
Appeal Decision

Site visit made on 8 July 2020

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2020

Appeal Ref: APP/C2741/W/20/3254527

9 Upper Hanover Street, Leeman Road, York YO26 4XZ

- 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 Lee Kirby against the decision of York City Council.
 - The application Ref 20/00113/FUL, dated 18 January 2020, was refused by notice dated 17 March 2020.
 - The development proposed is 'conversion of existing dwelling into three separate units with independent access'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has referred to Policies D1 and D11 of the Publication Draft Local Plan (2018) (PDLP), and the draft House Extensions and Alterations Supplementary Planning Document (SPD) in the reasons for refusal. The PDLP examination is still ongoing and I have no further information to indicate whether or not there are any unresolved objections or requirements for modifications to Policies D1 and D11. Having regard to paragraph 48 of the National Planning Policy Framework (the Framework), PDLP Policies D1 and D11 therefore have limited weight in the determination of this appeal. Similarly, the SPD has not been formally adopted and can carry only limited weight. The Council continues to rely upon the Framework which is a material consideration.

Main Issues

3. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the host property and the surrounding area; and
 - whether or not the proposed development would provide acceptable living conditions, having particular regard to the provision of outdoor space for existing and future occupiers of the proposed development.

Reasons

Character and appearance

4. The appeal property is a two-storey semi-detached Victorian house located on a corner plot at the junction of Upper Hanover Street and Bismarck Street. It is within a predominantly residential area with a grid street layout and terraced houses positioned at the back edge of the pavement, creating a tight knit and compact character and appearance in the surrounding area. A number of the end of terrace dwellings in the surrounding area have been extended to the rear to create additional units, and I was able to see those referred to me by the appellant at my site visit.
5. There is an existing two storey projection to the rear of the appeal property with a single storey flat roof extension and outdoor store beyond. The side boundary onto Bismarck Street is defined by a brick wall approximately 1.5 metres high which encloses a small outdoor area at the rear of the dwelling. There is nothing unusual in this arrangement and the existing view of the property's side elevation is not harmful or incongruous in the street scene.
6. The proposed alterations include an extension at first floor level above the existing flat roof extension and the infilling of the existing outdoor area with a two-storey structure to create two additional dwellings. The resulting building would have a double pitched roof with a valley in between. It would infill most of the existing gap between the rear of the appeal property and the side gable of No 2 Bismarck Street (No. 2).
7. The proposed development would result in the appeal property's principal elevation facing onto Bismarck Street rather than Upper Hanover Street. The wall facing onto Bismarck Street would be constructed flush with the existing gable wall, resulting in the loss of the profile of the existing side gable. However, the arrangement of doors and windows which would be of traditional proportions would result in an acceptable elevation facing onto Bismarck Street. The ridge height of the two-storey extension would be lower than the existing two storey projection and its pitched roof form would reflect that of the existing dwelling.
8. The proposal would retain a small separation distance between the rear wall of the appeal property and the side gable of No. 2, such that they would continue to appear as two separate properties in the street scene. Viewed from Walworth Street North, the flank wall would be visible in the gap between No 10 Upper Hanover Street (No. 10) and No. 2, but it would not be unduly prominent and the separation between the appeal property and the gable wall of No. 2 would also be apparent from this direction.
9. Overall, whilst the proposed development would not fully accord with the aim of PDL Policy D1 to respect the historic arrangement of the plot and the building, the form and appearance of the development would be acceptable and would not appear discordant in the context of the surrounding area. There would continue to be a separation between the appeal property and the side gable of No. 2 and I find no conflict with PDL Policy D11 which, amongst other things, seeks high quality design which responds positively to the architectural context including the space between buildings. The proposal would accord with the provisions of the Framework to ensure that development is visually attractive and sympathetic to local character.

