
Appeal Decision

Site visit made on 8 February 2022

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal Ref: APP/Z4310/D/21/3284735
53 Gemini Drive, Liverpool L14 9LT

- 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 Johnstone against the decision of Liverpool City Council.
 - The application Ref 21H/0748, dated 17 March 2021, was refused by notice dated 28 September 2021.
 - The development proposed is a two storey extension to the side and single storey extension to front.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey extension to the side and single storey extension to front at 53 Gemini Drive, Liverpool L14 9LT in accordance with the terms of the application, Ref 21H/0748, dated 17 March 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: A100 Revision B and A102 Revision A.
 - 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.

Preliminary Matters

2. The Liverpool Local Plan 2013-2033 (LLP) was adopted on 26 January 2022. Therefore, Policy H8 of the Liverpool Unitary Development Plan (November 2002) referred to in the reason for refusal has been superseded and replaced by Policy H8 of the LLP. The LLP policy was referred to in the reason for refusal and it has not changed since the Main Modifications. Therefore, it was not necessary to revert to the appellant for comments.
3. The description of development given on the application form is different to the Council's decision notice. This is due to the submission of amended plans, and thus I have amended the description to be in line with the Council's decision notice as this was the basis on which the proposal was determined.

Main Issue

4. This is the effect of the proposal on the living conditions of the occupiers of 55 Gemini Drive, with specific reference to outlook.

Reasons

5. The property is a 2 storey semi-detached house located on a residential street. The building layout is staggered and well-spaced, with the property sitting further back from the street than the neighbouring property located to the south, No 55. The proposal is for a 2 storey side extension and single storey front extension.
6. The side extension would occupy the whole side of the dwelling, but owing to the staggered building line, it would project around 3.4m beyond the rear wall of No 55. However, there is a driveway to the side of No 55, which provides a gap between. The Council assert this is 2.2m, but the appellant states 2.8m. Based upon the observations at my visit, the distance from the rear corner of No 55 and the appellant's party boundary is certainly greater than 2.2m and I favour the appellant's suggestion of around 2.8m. Additionally, the windows in the rear wall of No 55 are positioned further away than the side wall, such that they would be around 3m away from the side wall of the extension.
7. The Supplementary Planning Guidance Note 1 House Extensions (2001) (SPG), advocates that 2 storey rear extensions away from the party boundary should have a maximum projection of 3m and be at least 3m from the party boundary if the adjoining property has not been extended at ground floor level.
8. The proposal would not strictly comply with the guidance. However, there would be only a marginal exceedance of the guidance given the distance between, location of windows and projection. It would also not break the 45 degree rule of thumb, that although not within the SPG is a widely accepted approach in assessing the effect upon living conditions. Additionally, the relationship, albeit further away, already exists due to the staggered layout. Moreover, because the development would not be directly in front of the rear windows, the outlook from these openings would only be affected, in part, when looking northwards.
9. Thus, the oblique nature of the enclosure, existing relationship, space between and the modest projection of around 3.4m leads me to conclude that the proposal would not result in an overly dominant or overbearing impact, nor create an unacceptably poor outlook. Accordingly, there are material circumstances that indicate a decision not in strict accordance with the SPG.
10. Consequently, the proposal would have an acceptable effect on the living conditions of the occupiers of No 55. This is compliant with Policy H8 of the LLP which seeks to ensure that extensions and alterations are designed so that there shall be no significant reduction in the living conditions of the occupiers of neighbouring properties. Despite my findings above, there would also be overall compliance with the SPG, given it seeks to ensure proposals protect the amenity of adjacent occupiers.

Conclusion

11. For the reasons set out above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR