



Appeal Decision

Site visit made on 20 July 2022

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2022

Appeal Ref: APP/Z4718/D/22/3300211

4 Grimscar Avenue, Birkby Kirklees, Huddersfield HD2 2TU

- 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 Firdous Khan against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/62/91116/W, dated 30 March 2022, was refused by notice dated 31 May 2022.
 - The development proposed is a single storey 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 host building and the area, including the Birkby Conservation Area (CA);
 - the living conditions of the occupiers of No.6 Grimscar Avenue and No.30 Bleasdale Avenue, with particular regard to outlook, daylight, sunlight, and outdoor space at No.4 Grimscar Avenue; and
 - whether the proposal would be harmful to highway safety, with particular regard to off-street parking.

Reasons

Character and Appearance

3. The appeal site comprises a red brick semi-detached dwelling occupying a corner position on Grimscar Avenue and Bleasdale Avenue. The traditional architecture, layout and pattern of built development is a characteristic feature of the surrounding area and terraced streets and includes the host dwelling. This stands in an elevated position on Grimscar Avenue, and although there is a high boundary fence which encloses the appeal site, the side and rear elevations are visually prominent within the area.
4. The site also lies within the boundary of the CA. As such I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of the CA, insofar as it is relevant to the appeal proposal, is derived

from the historic social development of the town, and as referenced above, the layout and quality of the buildings. Within this context, the appeal site contributes positively to the significance of the CA due to its traditional appearance and conformity with the rhythm and position of the buildings in the CA and row of terraces on Bleasdale Avenue.

5. The appeal proposal would almost fill the entire rear garden space and extend across the width of the garden and to the side and rear of the host dwelling, appearing cramped in its plot. Furthermore, due to the proximity and width of the appeal proposal and its projection in front of No.30 Bleasdale Avenue it would disrupt the rhythm of buildings, and space in front of the long row of existing terraces. Although the appeal proposal would be single storey, the apex of the proposed roof would fall just below first floor windows. From Bleasdale Avenue, it would be markedly higher than the existing garage and visible above the boundary fence.
6. The appeal proposal would also have a long shallow roof, at odds with the steeper pitch on the host building. Whilst matching materials and traditional windows are proposed, the form of the extension is not locally distinctive and does not adequately reflect the proportions or characteristics of the host dwelling. Due to the prominent corner position of the host dwelling, the appeal proposal would visually dominate views along, and at the entrance to Bleasdale Avenue, exacerbated by the incline up to the appeal site. The appeal proposal would, therefore, appear dominant and incongruous and detract visually from the historical pattern of development.
7. Consequently, the appeal proposal would unacceptably harm the character and appearance of the host building, the area, and the CA. Although this would equate to less than substantial harm, I have not been made aware of any public benefits which would outweigh the harm that I have identified. The appeal proposal would conflict with Policies LP24 and LP35 of the Kirklees Local Plan (Local Plan), and the guidance within the Kirklees House Extensions and Alterations Supplementary Planning Document (SPD). It would similarly conflict with the guidance contained within paragraphs 130 and 199 of the National Planning Policy Framework (NPPF) insofar as they relate to ensuring that developments are sympathetic to local character and history and require great weight to be given to a heritage asset's conservation when considering the effect of the proposal on its significance.

Living Conditions

8. The appeal property shares a common rear garden boundary with the adjoining property at No.6. The existing garage is sited on this boundary. The existing garage is a relatively low flat roof structure, and the remaining boundary comprises a low brick wall. The boundary wall is below the level of the host building rear living-room windowsill, providing a relatively open boundary. There are dining room windows on the rear elevation of No.6 which overlook the rear garden and private outdoor space.
9. The appeal proposal would run almost the full length of the joint boundary, and the height, whilst single storey, would be in excess of the existing garage it proposes to replace. It would, therefore, enclose the garden almost completely on one side. Due to the additional height, depth and mass, occupiers would look out onto a blank brick elevation in close proximity to their window.

10. The appeal proposal would breach the 45° guidelines to the dining room window of No.6, which is set out within the Council's SPD, and used to assess daylight. It would also fail to provide the suggested 1 metre separation gap from the boundary. Whilst the proposals would alter the amount of daylight presently enjoyed by No.6, the shallower roof in relation to the position and height of the neighbouring window, which is a similar height to the corresponding window on the appeal property and also set in from the boundary, would therefore not result in significant loss of daylight or sunlight to that habitable dining room window.
11. The garden of No.6 is a modest space at a lower level than the appeal site. As noted above, the appeal proposal would entirely enclose the garden on one side. In combination with this, the overall height, would be higher than a typical single storey extension due to the finished floor level being raised above the external ground levels. It would therefore be an oppressive form of development. Furthermore, due to the orientation, it would affect the level of mid-day sunlight entering the garden, and materially alter the existing environment. Consequently, there would be a harmful effect on the outlook from the dining room window and the enjoyment of the private garden space from loss of sunlight to the detriment of the living conditions of the occupiers of No.6.
12. Whilst the appeal proposal would project in front of No.30 Bleasdale Avenue, it is not clear from the evidence before me whether this would breach the 45° guidelines. However, due to the additional separation that is afforded, by a separate path and fence, the proposal would not have an enclosing effect on the outlook, daylight, and sunlight from habitable room windows at the front of that property.
13. The Council has expressed concerns that the appeal proposal would have an impact on the path between the appeal property and No.30 Bleasdale Avenue in that it would create a narrow and oppressive access to the rear gardens. However, some openness from the sloping roof is retained adjacent to the path where it meets Bleasdale Avenue, and as such the effect would not be harmful.
14. The host dwelling garden consisted of garden space to the side, front, and the rear, which was constrained by the existing garage. Although the extension would fill space to the rear and part of the side, the occupants of the appeal property would not be deprived of garden space, as there is private space to the front, which I noted was used for sitting out, and side would still be retained due to the presence of the boundary fence. Although the SPD states that extensions and alterations should ensure an appropriately sized and useable area of private outdoor space is retained, it goes on to state that normally at least half the garden area should be retained as part of the proposals. Whilst I have not been provided with measurements, the remaining space appeared broadly similar to this requirement.
15. I have found that the appeal proposal would not cause harm in relation to outdoor space for No.4 and for the occupiers of No.30 Bleasdale Avenue, however, these are neutral factors in this case. Nevertheless, the proposed development would harm the living conditions of the occupiers of No.6 Grimscar Avenue with regard to outlook, and sunlight and therefore conflict with Policy LP24 of the Local Plan and the SPD, which seeks to promote good design by ensuring proposals minimise the impact on the living conditions of

