result of the proximity of the proposed extension to the boundary and its depth, it would breach the 45 degree line as measured from the nearest point of this window.
9. The Sefton Council House Extensions Supplementary Planning Document (SPD) 2018 states that extensions that cross the 45 degree line from the neighbour's nearest habitable window may be acceptable only if they do not cause significant harm to residential amenity. Therefore, the SPD acknowledges that the breach of the 45 degree line does not automatically mean there would be unacceptable harm.
10. The breach of the 45 degree line would only be moderate. Given the relatively shallow pitch of the proposed extension and that No. 19 has a very long garden, as with others on the street, the level of outlook from the subject window in No.19 would remain extensive. Although the extension would be visible from this window, it would only be readily visible from an oblique angle and would not dominate the view from it. It would also clearly be visible from No. 19's rear garden. However, due to the size of the garden it would not have any significantly detrimental effect on its usability.
11. I find therefore that the proposal would not significantly harm the living conditions of the occupants of 19 St Clair Drive, with regard to outlook. As such it would comply with Policy HC4 of the LP, which seeks to protect the

living conditions of the occupiers of neighbouring properties. I also find no conflict with the SPD.

Other considerations

12. The consideration of a fall-back position, including what could be erected under permitted development rights, is a well-established principle.
13. The appellant contends that the proposed hip to gable extension would be carried out under permitted development. The Council does not dispute this. Based on the evidence before me, including the drawings with annotated dimensions for the roof extension, and in the absence of any evidence to the contrary, I am satisfied that the hip to gable extension could be carried out under permitted development rights and is therefore a fall back position. I note that there is no Certificate of Lawful Development confirming as such. However, given that the appellant is clearly committed to carrying out the proposed works, having prepared various versions of the proposal, submitted the planning application and proceeded with the appeal, I am satisfied that were I minded to dismiss the appeal there is a reasonable likelihood that the hip to gable extension would be carried out under permitted development.
14. Therefore, the appellant makes a compelling case that there is a fallback position that is likely to be implemented, which would likely have an equal degree of harm on the character and appearance of the area as the proposal before me. I attribute significant weight to this fallback position.

Planning balance

15. The proposal would conflict with Policies HC4 and EQ2 of the LP. However, the appellant's fall-back position to implement the hip to gable extension under permitted development rights is a realistic possibility. The effects of the appeal proposal on the character and appearance of the area would unlikely be any greater than the development implemented under permitted development rights. Accordingly, I find that the proposition of the fall-back position is a material consideration, which would, in this case, justify making a decision which is not in accordance with the development plan.

Conditions

16. I have had regard to the various conditions suggested by the Council. For the avoidance of doubt, it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. In the interests of the character and appearance of the area a condition regarding materials is necessary.

Conclusion

17. For the reasons given above, the appeal is allowed.

Alexander Walker

INSPECTOR