Living Conditions

10. The Council has not adopted the nationally described space standards and indicates that a proposal with similar room sizes has been approved at the appeal property. As such, it has no objection to the room sizes as proposed. There is nothing in the evidence before me to reach a different conclusion on this matter.
11. The flank wall of the proposed two-storey extension would be separated from the outdoor area to the rear of No. 10 by the flat roof extension at the rear of No 10. As such, the wall would not appear unduly overbearing or oppressive when viewed from the outdoor area of No. 10.
12. There would be some loss of daylight and sunlight to the first-floor window in the rear elevation of No. 10, but this window has an open and unobstructed aspect to the east and would be likely to continue to receive adequate levels of daylight and sunlight.
13. The Draft House Extensions and Alterations SPD indicates that alterations to dwellings should seek to retain adequate, useable private amenity space including sufficient land for drying clothes and space that is suitable and welcoming to sit out in.
14. Whilst the appeal plans show an area for bin and cycle storage accessed off Bismarck Street, there would be no outdoor amenity space to accommodate the daily outdoor activities of future occupiers of the existing dwelling and the two additional dwellings proposed. Unit 3 would have two bedrooms and could potentially be occupied by a family. The lack of provision for outdoor space to accommodate daily activities would fail to provide a satisfactory living environment. The availability of public open space at Leeman Road Millenium Green a short distance away would not mitigate for this lack of provision, since it would not provide for outdoor seating or other outdoor uses directly associated with the proposed dwellings.
15. The appellant has referred me to eight other properties in the surrounding area where the outdoor area is said to have been removed and infilled with an extension accommodating a separate dwelling unit. The Council indicates that a number of these were extensions to corner buildings that were formerly in commercial use at ground floor level, resulting in historic large single storey extensions that greatly reduced or removed the original rear yards. At my site visit, I was able to see that with the exception of the dwelling to the rear of the commercial premises at 1 Kingsland Terrace, a small outdoor space has been retained at these properties, but it was not possible to view their layout or use.
16. In addition, I have no further details of the additional numbers of dwelling units created as a result of the schemes referred to me by the appellant nor their size in terms of bedroom numbers. As such, I cannot be certain that they are comparable with the circumstances of the appeal scheme before me. I have come to my decision based on the details of the appeal development including the number of dwellings and bedrooms proposed and the circumstances of the appeal site.
17. For the above reasons, the proposal would fail to provide an adequate amount of outdoor space for existing and future occupiers of the proposed development. There would be conflict with PDL Policy D1 which seeks to

ensure that development is fit for purpose and with the advice in the Draft House Extensions and Alterations SPD. There would be further conflict with the provisions of the Framework to ensure a high standard of amenity for existing and future occupiers.

Other matters

18. Representations have been made on other matters including the effect on on-street parking and the effect of increasing population density in the area. However, as I am dismissing the appeal for other reasons and since it will not affect the outcome, I make no further comments on these matters.

Planning Balance and Conclusion

19. I have found that the proposed development would not harm the character and appearance of the host property nor the surrounding area. The absence of harm in this regard is, however, a neutral factor which weighs neither for nor against the proposal.
20. The appeal proposal would also make economic use of an existing building and would increase the supply of housing in the area, albeit marginally. The proposed dwellings would be in close proximity to and within walking distance of local services and facilities and public transport services. Design features to mitigate the impact of flooding would be used given the site's location within Flood Zone 2 and to comply with the Environment Agency's standing advice.
21. However, due to the lack of outdoor amenity space the proposal would not provide an acceptable living environment for existing and future occupiers. The weight against the proposal arising from the conflict with PDLP Policy D1 and the draft SPD is tempered by the limited weight that attaches to them in the determination of the appeal, but there would be conflict with the Framework's requirement to ensure a high standard of amenity for existing and future users. Overall, I conclude that there would be material harm to the living conditions of existing and future occupiers of the proposed development which would not be outweighed by the benefits of the scheme outlined above.
22. For the reasons outlined above and having regard to all other matters raised, the appeal should be dismissed.

Sarah Housden

INSPECTOR