



Appeal Decision

Site visit made on 26 October 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal Ref: APP/W0734/D/22/3303819

10 Kilvington Grove, Middlesbrough TS7 0RL

- 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 & Mrs Ross & Lara Murdoch against the decision of Middlesbrough Borough Council.
 - The application Ref 22/0269/FUL, dated 18 April 2022, was refused by notice dated 21 June 2022.
 - The development proposed is part two storey and part single storey extensions to rear and new entrance door to side elevation.
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Decision

1. The appeal is allowed and planning permission is granted for part two storey and part single storey extensions to rear and new entrance door to side elevation at 10 Kilvington Grove, Middlesbrough, TS7 0RL, in accordance with the terms of the application Ref 22/0269/FUL, dated 18 April 2022, subject to the following conditions:
 - i)The development hereby permitted shall begin not later than three years from the date of this decision.
 - ii)The development hereby permitted shall be carried out in accordance with the following approved plans: 1.500 block plan, 1:1250 red edged site location plan, drawing 01 Revision B (Existing and Proposed Plans and Elevations) and drawing 02 Revision B (Proposed Plans).
 - iii)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.

Application for costs

2. An application for costs was made by Mr & Mrs Ross and Lara Murdoch against Middlesbrough Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are (i) the effect of the proposal on the character and appearance of the area and (ii) the living conditions of the occupiers of No 11 Kilvington Grove in respect of outlook and daylight.

Reasons

Character and appearance

4. The appeal property is detached and falls within a modern housing estate where there is a mixture of dwelling designs. Each dwelling has a steeply sloping gabled roof and there is consistency in terms of the use of roofing and walling materials. The dwellings generally include small front garden spaces and more spacious rear gardens some of which include detached garages staggered back from the position of the rear elevations of the host dwellings. In the main, the dwellings do not follow a straight building line. The building line of the properties is more haphazard providing some design interest to the street-scene along with the varied house designs.
5. The proposed door to the ground floor side elevation of the dwelling would be acceptable in design terms and would not cause any material harm to the living conditions of the occupiers of neighbouring properties.
6. Part of the rear extension would be single storey and part would be two storey. I acknowledge that the proposal would represent a sizeable increase in the overall size of the detached dwelling. Nevertheless, the proposed roof of the two storey rear extension would be gabled and set well below that of the main roof. Furthermore, the single storey element of the proposal would have the effect of reducing the scale and bulk of the extension as a whole. In addition, the proposal would ensure that a sizeable rear garden space was retained for occupiers of the host property. Given the position of the existing dwelling relative to others, the proposal would not bring the property materially closer to Dixon Bank than existing surrounding development. Consequently, I do not consider that the proposal would have an adverse effect on the pattern or character of development in the locality.
7. The proposed materials would reflect those used on the original house. While there is no doubt that the proposal would change the appearance of the rear of the house, I am satisfied that it would be in proportion and scale with it and would not therefore appear as a dominant or incongruous addition.
8. It is of note that that Council has approved a very similar development proposal at No 43 Kilvington Grove¹ (KG) and there has been no material change in local or national policy since this decision was made. The Council has not provided any reasonable evidence to indicate why it made a decision to refuse the appeal proposal in the context of the aforementioned decision. To this extent, I have some concern about consistency in the decision making process. I was able to see as part of my site visit that owing to intervening buildings and boundary landscaping the proposed development would not actually be as conspicuous in public views when compared to the approved development at No 43 KG.
9. The Council has made reference to the Middlesbrough's Urban Design SPD 2013 (SPD) which states that a two storey extension should be '*restricted to no more than 3.0 metres in length set in off the common boundary by 2.5 metres*'. The SPD also states that single storey extensions in excess of a 3.0 metre projection should be inset from the boundary to a sufficient distance dependant on orientation, roof type and the distance of the neighbouring

¹ Planning permission Ref 18/0473/FUL

principal windows. I deal with the effect of the proposal on the living conditions of neighbouring properties below but it is of note that the SPD does not actually prohibit single storey extensions in excess of 3.0 metres.

10. In respect of this main issue, I do acknowledge that that at five metres the proposed two storey rear extension would conflict with the SPD. However, and despite this technical conflict, I have found that no harm would be caused by the proposal from a design point of view. In this case, I find that there is justification for allowing an extension that exceeds 3.0 metres in depth.
11. For the reasons outlined above, I conclude that the proposal would be acceptable in terms of design and that no material harm would be caused to the character and appearance of the area. Consequently, the development would be in accordance with the design, character and appearance requirements of policies DC1 and CS5 of the Middlesbrough Core Strategy 2008 (CS).

Living conditions

12. The rear of the appeal dwelling is positioned behind the rear elevation of No 11 KG. While the proposed rear extension would project marginally beyond the rear elevation of No 11 KG, the two storey element would be positioned well away from the boundary with this neighbouring property.
13. While the single storey part of the rear extension would be close to the boundary with No 11 KG, there would be no material loss of outlook to the occupiers of this property as windows on this side elevation are non-habitable and fitted with opaque glass. Given this arrangement, coupled with the staggered relationship of the neighbouring properties and position of principal windows, I find that there is justification for allowing the proposed five metre projecting single storey rear extension to be built close to the party boundary. In this regard, I do not find conflict with paragraph 5.6 (b) of the SPD.
14. The single and two storey rear extension would only be noticeable from rear elevation windows of No 11 KG at an oblique angle. The two storey element of the development would be positioned away from the boundary. Overall, I do not find that the development would have a dominating or enclosing impact. In this respect, I do not find conflict with paragraph 5.4 (I) of the SPD in so far that the extent and presence of brickwork from the proposed rear extension would not result in an overbearing impact when seen from primary room windows.
15. The rear extension would be noticeable from parts of the rear garden area of No 11 KG, but not to the extent that it would have a detrimental impact on the outlook enjoyed from this relatively large neighbouring garden. Owing to the separation distance of the rear extension from No 9 KG, and the intervening detached garage, I am also satisfied that the rear extension would not cause harm to the outlook enjoyed by the occupiers of this neighbouring property in respect of rear elevation windows. The rear extension would be visible from parts of the rear garden of this property, but not to the extent that it would be enclosing.
16. The Council object to the proposal on the basis of loss of daylight to No 11 KG. While part of the rear extension would be close to the boundary with No 11 KG, this would be single storey in height. While there are opaque glass windows to

the side elevation of this neighbouring property, the evidence from the occupier of this property is that they serve non-habitable rooms, i.e. bathroom, ensuite, and utility. Given that the two storey part of the extension would be set a sufficient distance away from the boundary of the appeal property with No 11 KG, I find that there would not be a material loss of daylight penetration to existing windows. In any event, the evidence is that these windows serve non-habitable rooms. Furthermore, owing to the position and scale of the proposed development, I equally find that there would be no significant loss of light to the rear elevation windows or garden areas of Nos 9 or 11 KG.

17. While the proposal does conflict with the SPD in so far that the proposed rear extension would project more than 3 metres from the rear elevation of the existing dwelling, and the two storey part of the extension would not quite be positioned at 2.5 metres from the neighbouring boundary with No 11 KG, for the above reasons I conclude that in this case no unacceptable harm would be caused to the occupiers of neighbouring properties in respect of outlook, daylight or in respect of any other living conditions. In reaching this view, I have also taken into account the supportive comments made by the occupier of No 11 KG. In respect of this main issue, I therefore find that the proposal would not conflict with the amenity requirements of policies DC1 and CS5 of the CS.

Conditions

18. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect. In order to ensure that the extension is acceptable in design terms, it is necessary to also impose a materials condition.

Conclusion

19. While there would be some minor conflict with the SPD, I have concluded that no harm would be caused to the character and appearance of the area or to the living conditions of the occupiers of neighbouring dwellings. Consequently, the appeal should be allowed.

D Hartley

INSPECTOR