



Appeal Decision

Site visit made on 28 June 2022

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2022

Appeal Ref: APP/W0734/D/22/3300434

31 Oxford Street, Middlesbrough TS1 4NN

- 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 M Lagan against the decision of Middlesbrough Council.
 - The application Ref: 22/0123/FUL, dated 18 February 2022, was refused by notice dated 22 March 2022.
 - The development proposed is described as: Proposed part two storey, part first storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw when I visited the site that some works had been carried out and that the shell and roof of an extension had been constructed. I was not able to inspect the extension fully internally and so could not tell if it was complete for practical purposes although the planning application form notes that the work has been completed without consent. Whilst the decision notice issued by the Council refers to the proposal as a 'retrospective application', Section 55 of the Town and Country Planning Act 1990 (the Act) describes development as the carrying out of building operations, or the making of material changes of use, as opposed to their retention or continuation. Section 73A of the Act makes allowance for the submission of a planning application for development which has been carried out before the date of the application.
3. However, I observed that what has been constructed on site does not correspond to the drawings that were submitted with the application. The extension that has been constructed is a two storey structure with a flat roof which is lower than the ridge of the roof of the existing rear addition to the property, but which is higher than the eaves of this roof. A small window is also present in first floor of the south west facing elevation of the extension that is not shown on the submitted drawings. The extension has been constructed using a red brown facing brick.
4. The submitted drawings show a proposed extension with a monopitch roof that would continue the eaves and ridge line of the roof of the existing rear addition, and which would extend the building by approximately 2.4 metres beyond the current rear wall.
5. It also appeared that the "as existing drawing" which is included in the appellant's Grounds of Appeal is inaccurate in that it shows the existing rear addition to the property as being staggered, with the ground floor projecting

beyond the first floor. I saw that on all of the other properties on this side of Oxford Street, which also benefit from two storey rear additions, the rear addition projects the same distance from the rear wall at both ground and first floor level. There was no evidence on the ground that would indicate that the rear addition at the appeal building was not the same as these and, indeed there was a clear, continuous, vertical joint between the flat roofed extension and what appeared to be the existing rear addition.

6. This notwithstanding, the planning application was made for the extension shown on the submitted drawings and it is clear from the respective submissions that this is what was considered by the Council and upon which the appellant's Grounds of Appeal are predicated. Consequently, I have considered the appeal on the basis of the submitted drawings rather than what has been built.

Main Issues

7. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area and the appeal building;
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring properties; and
 - The effect of the proposed development on the safe operation of the highway in the vicinity of the appeal site.

Reasons

Character and Appearance

8. The appeal building is a two storey end of terrace house, situated in a street of similar terraced properties. It is located within a predominantly residential area consisting of generally similar, terraced, housing set out in a grid iron pattern of perimeter blocks.
9. To the rear of the property is a two storey projecting addition which is lower in height than the main roof of the house, having a pitched roof the ridge of which joins the main house at the level of the eaves of the main roof. This rear addition is mirrored on the adjoining house and this form is continued along the length of terrace. A similar arrangement is present to the rear of the houses on Chester Street, which backs onto Oxford Street.
10. Built in brick, the front elevation of the appeal building and its neighbour at 29 Oxford Street have been roughcast rendered and the brickwork to the side and rear elevations and the rear addition has been painted. The roof is covered in concrete tiles. The remainder of the street is predominantly red brick although the brickwork on some of the rear additions has been painted. Roofs are variously slate, or artificial slate, or concrete tiles. To the rear is a small walled yard area that gives access onto a rear lane that serves all of the properties within the perimeter block. This rear lane is secured at both ends with high gates.
11. When read together, Policy CS5 and Policy DC1 of the Middlesbrough Core Strategy 2008 (the Core Strategy) seek to ensure that, among other matters, new development is of a high standard of design that integrates with its

context and enhances the built environment. Although these policies pre-date the publication of the National Planning Policy Framework (the Framework) they are in general conformity with its requirements. The Council's Urban Design Supplementary Planning Document 2013 (the SPD), which is to be read alongside the more general design policies in the Core Strategy, sets out some further detail on extensions to dwellinghouses and expects extensions to dwellinghouses to be consistent with the design and materials of, and subservient to, the existing building. It also sets out that two storey rear extensions should be restricted to no more than 3 metres projection and set off the common boundary between two properties by 2.5 metres. It further states that first floor extensions over the footprint of a kitchen offshoot should be restricted to the original projection of the offshoot, which is generally 3 metres.

12. The appeal proposal would extend the existing rear addition to the appeal building, which is approximately 5.5 metres in length, by approximately 2.38 metres and maintain the current width. It would have a pitched roof that would continue the existing line of the ridge and eaves of the present roof of the rear addition.
13. The SPD is not explicit in how it applies to two storey extensions to existing rear additions. Taken by itself, the proposed extension would not exceed the 3 metre restriction. However, when taken in combination with the existing rear addition the projection from the main house would amount to approximately 7.9 metres. In addition, at first floor level, it would exceed the existing length of the original kitchen offshoot. In these respects, the proposal would not comply with the guidance in the SPD.
14. Due to the mirrored layout of the houses within the terrace, the paired rear additions result in a symmetrical built form which reads as a gable end to a dual pitched roof. The proposed extension would result in half of this perceived gable being extruded beyond the end wall of the adjoining half, forming a section with a monopitch roof to one side and a blank wall on the common boundary extending to the ridge height of the rear addition. Given the repeating pattern of paired rear additions, this would appear as a large and incongruous feature, both in terms of the appeal building itself and the wider area.
15. Although the resulting extension would not be visible from either Oxford Street or Chester Street, it would be visible to the more limited number of users of the rear lane and in longer views down the rear lane from Crescent Road.
16. I did see that the rear addition at 3 Chester Street extends slightly beyond rear wall of the addition to number 1 by approximately 0.5 metres. However, this is considerably less than the resulting projection at the appeal building and not directly comparable. At number 33 Chester Street, which is opposite the appeal building, there is a rear addition with a monopitch roof and a brick flank wall forming the boundary to the rear lane. Nonetheless, it is clear that this was how the house was originally constructed and is a design expediency due to there being an odd number of dwellings in the terrace arising from the road layout, the shape of the perimeter block, and the requirement to incorporate a back lane between the terrace and the houses on Ayresome Street. Whilst this unpaired rear addition has a similar appearance to the proposed extension at the appeal building, it only projects the same distance as the other original rear

additions. As such I do not consider that it is comparable to or provides a justification for allowing the appeal proposal.

17. I therefore find that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Core Strategy Policies CS5 and DC1 or the guidance in the SPD.

Living conditions of the neighbouring occupiers

18. The appeal building is located in an area which is characterised by a relatively dense and close knit pattern of houses with small yard areas to the rear. The side wall of the yard of the appeal building forms a common boundary with the rear yards of properties at 43-47 Ayresome Street and the existing rear addition is joined to that of the adjoining house.
19. I would accept the appellant's point that the proposed extension would not affect the privacy of the occupiers of numbers 29 and 31 Chester Street to the rear. I also saw that the extension may restrict some light received by a combination door and window at first floor level in the gable of the rear addition to 29 Oxford Street at certain times of the day. However, I am satisfied that it would not affect light to the windows of habitable rooms either in 29 Oxford Street or in other surrounding properties.
20. That said, the proposal includes a window in the side elevation of the rear extension which is shown on the submitted drawings as serving a bedroom. This window faces towards the rear elevations of the properties at 43 and 45 Ayresome Street. There are windows in the side elevation of the existing rear addition, however, I noted that these are opaque glazed. The submitted drawings also illustrate a first floor room within the existing part of the rear addition that is to be used as a bedroom, this also has a window which faces towards the properties on Ayresome Street.
21. The SPD sets out that privacy is an important consideration particularly in relation to first floor extensions that may overlook primary windows of neighbouring houses. The SPD recommends a minimum of 21 metres between primary windows facing each other.
22. Due to the proximity of the appeal building to the houses on Ayresome Street, I saw that there would be opportunities for direct and casual overlooking of the windows of habitable rooms to the rear of numbers 43 and 45. This would negatively affect the privacy of the occupiers of these houses and would be contrary to the guidance in the SPD. Although this could be overcome by the use of opaque glazing in the windows at the appeal building, this would result in poor living conditions and no outlook from these first floor rooms. Consequently, I do not consider that approach to be a realistic option.
23. I have noted that no objections were received to the original planning application, however, this does not translate to the proposal not resulting in harm, nor does it alter my conclusions on this matter.
24. I therefore conclude that the proposed development would cause harm to the living conditions of the occupiers of numbers 43 and 45 Ayresome Street. It would not comply with the relevant requirements of Policies CS5 of the Core Strategy which expects new development to have a minimal effect on the living conditions of the occupiers of nearby properties.

