



Appeal Decision

Site Visit made on 20 July 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 6th August 2021

Appeal Ref: APP/R2330/D/21/3273300

18 Moorside Drive, Clayton Le Moors, Accrington, Lancashire BB5 5XD

- 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 Umar Hussain against the decision of Hyndburn Borough Council.
 - The application Ref 11/20/0313, dated 20 August 2020, was refused by notice dated 26 March 2021.
 - The development proposed is described as 'part first floor/double-storey side extension, single storey rear extension and dormer conversion with roof alterations.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issues

3. The main issues are;
 - The effect of the proposed development on the living conditions of the occupiers of 27 Hazel Grove, with particular regard to outlook.
 - The effect of the proposed development on the character and appearance of the row of dwellings and the surrounding area.

Reasons

Living conditions

4. Given the difference in levels between the appeal site and 27 Hazel Grove, in addition to the increased height and massing that would be created from the combination of the proposed first floor side extension, gable end roof alteration, and rear dormer, the proposal would present a substantial elevation along the shared boundary with the appeal site when viewed from the rear windows of this neighbouring property.
5. In seeking to protect, and where possible improve, the amenity of surrounding existing and future residents Policy DM29 of the Hyndburn Borough Council Local Plan Development Management DPD 2018 (DPD) sets out, that the Council will require, amongst other things, that development does not result in the loss of privacy or an unacceptable increase in the sense of enclosure.

It goes on to list external space standards that should be achieved. These include (ii) a distance of at least 12 metres to be maintained between single storey and two storey elevations, where windows of habitable rooms face a blank gable or a wall with only windows to non-habitable rooms. Criterion (iii) of this policy also states that for each additional storey above 2 storeys, or where land levels create an equivalent difference in the heights of the buildings, an additional set back of 3 metres is required.

6. The submitted plans show that the roof of the dwelling would be increased in height to provide head room within the loft and the proposed rear dormer for habitable purposes. As such, an additional storey within this dwelling would be created and an intervening distance greater than 12 metres would be required.
7. I have had regard to the figures and measurements presented by the appellant in support of his case, including reference to topographical plans. However, both main parties agree that the distance between the gable elevation of the proposal and the ground floor rear habitable windows of No 27 would be less than the external space standards required by criteria (ii) and (iii) of DPD Policy DM29.
8. At such close proximity to the shared boundary and ground floor habitable windows of this neighbouring property, the proposal would therefore visually dominate the outlook from the rear of No 27 and its back garden area, thereby having an oppressive and overbearing effect and causing an undue sense of enclosure.
9. The presence of a greenhouse and a garage within the rear garden area of No 27 would not be sufficient to mitigate the impact of the size and scale of the proposed extensions. The vegetation along the shared boundary does also not constitute permanent screening, and the orientation of the site would not create such an oblique angle to No 27's habitable rear windows as to negate the harm that I have identified above.
10. In addition, there is little substantive evidence before me to demonstrate that a kitchen and bedroom should not be classed as habitable rooms in this case. I also note the appellant's willingness to amend the design of the rear dormer. However, this would fundamentally alter the proposal and I must deal with the application as submitted.
11. As such I find that the proposed development would significantly harm the living conditions of the occupiers of 27 Hazel Grove, with particular regard to outlook. It therefore conflicts with Policy DM29 of the DPD and Policy Env7 of the Hyndburn Borough Council Local Development Framework Core Strategy 2012 (Core Strategy). Together, these seek to ensure that, amongst other things, proposals for new development would not give rise to unacceptable adverse impacts or loss of local amenity, and should protect, and where possible improve, the amenity of surrounding existing and future residents.

Character and appearance

12. The appeal property is a two-storey detached dwelling with an attached single storey garage that is situated in a predominantly residential area. Moorside Drive comprises detached properties that exhibit a unity of style and materials but vary in design and form. It sits at the end of a short row of four detached dwellings that are set out in a staggered arrangement along a shared

- driveway off the turning head of a cul-de-sac. The topography of the area is such that this cul-de-sac steeply rises up to the junction with the main arm of Moorside Drive.
13. The Council has not raised any objections to the single storey rear extension and I have no reason to question this. I also recognise that the proposed first floor side extension would not be set back from the main facade of No 18 and that the realignment of the roof and loss of the front gable would alter the character and appearance of the existing dwelling.
 14. However, the proposed first floor side extension would be built above the existing single storey side garage and there would be no increase in footprint as a result. Given its location as the end detached property at the corner of the cul-de-sac no terracing effect would occur. It would also result in a building that would be of a similar scale and form as other dwellings in the locality, including the immediate neighbouring properties at Nos 16 and 14, albeit without a front pike.
 15. It is acknowledged that the row of four dwellings share some characteristics, and that the two end properties in this short group have pitched roofs. However, this row is not wholly symmetrical as they are laid out in a staggered pattern, have different roof heights and additions such as single storey garages that are detached and set back behind the dwelling or attached and flush with the dwelling's front wall.
 16. I am also mindful that due to the sloping nature of Moorside Drive and the tucked away location of the appeal site at the corner of the cul-de-sac it would not be readily apparent from a number of vantage points in the public domain. Whilst the proposed dormer would span most of the rear roof plane it would be located to the rear of the property where public views of it would also be limited. It would also be set back from the eaves, set below the roof ridge of the appeal building, and inset from its gable and party walls. As a result, it would not appear overly dominant or harmful to the character and appearance of the building or the street scene.
 17. I therefore find that the proposed development's additional bulk and change in roof form would not be materially harmful to the character and appearance of the row of dwellings and the surrounding area. As such no conflict with Core Strategy Policy Env 6 and DPD Policies DM10 and DM26 would occur. Amongst other matters, these seek high quality design through the reinforcement of locally distinctive patterns of development and require applicants to evidence how the 'Householder Design Guide' Supplementary Planning Document (SPD) has been taken into account in their application.
 18. Whilst I acknowledge that the proposal does conflict with some of the specific design advice contained within Design Guidance 8 and 17 of the Council's SPD, this is to be applied with discretion, dependant on the local circumstances and merits of each application. Given the particular circumstances of this case, I am satisfied that the overall aims of this guidance would not be undermined in this respect.

Other Matters

19. The appellant has drawn my attention to a planning permission at 12 Bold Venture Way (Ref: 11/18/0121) for an extension that he considers to be

similar to the proposal. However, I do not have the full details of this scheme before me and so cannot be certain that the circumstances are the same to those which apply in this case. I have, in any case, determined the appeal proposal on its own merits.

20. It has also been put forward that the proposal would not cause any privacy issues or loss of light due to the appeal site's orientation. However, these matters did not appear to be contentious in the application and the absence of harm in these respects would be neutral factors that would not weigh in favour of the proposal.
21. I note the appellant's disappointment with the planning process, including the delays in the determination of the planning application and the use of jargon in the decision notice. However, these matters have had no bearing on the outcome of this appeal as I have only had regard to the planning merits of the proposal that is before me. In addition, the lack of an objection from neighbouring residents or consultees is not a determining factor in the consideration of an appeal. The question is whether there would be unacceptable harm, in this particular case, in respect of the living conditions of neighbouring residents, even if objections have not been lodged.

Conclusion

22. I have found that the proposal would not have an unacceptably harmful effect on the character and appearance of the row of dwellings or the surrounding area. However, the identified harm to the living conditions of the occupiers of 27 Hazel Grove, with particular regard to outlook is decisive.
23. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR