



Appeal Decision

Site visit made on 26 October 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th november 2020

Appeal Ref: APP/C2741/W/20/3257303
29 Moorcroft Road, York YO24 2RQ

- 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 Thomas Duggan against the decision of City of York Council.
 - The application Ref 20/00596/FUL, dated 22 March 2020, was refused by notice dated 27 May 2020.
 - The development proposed is described on the application form as: the proposed development is for the construction of a 2 storey residential dwelling with a dormer style roof structure at the front and a flat roof structure at the rear. The dwelling will consist of 4 bedrooms with a driveway at the front and garden area at the rear with passageways down the left and right side of the property. The existing garage along with the large garden shed will be demolished to allow for the new dwelling to be constructed however access to the property and current driveway will be kept the same.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The reasons for refusal relate to policies within the Publication Draft City of York Local Plan 2018 (PDLP) which has not been formally adopted. The Council maintain that the policies referred to should be given moderate weight having regard to the three criteria set out at paragraph 48 of the National Planning Policy Framework (the 'Framework'). It appears that initial hearings into the publication draft took place in December 2019. However, whilst the plan is reasonably advanced, little information is provided as to whether there are any outstanding objections to relevant policies and the findings of the examining Inspector following the preliminary hearings have not been provided. In that context, I attach limited weight to the emerging policies.

Main Issues

4. These are:
 - i. The effect of the proposed development upon the character and appearance of the area;

- ii. Whether or not the proposed development would provide appropriate living conditions for future occupants, having regard to private amenity space, overlooking and noise and disturbance; and
- iii. The effect of the proposal upon the living conditions of the occupiers of No. 29 and 31, having regard to private amenity space, overlooking, loss of light, noise and disturbance and bin and cycle storage.

Reasons for the Recommendation

Character and Appearance

- 5. No. 29 is a semi-detached dormer bungalow located on a corner plot. The appeal site comprises No. 29's rear garden. The area is residential in character and dormer bungalows are the predominant building type. The dwellings are situated within broadly rectangular plots with an open driveway and garden to the front and main private amenity space to the rear.
- 6. The appeal site currently contains a garage and shed which read as ancillary buildings to No. 29 and are partly screened by existing boundary treatment and vegetation. The gap between No. 27 and 29 reflects the character of the local area as corner plots are generally larger to provide spacing between the dwellings to the return street frontage. The gap makes a positive contribution to the area as it provides a sense of spaciousness and openness. The established planting within the garden and verge also provide a pleasant green in an otherwise developed frontage.
- 7. The front elevation of the new dwelling would in general reflect the local area and the rear flat roof projection would not appear out of place given that there are similar designs nearby, including No. 27 which is visible from Moorcroft Road.
- 8. The scheme would be considerably more noticeable than the existing garage and shed, because of its scale and massing. The proposed dwelling would continue the pattern of development of Nos. 23-27. However, the new dwelling would have an awkward relationship with No. 29 due to the building line of the new dwelling and side elevation of No. 29. The current gap between No. 27 and 29 provides a separation between the variations of the building line. In contrast, the gable end of the proposed dwelling would project forward from the side of No. 29 and appear extremely conspicuous within the street scene. The sense of openness and greenery would be significantly eroded.
- 9. The scheme would also result in a cramped form of development because the new dwelling would appear unusually close to No. 29 due to the limited gap between the properties. The proximity of the new dwelling to No. 29 would be conspicuous from the highway. The distance between the rear elevation of No. 29 and the new dwelling would appear small and not in keeping with the spacious feel of the estate and the reduced proportions of the plot at No. 29 would appear constrained as a result. Thus, the configuration of the new dwelling and No. 29 would appear at odds with the established pattern of development and would not reflect the density of the surrounding area.
- 10. For these reasons, the proposed development would be visually harmful to the character and appearance of the area. Consequently, the scheme would conflict with the design related aims of the Framework, particularly paragraph 127 (a, b, c & d) which, amongst other things, seeks to ensure that development adds

to the quality of the area; is visually attractive as a result of good architecture and layout; responds to local character; and helps to establish a strong sense of place. In addition, it would conflict with Policy D1 of the PDLF which seeks, amongst other matters, to promote good design which is sympathetic to local character.

