



Appeal Decision

Site visit made on 4 February 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2020

Appeal Ref: APP/Z4310/D/19/3240690 25, Willow Green, Liverpool L25 4RR

- 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 Richard Roberts against the decision of Liverpool City Council.
 - The application Ref 19H/1922, dated 10 July 2019, was refused by notice dated 4 October 2019.
 - The development proposed is described as rear 3m and 6m extension at ground floor to semi-detached property. Rear and side first floor extension. Rear dormer. Side extension to roof.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) the effect of the proposal on the living conditions of the occupiers of no 24 Willow Green with particular reference to privacy and; ii) the effect of the proposal on the character and appearance of the host property and the area.

Procedural Matter

3. The description of development in the application form differs from that contained within the appeal form and decision notice. In the interests of brevity, I have used the description that is on both the appeal form and decision notice as it is more precise. Therefore, the description of development is *part single/part two storey extension to side/rear, erect dormer extension to rear incorporating juliette balcony, erect hip to gable extension with new window to side elevation and install rooflights to front.*
4. I note that the appellant considers the proposed juliette balcony to be permitted development. A Section 78 appeal is not the mechanism for determining whether or not the proposed juliette balcony would be permitted development and therefore lawful. In any event, it is shown on the proposed plans and is contained within the description of development and formed part of the proposal determined by the Council therefore I have determined the appeal on this basis.
5. The Council refer to Policy H8 of the Liverpool Local Plan 2013-2033 (Pre-submission draft January 2018 (Emerging Plan) in their reasons for refusal

however, given that there are unresolved objections to this policy, despite the plan being submitted for Examination, I attach limited weight to this policy.

Reasons

6. The appeal property is a semi-detached house from the inter-war period in a quiet residential area that is characterised by similar properties, the majority of which have bay windows, hipped roofs and are set back from the road in large plots.

Living Conditions

7. The proposal includes a dormer roof extension to the rear of the property which would incorporate a Juliette balcony. The balcony would be located around 1 metre from the shared boundary with number 24 Willow Green and would consequently afford the appellant with open, unobstructed views of the rear external amenity space of no 24.
8. During my site visit I was able to see into the rear garden of no. 24 Willow Green from the rear 1st floor window of the appeal property and therefore I acknowledge that there is already a degree of overlooking between the properties. Nevertheless, I consider that due to the height at which the Juliette balcony would be positioned, its proximity to the boundary and the size of the proposed opening it would facilitate longer more open views of the garden that would have a harmful effect on the privacy of the occupiers of no. 24.
9. Accordingly, I consider that the proposed Juliette balcony would have an unacceptably harmful effect on the living conditions of the occupiers of no. 24 Willow Green with regard to privacy. It would therefore conflict with the aims of Policy H8 of the Liverpool City Council Unitary Development Plan 2002 (UDP) which amongst other things, requires development proposals to preserve privacy and amenity of neighbours.
10. Whilst I do appreciate that the current occupiers of no 24. Willow Green have not objected to the proposal, this in itself does not overcome the conflict with the development plan. Furthermore, I must consider that the planning permission runs with the land and therefore consider the effect of the development on any future occupiers.

Character and appearance

11. The appeal proposes various roof alterations including a full width rear dormer extension and alterations to the main roof that would remove the hipped element and replace it with a gable. These alterations would create additional living space at roof level and due to the fact that the structures would be contiguous they would also facilitate the first-floor side extension and larger single storey rear extension.
12. The appeal property is one of a single pair of semi-detached properties close to the entrance to the street. As such, the pair is viewed in isolation from the lengthy row of similar properties on the opposite side of the road and those that sit in the curve of the street around the central green. The gable roof would add considerable bulk to the existing roof arrangement that would be out of keeping with the host property and when viewed in the context of the pair of semis would create an unbalanced and incongruous addition.

