

Appeal Decision

Site visit made on 8 June 2020

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 July 2020

Appeal Ref: APP/X1355/W/20/3250650

3 Juniper Way, Durham DH1 4GZ

- 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 Nick Swift against the decision of Durham County Council.
 - The application Ref DM/19/03227/FPA, dated 9 October 2019, was refused by notice dated 17 January 2020.
 - The development proposed is a two storey rear extension to existing C4 property.
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Decision

1. The appeal is dismissed.

Procedural Matters

The Council are in the process of preparing the County Durham Plan (CDP), as referred to in the Council's officer report¹. The appellant's 'Final Comments' provide further update by way of extract from the Council's statement in relation to another current appeal². The Council have not relied upon or referred to any policies from the emerging CDP and have previously stated that no weight should be given to its policies in respect of the appeal before me. In the absence of any further submissions as to the adoption of the emerging CDP I have not been presented with any further evidence to lead me to a different conclusion to that agreed upon by both main parties in this respect.

Main Issues

2. The main issues are:
 - Whether the proposed development would preserve the character or appearance of Durham (City Centre) Conservation Area; and
 - The effect of the proposed development upon the living conditions of occupiers of neighbouring properties, with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site is located within the Hawthorn Terrace sub-character area of the wider Crossgate Character Area which, in turn, lies within the Durham (City Centre) Conservation Area (CA). Collectively, the main parties identify the site's immediate locality as being characterised primarily by two storey brick-built terraced houses in straight terraced blocks, with shorter terraced streets

¹ 'Emerging Local Plan Policy' section of officer report

² APP/X1355/W/20/3251179

of similar properties set at right angles to Hawthorn Terrace and Juniper Way. At the rear, small enclosed rear yards accessed from narrow rear lanes are typical of such tightly grained terraced streets.

4. Although a more recent development than the surrounding streets, Juniper Way reflects many of these characteristic features of Hawthorn. To the front, Juniper Way responds to the distinctive first floor bay windows of Hawthorn Terrace. At the rear, the terrace steps up the gradually sloping street, the stepped roofline following suit with the regular fenestration pattern emphasising the repetition, rhythm and simplicity of the rear elevation.
5. The rear elevations of properties along this particular terraced part of Juniper Way are relatively plain and largely unencumbered by additions. Where extensions have been constructed, they are single storey and with dual-pitched roofs. The examples I saw during my visit sit modestly within the terrace and do not unduly disrupt this simple rhythm, nor would the Council's confirmation that permission has, since the submission of the appeal, been granted for a single storey rear extension³.
6. The proposed extension, by contrast, would not sit modestly within the terrace and would disrupt this distinctive and pleasing rhythm. The two-storey element would be a strident rearward addition to the property, intruding into the otherwise plain and simple streetscene at the rear. When viewed from one side, the mono-pitch roof would awkwardly bisect the regularity of the stepped eaves line, whilst from the other, the substantial blank flank elevation facing No. 2 would project well above the eaves level. Nor, with the 2-storey element projecting in the region of 2.8 metres, would the extension be a particularly modest feature in the context of the relatively unadorned terrace, small rear yards and open aspect across the yard walls and fences.
7. The materials and fenestration details and proportions proposed may well, as posited by the appellant, respect those of the host building, the terrace as a whole and indeed those of older properties in the surrounding streets. Nor would the overall projection of the ground floor element of the extension be dissimilar to other single storey extensions already in place. But these factors would not disguise the extension's incongruous scale, form and appearance or the intrusive nature of its intervention into the streetscene at the rear of Juniper Way. The extension's location towards one end of the terrace would do little to reduce its incongruous nature.
8. I noted examples of two storey rear extensions and outriggers whilst visiting the site as well as having had examples drawn to my attention by the appellant. Such outriggers are not, I accept, particularly uncommon in the surrounding older terraced streets. However, the appeal property lies within a more modern representation of the prevailing street pattern, one in which such elements do not form a characteristic part. Instead, the rear of the terraced block is characterised by its simple, plain façade and the rhythm and repetition provided by the stepped roof and eaves line and regular fenestration pattern. The proposal would be an intrusive, incongruous and dominant intervention which would be harmful to the character and appearance of the host property and the surrounding area.

