



Appeal Decision

Site visit made on 30 November 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2021

Appeal Ref: APP/Q4245/D/21/3283956

29 Lytham Road, Flixton M41 6NN

- 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 Ms Hannah Battersby against the decision of Trafford Metropolitan Borough Council.
 - The application Ref 104956/HHA/21, dated 15 June 2021, was refused by notice dated 31 August 2021.
 - The development proposed is a max 4.8m rear extension with side door opening.
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Decision

1. The appeal is allowed and planning permission is granted for a maximum 4.8m rear extension with side door opening at 29 Lytham Road, Flixton M41 6NN in accordance with the terms of application Ref 104956/HHA/21, dated 15 June 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: MM0176 PL01 and MM0176 PL03.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of neighbouring residents at 27 Lytham Road with particular regard to outlook, sense of enclosure and shadowing.

Reasons

3. The appeal site consists of a 2-storey semi-detached dwelling set in a roughly triangular plot close to the entrance of a residential cul-de-sac arm of Lytham Road. The building lies behind an enclosed front garden area with private amenity space located to the side and rear of the house.
4. The neighbouring property at 27 Lytham Road, fronts on to the main carriageway of Lytham Road. No27 and No29 are orientated such that the rear elevations are angled almost perpendicular to each other with a diagonal boundary between them. The boundary to the converging rear yard areas consists of a timber panel fence and is estimated by the Council to be between 1.75m and 5m from the rear elevation of No27. A flat-roofed triangular shed is located at the apex of the yard of No27.

5. The proposed extension would infill a large part of the rear yard space of No29. The angled elevation of the proposal would be parallel to the common boundary and about 0.5m from it in the Council's estimation. This would overlap with about 2/3rds of the rear elevation of No27, which contains ground and first-floor windows serving habitable rooms.
6. The boundary fence would screen much of the height of the proposed extension from the rear outlook of No27. Only the upper side elevations, including a high-level window, and the roofscape would be visible above the height of the fence. That part of the extension lying behind the outbuilding within No27 would be less visible from the ground floor openings on account of the greater height of the shed above the fence line and due to the hipped roof form of the north-eastern extent of the building.
7. Nevertheless, the height of the extension above the boundary would be apparent in the outlook of No27. This would be at relatively close quarters to increase the sense of enclosure. The effect would be substantially limited to the outlook from ground floor windows as the main usable garden area is set to the side of No27 and the outlook from first floor windows would be largely unaffected. This would cause a moderate adverse effect on the living conditions of the occupiers of that property through reduced outlook and increased sense of enclosure.
8. The extension would lie south-east of the rear garden and elevation of No27. The subordinate scale and position of the extension on the north-eastern side of the existing 2-storey dwelling would limit the extent of any additional overshadowing of that neighbouring property. Although some limited overshadowing of the rear yard area of No27 would arise, this would not be to such a degree to materially affect the living conditions of neighbouring occupiers.
9. Notwithstanding my finding in relation to overshadowing, there would be a minor conflict with Policy L7 of the Trafford Core Strategy and the Council's Supplementary Planning Document SPD4: A Guide to Designing House Extensions and Alterations as they seek to protect neighbouring living conditions including through development which causes poor outlook and overbearing effects.

Other Matters

10. In support of the development, the appellant refers me to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GDPO) which allow rear extensions of up to 6m. However, that provision is subject to a prior notification procedure which includes assessment of the effects of the extension on neighbours' living conditions. It is not therefore an established fallback position.
11. However, the Council recognise that a GPDO compliant 3m extension could be provided without recourse to a planning application. This could result in an extension of similar or higher eaves and ridge heights behind the more open length of the boundary to substantially fill the gap between the rear elevation of No29 and the closest part of the shed in the yard of No27. As a proposal to avoid incursion into the useable side amenity space and provide improved accessibility for a family member, I find this is a realistic proposition and

therefore a real prospect. Accordingly, I attach significant weight to that fallback position.

12. Given the limited effect of that part of the proposed development which would be largely screened behind the shed within No27, the comparable effects of the proposal against the fallback scenario on the sense of enclosure and outlook would be negligible.
13. Taking all the above together, I find that the proposals would result in a reduced standard of outlook and increased sense of enclosure for occupiers of the neighbouring dwelling at No27. However, it is a well-established principle that the provisions of the GPDO may provide a fallback position. I have found that, in the specific circumstances of the case, there is a real prospect of a development under the GPDO taking place and that it would lead to a similar outcome. Accordingly, I find that a strong justification in the context of Paragraph 38(6) of the Planning and Compulsory Purchase Act 2004 exists and provides clear justification for departing from the development plan in this case.
14. I note the frustrations expressed by the appellant in relation to the level of communication from the Council and timing of its decision leading up to this appeal. However, this is not a matter for this appeal which I have determined on its own merits.

Conditions

15. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty. A condition requiring matching external finishes is reasonable in the interests of visual amenity and good design.

Conclusion

16. For the above reasons, the appeal should be allowed.

R Hitchcock

INSPECTOR