neighbours. It would also conflict with paragraph 130 of the Framework where it states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Highway Safety

16. The site currently has a garage and double gates that could allow vehicles to park off-street. A significant proportion of properties within the area do not have this arrangement. The Council considers the appeal proposal would lead to the reduction in available space for off-street parking at the appeal site, policy LP22 of the Local Plan, supported by the Councils SPD suggests 2 off-street parking spaces should be retained. Whilst the appellant states the appeal site is not used for parking, and it was not at the time of my visit, both the garage and space in front of could be used to park small vehicles by virtue of the dropped kerb and double gates.
17. However, at the time of my site visit, during daytime, I did not observe that demand was exceeding supply, nor were cars parked in an irregular manner. Whilst I acknowledge that demand may be higher in the evening, the Council has not provided any evidence of parking stress. Therefore, although there is conflict with part of policy LP22 of the Local Plan and the SPD as a result of reduced off-street parking, the existing residents of the appeal property would be able to park on-street close to the appeal property on Grimscar Road or Bleasdale Avenue, or within a short distance of the appeal site.
18. There is also no substantive evidence before me to explain how additional on-street parking would affect pedestrian safety, but from my observations the appeal proposal and any resultant on-street parking would not cause new or excessive problems for highway or pedestrian safety. The appeal site, unlike other nearby terraced properties, has the capacity for off-street parking, and therefore similar proposals would be unlikely to come forward to significantly change the existing parking environment to the detriment of pedestrian or highway safety.
19. The Council has referred to an appeal decision at No.1 Grimscar Avenue¹. I note this is not immediately opposite the appeal site and that the proposal was described as 'proposed retail unit with flat over'. I can therefore draw a distinction between the activity levels and car parking requirements between the two appeals as that scheme would have different traffic implications and is materially different to this appeal.
20. Consequently, the appeal proposal would not be harmful to highway safety, with particular regard to the loss of off-street parking. However, there would be a conflict with Policies LP21 and LP22 of the Local Plan, and the SPD insofar as they relate to appropriate parking levels. Nevertheless, in the particular circumstances of this case, the proposal would fulfil the requirements of these policies in respect of ensuring the safe and efficient flow of traffic within the surrounding area, highway network and highway safety. As such, I am mindful of the guidance within paragraph 11 of the Framework which advises development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety.

¹ Appeal Ref: APP/Z4718/W/21/3276517

Other Matters

21. In reaching the above findings, I have considered the examples provided by the appellant. Most are not within the CA, and the relationship of properties and the type of development referenced in those examples are different to the proposal before me. Some examples do not have neighbours adjacent to the development; other neighbouring properties appear to have larger gardens. I also do not have the evidence to show the exact relationship of buildings, nor can I be certain that some of the proposals were not constructed under permitted development rights or planning permission. Therefore, none of the cases are directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.
22. It is not clear from submission which elements of the proposal the appellant considers would benefit from permitted development rights. Nevertheless, the appellant has submitted an application on the basis that the proposal required planning permission and I have considered the appeal on the same basis. In any event, I must consider the scheme as a whole. Whilst there is a reasonable likelihood that the fallback position would be implemented should the appeal fail, a scheme benefitting from permitted development rights would be smaller than the appeal proposal. Consequently, I attach limited weight to the fallback position.
23. Concerns raised by the appellant regarding the consideration of the application by a planning officer are not issues that I can assess as part of this appeal and do not affect the planning merits or effects of the proposal before me.

Conclusion

24. I have found that the proposal would not harm the living conditions of occupiers of No.4 and No.30, or highway safety; however, these are neutral factors in this case. I have identified that there would be harm to the character and appearance of the host property, the area generally and the CA and the living conditions of the occupiers of No.6. The proposal would therefore conflict with the development plan as a whole and there are no other considerations, individually or cumulatively, including the provisions of the Framework which outweigh this finding.
25. For the reasons set out above, I conclude the appeal should be dismissed.

K Williams

INSPECTOR