Highway Safety

25. Local Plan Policy DC1 expects, among other matters, that new development has a limited impact upon the capacity of existing and proposed transportation infrastructure both during and after completion, with no impact on highway safety being evident at all throughout the development process. The Council's principal concern is that the additional bedroom proposed by the appeal scheme would add to parking demand in the area.
26. Neither party has submitted any substantive evidence in respect of parking stress in the street or surrounding area. Oxford Street is not subject to any parking restrictions other than a short stretch of double yellow lines at the southern end to protect visibility at the junction with Ayresome Street. To the south, Ayresome Street has no waiting restrictions in the form of double yellow lines along its south side and a limited amount of on-street parking to the north side. To the west and north Crescent Road is not subject to any parking restrictions with the exception of protective markings outside Ayresome Primary School.
27. I observed when I visited the site that whilst there were frequent vehicle movements on Ayresome Street, Oxford Street and Crescent Road were very lightly trafficked. I recognise that this only represents the conditions at the time of my site visit and that conditions will be different at other times of the day, particularly during the period when children may be being dropped off and picked up from the primary school, and during the morning and evening peak hours.
28. None of the properties on Oxford Street have off-street parking provision and are consequently reliant on on-street parking, as is common in areas of older terraced housing. A lack of parking spaces can in some circumstances result in inconsiderate or illegal parking. In addition, vehicles looking for a place to park may slow down suddenly and manoeuvring into a tight parking space can obstruct the carriageway or cause vehicles to suddenly pull out. These factors can lead to conditions that are prejudicial to road safety.
29. I have not been provided with any indication of what level of parking provision or parking demand the Council would expect for a property the size of the appeal building either before or after the proposed extension. There is also no evidence that the provision of an additional bedroom at the property would necessarily result in the presence of additional vehicles or additional parking demand.
30. When I visited the site, I saw that although there were vehicles parked on Oxford Street there were, nonetheless, on-street spaces available. Similarly, there were also on-street spaces available on Crescent Road. Again, I accept that this is just a snapshot of conditions at the time of my visit and the level of parking demand may vary, but I have no evidence that would indicate that what I saw does not represent relatively typical conditions.
31. Within this context I am satisfied that any additional parking demand that may result from the proposed development could be accommodated within the existing on-street parking capacity without resulting in any unacceptable impact on highway safety.

32. I therefore conclude that the proposed development would not cause harm to the safe operation of the highway in the vicinity of the appeal site. It would not conflict with the relevant requirements of Local Plan Policy DC1.

Conclusion

33. I have found that the appeal proposal would cause harm to the character and appearance of the area and to the living conditions of the occupiers of numbers 43 and 45 Ayresome Street. Although I have found that the proposal would not cause harm to the safe operation of the highway in the vicinity of the site, this does not overcome the other harm that I have identified.
34. As such, the proposal would not comply with the relevant parts of the policies in the development plan which are most important in determining the application and would not comply with the development plan when taken as a whole, notwithstanding that it may comply with other policies within the plan. No material considerations have been identified that would indicate that planning permission should be granted for a development which does not comply with the development plan.
35. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR