



Appeal Decision

Site visit made on 24 May 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 15 June 2022

Appeal Ref: APP/Z4718/D/22/3290274

5 Bent Lea, Bradley, Huddersfield HX2 1QW

- 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 J Singh against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/93487/W, dated 1 September 2021, was refused by notice dated 7 January 2022.
 - The development proposed is a first floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the dwelling and the surrounding area, and on the living conditions of the residents of 1 Bent Lea, with particular regard to outlook and sunlight.

Reasons

Living Conditions

3. Given the difference in levels between the appeal site and 1 Bent Lea, in addition to the increased height and massing that would be created from the proposed first floor rear extension, the proposal would present a substantial elevation along the shared boundary with the appeal site when viewed from the rear windows and garden area of this neighbouring property.
4. I am satisfied that the intervening distance and oblique angle between the proposal and No 1's rear conservatory and rear habitable windows would ensure that no undue loss of outlook would occur in this respect. However, at such close proximity to the shared boundary, the proposal would visually dominate the outlook from No 1's rear garden, thereby having an oppressive and overbearing effect, and causing an undue sense of enclosure. The position of the proposal in relation to the direction of the sun would also be such that its proximity, size and scale would cause an unacceptable amount of overshadowing to this neighbouring back garden area.
5. I therefore find that the proposed development would cause unacceptable harm to the living conditions of the residents of 1 Bent Lea, with particular regard to outlook and sunlight. As such it would conflict with Policy LP24 of the Kirklees Local Plan Strategy and Policies 2019 (Local Plan), where it seeks to safeguard living conditions. There would also be conflict with the aims of the Council's

House Extensions and Alterations Supplementary Planning Document 2021 (SPD) and the National Planning Policy Framework (the Framework) in these respects.

Character and Appearance

6. The appeal property is a two-storey detached dwelling that has previously been extended at first floor level to the southern side and at single storey level to the rear. The character of the surrounding area is predominantly residential with nearby estate roads comprising substantial detached dwellings.
7. The proposal would not be unduly large in comparison with the size and scale of the main dwelling house or other properties in the vicinity. I am also mindful that the Council consider that the overall volume of the proposed and existing extensions would be subservient to the original dwelling, and I have no substantive reason to disagree with this.
8. Despite the sloping topography and the proximity of the existing dwelling to the shared boundaries, the proposal, in addition to the existing extensions would not result in the overdevelopment of the site as a modest area of its rear garden would be retained. Whilst the proposal would be readily apparent from the gaps in between some of the properties on Bent Lea, views of the proposal and the existing side extension together would not be clearly visible from many public vantage points.
9. As a result, the massing and design of the proposed extension when combined with the scale of the existing extensions would not appear cumulatively oversized or overdeveloped within its context. It would also not be so visually prominent as to cause undue harm to the street scene or the character of the area.
10. I therefore find that the proposed development would not harm the character and appearance of the dwelling and the surrounding area. It would consequently not conflict with Local Plan Policy LP24 where it seeks to protect character and appearance. Conflict would also not arise with the Framework in the same respect.
11. I acknowledge that the proposal fails to accord with some of the specific design advice contained within the SPD in respect of its outward projection and separation distances from property boundaries. However, this would only be exceeded by a negligible amount. Furthermore, advice within the SPD is to be applied with discretion, dependant on the 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 respect of this main issue.

Other Matters

12. The appellant has suggested that a two storey rear extension that is 3 metres in length and situated 7 metres away from a boundary could be constructed without the need of planning permission. However, there is no certificate of lawful development to this effect and no plans of such schemes before me. In any case, this would have a shorter projection than the proposed development and would therefore not have an equally or more harmful effect on the levels of outlook and sunlight for the neighbouring residents of No 1. As a result, this fallback attracts limited weight.

Conclusion

13. I have found that the proposal would not have an unacceptably harmful effect on the character and appearance of the dwelling and the surrounding area. However, the identified harm to the living conditions of the occupiers of 1 Bent Lea, with particular regard to outlook and sunlight is decisive.
14. 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