Living Conditions- Future Occupants

11. The proposed private amenity space to the rear of the new dwelling would have a depth of around 7.5 metres. The appellant highlights that it would measure approximately 80sqm which is similar to the floorspace of the dwelling. I note that the Council does not have any adopted planning policy or guidance which requires minimum space standards for the provision of private amenity areas.
12. Nonetheless, paragraph 9.2 of the Draft House Extensions and Alterations Supplementary Planning Document (2012) (SPD) sets out that all homes should as a minimum retain sufficient land for drying clothes and space that is suitable and welcome to sit out in. Whilst the new dwelling would have a smaller garden than the neighbouring properties, it would be reasonable for the size of the dwelling. The space would be of a size and configuration which would provide an appropriate outdoor area, including adequate space for recreation and hanging washing.
13. Boundary treatment could be conditioned to prevent the ground floor windows of No. 29 overlooking the private amenity space and side elevation of the new dwelling. No. 29's dormer, which would be approximately 7m from the rear boundary, would face towards the side elevation of the new dwelling rather than its garden. Given that the proposed first floor side window would serve an en suite, I am satisfied that No. 29 would not have an unacceptable effect upon the new dwelling, in terms of overlooking and privacy.
14. Although the new dwelling would be situated in close proximity to No. 29, I am not convinced that issues relating to noise and disturbance would have an unacceptable effect upon future occupiers. The site is located within a residential area where a certain degree of noise would be expected. There is nothing to indicate that noise and disturbance from No. 29 would be any greater than would normally be expected in a residential environment.
15. For these reasons, the proposed development would provide appropriate living conditions for future occupants, having regard to private amenity space, overlooking and noise and disturbance. Accordingly, it would comply with paragraph 127(f) of the Framework and Policy D1 of the PDLF which seek, amongst other matters, to ensure new development provides a high standard of amenity for future occupiers.

Living Conditions- Existing Occupiers

16. The private amenity space of No. 29 would be significantly reduced. I note that the current occupiers find it difficult and impractical to maintain. Although the current occupiers consider the scheme to be acceptable, the role of the planning system is to consider the effects of development of both the current and any prospective future occupiers.
17. The depth of No. 29's rear garden would be reduced to around 6m and 3m adjacent to the conservatory. The appellant highlights that the garden area of No. 29 would be reduced to around 80sqm and this increases to 256sqm if the

land outside the fence is included. The land outside of the fence is not private and should not be included within the assessment. I also acknowledge that there are areas of green space nearby, nevertheless it is important that sufficient private amenity space is provided.

18. The size of the garden area would be similar to the new dwelling. Nevertheless, it would be disjointed due to the siting of the conservatory. The area to the side of the property would be dominated by the new dwelling which would have an overbearing impact because of its scale and massing in close proximity to the boundary. As a result, the enjoyment of the garden to the side would be significantly impaired. The limited size and depth of the area to the rear would severely impact on its use as a practical area for sitting out or recreation. Thus, the amended garden would not provide adequate useable outdoor amenity space for the occupiers of No. 29.
19. The Council are concerned that the new property would overshadow No. 29 during the latter part of the day. The new property would reduce the amount of light reaching particularly the conservatory. The conservatory has glazing to three elevations with one of the elevations being south facing. Based on the evidence submitted, the scheme would not result in an unacceptable loss of light reaching the rear of No. 29. The scheme would not significantly overshadow No. 29 due to the extent of glazing within the conservatory and separation distance proposed.
20. With regards to whether the new dwelling would overshadow the garden area of No. 29, the appellant asserts that they would use the side garden for private amenity space as it is south facing. Although this section would get more sunlight than the proposed rear garden, the size of the side garden space would be limited and as I have found above this area would not provide an acceptable area of private amenity space.
21. Alike the conclusions within the previous section, the new dwelling would not have an adverse effect upon the living conditions of the occupiers of No. 29 in terms of overlooking due to the window uses on the side elevation and the boundary treatment could be conditioned. Similarly, the new dwelling would not result in an excessive increase in noise and disturbance because it would be situated within an established residential area.
22. The Council are concerned that the proposal would overlook No. 31 given that the proposed rear windows would be approximately 7m from the boundary. The rear windows would face towards the private amenity space of No. 31, rather than the rear elevation. The SPD sets out that in such circumstances a distance of 7m is required, the scheme therefore would comply with the SPD in this regard. Due to the distance between the rear elevation of the new dwelling and No. 31, the scheme would not have an unacceptable effect upon the living conditions of the occupiers of No. 31.
23. There is an existing gated access to the garden of No. 29 where householder waste bins are currently stored. The current occupier moves the bins to the front of the property on collection day. I observed that arrangement at my site visit and No. 29's bin storage arrangement would remain as existing. Cycles could also be stored in this area. The development is therefore acceptable in those respects.

24. For those reasons, although the proposed development would not result in significant overlooking, loss of light, noise and disturbance and would provide adequate bin and cycle storage, it would result in the living conditions of the occupiers of No. 29 being significantly adversely affected as it would not provide acceptable private amenity space. Accordingly, it would conflict with paragraph 127(f) of the Framework along with Policy D1 of the PDLF which seek, amongst other matters, to ensure new development provides a high standard of amenity for existing occupiers.

Other Considerations

25. The appellant asserts that the Council has approved similar proposals in the locality. However, they have provided limited detail regarding these cases, so I am unable to compare the appeal scheme to these approvals. In any event, each application must be considered on its individual merits.

Conclusion and Recommendation

26. Although I have found that the development would provide appropriate living conditions for future occupants and would not have an unacceptable effect upon the occupiers of No. 31, the scheme would be visually harmful to the character and appearance of the area and would have an unacceptable effect on the living conditions of the occupiers of No. 29, having regard to private amenity space, to which I attach significant weight. For those reasons, I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR