



Appeal Decision

Site Visit made on 7 December 2020

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2021

Appeal Ref: APP/H4315/D/20/3262974

55 Cedar Gardens, Newton-Le-Willows WA12 8AD

- 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 Leon Nesbitt-Hancock against the decision of St. Helens Metropolitan Borough Council.
 - The application Ref P/2020/0562/HHFP, dated 9 August 2020, was refused by notice dated 5 October 2020.
 - The development proposed is to add a third storey onto a two storey detached house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (a) the effect of the proposal on the character and appearance of the area; (b) the effect of the proposal on the living conditions of the occupants of 73 and 75 Park Road South, with regards to privacy; and (c) the appellant's personal need for the proposed development.

Reasons

Character and appearance

3. The detached two-storey appeal property sits within a row of detached and terraced dwellings in a relatively modern housing development containing a range of house types. There are slight variations to the height of properties, but they have a two-storey appearance and a broadly uniform scale, massing and design. Window openings occupy the ground and first floors. The dwellings typically have a tall pitched roof form, but several houses have gables to the front that face the road.
4. The overall height of the host property would change very little as a result of the proposal, and it would relate to the adjacent terrace. However, the extended elevations and shallow hipped roof form would not relate to the scale and design of the host dwelling or those which neighbour it. Thus, the proposal would fundamentally alter the character and appearance of the dwelling and create a prominent form of development out of sync with its surroundings. The proposed design is not outstanding or innovative in the context of paragraph 131 of the National Planning Policy Framework (the Framework) even though it would make effective use of land. The proposal would result in significant harm despite the use of suitable materials and finishes.
5. The housebuilder's brochure relates to an earlier scheme which pre-dates the planning permission granted by the Council in 2011. The other parts of the 'Wargrave Estate Development' are also visually and physically distinct from Cedar Gardens and contain different house types. Hence, any decisions reached

on proposals relating to other parts of that wider development have little bearing on the consideration of this scheme.

6. Adding dormer windows would have a different effect on the character and appearance of the area to the proposal. They could be designed to be less harmful than the appeal scheme. Hence, even if they were a real possibility, this scenario does not justify the proposal in character and appearance terms. Moreover, given the concerns about the external appearance of the dwelling, there is not a greater than theoretical possibility that adding further storeys using permitted development rights might take place.
7. I conclude, that the proposal would result in significant harm to the character and appearance of the area. Conflict would occur with Policy CP 1 of the St. Helens Local Plan Core Strategy (CS), saved Policy GEN 8 of the St. Helens Unitary Development Plan (UDP), the Council's Supplementary Planning Document Householder Development (SPDHD) and Framework paragraphs 124, 130 and 131. Together these seek, among other things, the creation of high-quality buildings that maintain or enhance the overall character and appearance of the local environment, and respect the massing, scale and design of the original dwelling, its neighbours and local setting.

Living conditions

8. The appeal property backs onto two-storey semi-detached dwellings on Park Road South and their rear gardens. Ground and first floor rear facing windows in the dwellings face each other. Boundary treatment and landscaping offer mitigation for the ground floor windows, but first floor windows overlook this.
9. The distance between No 55 and Nos 73 and 75 varies, but even if I take the appellant's best-case figure this would be below the 28 metres that the combined provisions of the SPDHD and the Supplementary Planning Document - New Residential Development (SPDNRD) seek as a minimum.
10. Using obscure glazing for the master bathroom window is a moot point as the window serves a non-habitable room. Even so, the proposed master bedroom windows would have a clear view over landscaping in the gardens and rear elevations of Nos 73 and 75 from an elevated position. Despite the design and placement of these windows, a reasonable standard of privacy for the occupants of Nos 73 and 75 would not be maintained. The lack of objections does not change this. Nor would a reduced interface distance be appropriate in this case due to the proposed elevated relationship. I also attach little weight to the housing development at Peartree Crescent as there are no details before me of the interface distances between properties in this development and that which neighbour it to know whether the relationship is similar to that proposed.
11. Despite the distances between the two small windows in either second floor flank elevation and adjacent dwellings, neither serve habitable rooms. The relationship would not be harmful or conflict with the Council's guidance.
12. Although there are no plans before me showing how a dormer window could be constructed, adding one to the rear roof plane is a real possibility and it would have a similar effect in privacy terms to Nos 73 and 75. Due to the physical practicalities of constructing either scenario only one would be possible. I therefore conclude, on this issue, that despite the proposal's conflict with SPDHD and SPDNRD, the appeal scheme would accord with CS Policy CP 1 and saved UDP Policy GEN 8; which jointly seek household development to maintain reasonable standards of privacy so that they are sympathetic to surrounding occupiers, and avoid a detrimental impact on their amenities.

Personal circumstances and other considerations

13. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Disability is a relevant protected characteristic to which the PSED applies. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home and is engaged in this case. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
14. The proposal would increase the number of bedrooms within the appeal property and the overall floorspace. I recognise the paramount importance of this as a primary consideration, given the circumstances relating to the children and the appellant's explanation about how the proposal would, and could, address their needs now and in the future not just for the individual occupants, but the family unit as a whole. The proposal would also enable the family to continue to live within the community and for the children to have a settled upbringing. These considerations weigh in favour of granting permission.
15. I also agree with the appellant that a dormer extension to the rear alone would not address the family's needs in terms of space and layout. However, there is insufficient evidence considering how else the property could potentially be extended or reconfigured to achieve the family's needs, but especially those of the children. There is also no substantive evidence to confirm whether there is either a short supply of 5 or 6 bedroom properties or that there is an absence all together of these properties locally as potential alternatives to the proposal. These matters weigh against the appeal scheme.
16. Modest social and economic benefits would be created by the proposal by widening the housing mix and from the proposal's construction. No harm would be caused to neighbouring occupiers, but this matter carries a neutral weight.
17. If planning permission were to be refused, the appellant and his family would continue to live in the property, but their family life would not be ideal for the children or the family unit. They would also have no certainty about the future. This would represent an interference with their home and family life and with their property. However, there is insufficient evidence in respect of alternative schemes or dwellings to consider that the factors which weigh in favour of the appeal scheme outweigh the significant harm that would be caused by the development to the character and appearance of the area. Having regard to the legitimate and well-established planning policy aims insofar as character and appearance, a refusal of permission would be proportionate and necessary. It would not unacceptably violate the family's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Conclusion

18. While discussions between the main parties are encouraged, I have considered the proposal on its own merits. This leads me to conclude that the significant harm that would be caused to the character and appearance of the area would outweigh the other relevant considerations in this case.
19. For the reasons given above I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR