



Appeal Decision

Site visit made on 3 October 2022

by D Barlow BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2022

Appeal Ref: APP/C2741/D/22/3305542

3 Constantine Avenue, York, YO10 3SY

- 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 Ben Tulk against the decision of City of York Council.
 - The application Ref 22/00287/FUL dated 9 February 2022, was refused by notice dated 8 July 2022.
 - The development proposed is a two storey side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Reference is made on the submitted drawings to 'proposed domestic development HMO and two storey extension', however it is clear from the application form, the evidence before me and the Council's assessment of the application that the development proposed is a two storey side extension. Accordingly, I have assessed the proposal on this basis.
3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Council does not have an adopted plan but the City of York Local Plan (Publication Draft 2018) (emerging Local Plan) is currently being examined and is a material consideration. I therefore attach weight to it. This is in line with the guidance given in the National Planning Policy Framework Paragraph 48, which allows weight to be given to emerging plans.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

5. The appeal property is located in a prominent position on a corner plot on the junction of Constantine Avenue and Melrosegate. The area is characterised by a mix of largely two storey semi-detached and terraced housing with brick and render being the principal material used. The original building lines have been kept intact and houses are set back from the road behind hedges and fences.

6. The appeal property, together with its attached neighbour, has an orientation that positively contributes to an open and coherent aspect to the street scene with the appeal property largely aligning with the front walls of Nos 5-11 Constantine Avenue. When viewed from the main road (Melrosegate) and looking down Constantine Avenue, there is a strong building line formed by the houses, and the host property respects this. This is also the case in Rawdon Avenue directly opposite which also has an unbroken build line.
7. The proposed extension would sit forward of this building line and it would be located close to the pavement. It would, as a result of its design and siting result in a prominent, incongruous, dominant and overbearing addition in the streetscene which would significantly detract from the otherwise regular rhythm of development that the locality displays. Moreover, it would erode the openness at the entrance to Constantine Avenue.
8. The appellant raises the achievement of sustainability in this proposal whilst also meeting other social, economic and environmental objectives. This may be so, but limited evidence has been provided to substantiate these matters and given the modest size of the proposal, the benefits would be limited. The increase in size of the dwelling would primarily be a private benefit. I note there are no objections from neighbours, but this is a neutral factor in my assessment.
9. Paragraph 134 of the Framework is clear that development that is not well designed should be refused, especially when it fails to reflect local design policies and government guidance on design, taking account of any local design guidance and supplementary planning documents such as design guides and codes. The proposal is not well designed for the reasons set out above. None of the matters advanced in support of the proposal are sufficient to outweigh the harm identified.
10. For the reasons above, I conclude that the proposal would be harmful to the character and appearance of the area, in conflict with Paragraph 130 of the National Planning Policy Framework (Framework) which expects developments to be sympathetic to local character and maintain a strong sense of place. There would also be conflict with the emerging Local Plan Policy D11 which requires proposals to respond positively to local character in terms of scale and proportion and positively contribute to the setting. This is consistent with the Framework, and whilst not forming part of the development plan at this time, this conflict is a matter to which I attach weight in my consideration of this case. Furthermore, the proposal conflicts with the character and design guidance provided in the Draft House Extensions and Alterations Supplementary Planning Document approved in December 2012 and Policies GP1 and H7 of the City of York Draft Local Plan incorporating the 4th set of changes Development Control Local Plan approved in April 2005. Whilst not formally adopted as a development plan, this is used by the Council for assessing planning applications. These policies have similar aims to the policies and guidance set out above.

Conclusion

11. For the reasons given above, the proposed development conflicts with the Framework taken as a whole. The appeal is dismissed.

D Barlow

INSPECTOR