13. Whilst I accept that there are numerous large extensions in the vicinity of the appeal property, overall there is consistency in terms of the roof designs whereby to a large extent, the hipped roofs, that are a very strong characteristic of the area have been retained.
14. I note that the appellant has provided me with an appeal decision in which an inspector allows a hip to gable roof extension. I do not have the full details of the circumstances of this appeal or its context, however, I note that the inspector makes reference to a number of different roof designs (including gables) within the immediate area surrounding the appeal site, I did not see such variation within the immediate vicinity of this appeal site. Nonetheless, I must determine this appeal on its own merits.
15. I acknowledge that there is currently a substantial amount of tree coverage in the rear garden of no 23 Blackwood Avenue that would provide partial screening of the proposed gable. However, there would be nothing to prevent the removal of this planting in the future and the consequence of this, should the gable extension go ahead, would be views of a large and cumbersome structure when entering the street from Blackwood Avenue.
16. Consequently, I consider that owing to its scale and bulk, the proposed hip to gable extension would have an unacceptably harmful effect on the character and appearance of the host property and the area. In this regard it would fail to accord with the design aims of Policies H8 and HD18 of the UDP.
17. In regard to the proposed dormer extension, I note that the Council's assessment of this element of the proposal concludes that the proposed dormer would meet the requirements of Policies H8 and HD18 of the UDP and the Liverpool City Council Supplementary Planning Guidance – House Extensions 2001(SPG). I have no reason to disagree with this view.
18. In respect of the first-floor side extension, I noticed on my site visit that the majority of properties in the street had been extended to the side and of the ones that I could see from a public vantage point, most were full depth. In this regard, I consider that the proposed side extension would not be out of place in the street scene and would be in proportion with the main house.
19. The smaller of the two proposed rear single storey extensions would not extend more than 3 metres on the shared boundary and would therefore accord with the guidance set out in the SPG. In reference to the larger single storey rear extension, whilst it would project 6 metres in total, it would be set away from the shared boundary and indeed some 20 metres from the rear wall of no 23 Blackwood Avenue. Therefore, I agree with the Council's initial assessment of this element of the proposal in so far that the rear single storey extensions, the first floor extension and the dormer would not cause harm to the character and appearance of the host property, the area, nor materially conflict with the design aims of policies in the Policies H8 and HD18 of the UDP.

Other Matters

20. I acknowledge that the appellant has suggested that the Juliette balcony could be replaced with a window and I appreciate that the Council has not raised an objection to the principle of the altered scheme in the regard. However, I must assess the appeal based upon the information that I have before me and I do not have any plans or elevations relating to an alternate scheme.

21. I have carefully considered the appellant's submission regarding the health needs of a family member and I accept that additional space would be beneficial in this regard and that the cost of gaining this space via extending the current home would be more affordable than purchasing an alternative property.
22. In weighing these personal circumstances in the balance, they must be considered against the detrimental effect that the proposal would have upon the living conditions of the adjoining neighbours and the identified harm that would be caused to the character and appearance of the host property and the area as a whole.
23. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
24. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the existing and future living conditions of the occupiers of the neighbouring property can be reasonably safeguarded and that harm to the character and appearance of the host property and wider area is avoided. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of the appellant and their family members. Therefore, whilst I acknowledge the personal circumstances raised in this appeal, I conclude that these are not matters which outweigh the harm that would be caused by the proposal in respect of my aforementioned conclusions on the other main issues.

Conclusion

25. The appeal proposal includes a number of different elements. The proposed single/part two storey extension to side/rear and the proposed dormer extension are acceptable and comply with relevant planning policies. However, I have identified harm in relation to the proposed hip to gable roof alteration and the proposed Juliette balcony. The different elements of the proposal are inextricably linked in that they are functionally and structurally connected and consequently I cannot issue a split decision in this circumstance.
26. Accordingly, I conclude that for the reasons set out above and taking into account all other matters raised, the appeal should be dismissed.

J Hunter

INSPECTOR