³ LPA Ref No: DM/19/03227/FPA

9. Views along the back lane, across rear yards and from Laburnum Avenue are reasonably open and the extension would be clearly and harmfully visible. The proposal would, for the reasons I have set out, cause harm to the character and appearance of the CA. Though harm would arise, it would be less than substantial. The Framework states that any harm to, or loss of significance of, a designated heritage asset should require clear and convincing justification⁴. It goes on to state that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal⁵.
10. The proposal would facilitate the provision of additional bedrooms within an existing House in Multiple Occupation (HMO). The appellant's Planning Statement⁶ states that the proposal would also allow internal reconfiguration to 'improve accommodation provision and address recent changes to the HMO regulations'. The changes to the regulations and how the proposal responds to those changes are not explained further. In the absence of such explanation, even if I were to conclude that this is capable of being a public benefit, the weight that I give to this matter is very limited. In any event, those changes are proposed in a manner which would reduce outdoor amenity space and would not increase internal shared amenity space. The latter are not benefits, be they public or private, whilst the provision of additional bedrooms within the existing HMO would be a private rather than public benefit.
11. For these reasons, the proposal would be an incongruous and intrusive addition at the rear of 3 Juniper Way which would harmfully compromise the pleasing rhythm and simplicity of the terrace as a whole, and the character and appearance of the host property. The proposal would be contrary to City of Durham Local Plan (CDLP) policy H9. It would also fail to preserve or enhance the character or appearance of the CA, the conservation of which should be given great weight⁷. There are no public benefits to outweigh the less than substantial harm that I have identified above and the proposal would therefore also be contrary to CDLP policy E22 and the historic environment provisions of the National Planning Policy Framework (the Framework).

Living conditions

12. CDLP policy H9 refers, amongst other matters, to proposals for the extension of existing HMOs. A generally permissive policy, it states that such proposals will be supported provided that they do not adversely affect the amenities of nearby residents and are in scale with their surroundings.
13. The proposed extension would be sited directly adjacent to the rear of No. 2. Although No.2 enjoys a slightly elevated position relative to No. 3 due to rising ground levels, the extension's design is such that it would still present a flank elevation of considerable height to No. 2 close to the rear windows at ground and first floor level, notwithstanding the slight difference in ground levels.
14. Although the Council accept that the proposal may not result in a significant loss of light to the rear of No. 2, the rears of the properties along Juniper Way sit slightly lower than the level of the rear lane, which itself is bounded by substantial retaining walls with rising ground beyond. The substantial height of

⁴ Framework paragraph 194

⁵ Framework paragraph 196

⁶ In support of the planning application prepared by Architectural Base Consultancy Ltd - *8th October 2019

⁷ Framework paragraph 193

the extension's two storey flank elevation would combine with the faces of the retaining walls and surrounding elevated landform to create an oppressive and overbearing sense of enclosure at the rear of No. 2. This would, I conclude, adversely affect the outlook from the rear of No. 2 to an extent that would adversely affect the amenities and living conditions of occupiers of that property. The proposal would, for these reasons, be contrary to CDLP policy H9.

Other Matters

15. The property is already occupied as an HMO and its extension would not alter the proportion of HMO properties within a radius of 100 metres of No. 3. Although the proposal would result in an enlargement of the existing HMO with additional bed spaces, and the Council acknowledged conflict with the 'strict wording of the Interim Policy'⁸, this did not form part of the Council's reasons for refusal. As I have concluded that the appeal fails in respect of character and appearance and living conditions for the reasons I have set out above, it is not necessary for me to consider this matter further.

Conclusion

16. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR

⁸ Interim Policy on Student Accommodation