

Appeal Decision

Site visit made on 4 January 2023

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023.

Appeal Ref: APP/Z4718/D/22/3309580

10 Park Croft, Dewsbury, West Yorkshire, WF13 2LN

- 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 Shazad Hussain against the decision of Kirklees Council.
 - The application Ref 2022/62/91726/E, dated 6 May 2022, was refused by notice dated 18 August 2022.
 - The development proposed is alterations and two storey extension to rear and covered way to side.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the surrounding area; and the effect of the proposal on the living conditions of neighbouring occupiers at No 8 and No 12 Park Croft with particular reference to outlook and daylight.

Reasons

Character and appearance

3. The appeal property is a semi-detached house in a residential area towards the end of the short cul-de-sac at Park Croft. There is a variety of semi-detached, detached and terrace properties of different designs and materials there. The proposal includes a two storey side extension, and a part two/part single storey rear extension including a balcony, as well as a rear dormer.
 4. The two storey side extension would be around 1.7 metres wide and project some 3 metres rearwards of the existing back wall of the house. It would have a hipped roof to the full height of the existing roof.
 5. The Council's House Extensions and Alterations Supplementary Planning Document (SPD) advises at paragraph 5.15 that side extensions should be located and designed to minimise the impact on the local character of the area. The design should reflect that of the original building in terms of roof style, pitch, materials and detailing. Paragraph 5.19 indicates that two-storey side extensions can have a significant effect on the character of the original house and the street. Paragraph 5.20 states that they should: not take up all or most of the space to the side of the house; maintain a 1 metre gap to the side boundary; and be set back at least 500mm from the front wall of the house.
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6. SPD paragraph 5.22 similarly requires such extensions to be: visually smaller in relation to the original house; be set back 500mm from the front of the original house to provide a vertical break from the roof plane and for the lowering of the ridge line from the original house; and retain a gap of at least 1 metre to boundary walls to avoid a terracing effect.
7. The appeal property's existing front elevation is stepped. The proposed side extension would be narrow in width at some 1.7 metres and, despite being flush with that part of its front wall which it would adjoin, it would be set back slightly from the primary gable end part of the property's frontage. Although the proposal's hipped roof would not be set down from the roofline of the host dwelling, it would match its form and given its limited width would not extend the overall ridgeline by a great deal.
8. As such, I am satisfied that the extension would appear visually smaller in relation to the host dwelling. It would also be sympathetic to its existing design features and materials. Thus it would not overwhelm the appearance or character of the host dwelling or appear unduly dominant in relation to it.
9. The proposed extension would be set off the boundary with neighbouring No 8 by only 0.45 metres. This would fall short of the 1 metre gap required by the SPD. That said, No 8 is a detached house and is set at a lower level than the appeal property within a relatively spacious plot. Even though the appeal property's driveway is quite narrow, the extension would not take up all of the space to the side of the house. Whilst the existing gap would be diminished, some sense of space and separation from No 8 would be retained.
10. As set out above, the character of the short cul-de-sac is mixed. There are examples of detached and semi-detached houses as well as a short terrace of houses immediately to the south of No 8. In this context, and taking the factors above into account, I am not persuaded that the proposal would lead to a harmful terracing effect that would appear out of step with the rest of the cul-de-sac or at odds with the street scene there.
11. Accordingly, whilst I accept that the proposal would be at odds with some of the detailed requirements of the SPD, on balance, I conclude on this main issue that it would cause no harm to the character and appearance of the surrounding area. Whilst there would be some conflict with the strict terms of the SPD, the proposal would support SPD Key Design Principle 1 which states that extensions and alterations should be in keeping with the design and local character of the area and the street scene. It would also accord with SPD Key Design Principle 2 which advises that extensions should not dominate the original house and should be in keeping with the existing building in terms of scale, materials and design
12. Additionally the proposal would generally align with Policy LP24 of the Kirklees Local Plan (Local Plan) criterion a of which requires proposals to promote good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Nor would there be any conflict with criterion c of Local Plan Policy LP24 which indicates that proposals should promote good design by ensuring extensions are subservient to the original building, and are in keeping with the existing building in terms of scale, materials and detail.

Living conditions

13. As set out above, the proposed side extension would be 0.45 metres from the shared boundary with No 8 and would bring two storey development some 1.7 metres closer to its flank elevation. SPD paragraph 5.20 requires two storey side extensions to maintain a gap of at least 1 metre to boundary walls to ensure the building is not too close to a neighbouring property.
14. No 8 has a number of windows on its flank elevation which face the appeal property. Although some are obscure glazed and may not serve habitable rooms, I saw at my visit that the windows there include those which appeared to serve a kitchen at ground floor and a bedroom at first floor.
15. The appellant argues that these have been introduced as alterations to the original dwelling, and impinge on the privacy of the occupiers of the appeal property. He also considers that the existing separation distance between No 8 and the appeal property does not comply with planning policy. Be that as it may, the merits of those windows/additions at No 8 are not before me for consideration. It remains that No 8's flank windows are already relatively close to the flank elevation of the appeal property which is set at a higher level.
16. The proposal would diminish the already limited space between the appeal property and No 8. It would bring tall two storey development even closer to No 8 and its flank windows. The Council estimates that it would be only 3.2 metres away. It would also extend well back from the rear of the appeal property and behind the rear of No 8.
17. Notwithstanding my conclusions above in terms of the impact of narrowing the gap between the two properties on the character and appearance of the area, I find that the proposed side extension would be appreciated as an unduly overbearing and oppressive feature when seen from No 8 at rather close quarters. Thus it would unacceptably diminish the outlook experienced by the occupiers of that property. Whilst I appreciate that views from No 8 are already somewhat dominated by the appeal property, the proposal would worsen this existing situation and further erode the limited outlook from there.
18. Turning to its effect on neighbouring No 12, the proposed rear extension would project some 3 metres rearwards of the back wall of the appeal property at two storey level and 4.5 metres at single storey level to the full width of the house. It would be set slightly off the boundary with adjoining No 12 by some 150mm and would have a hipped roof to the full height of the existing roof.
19. SPD paragraph 5.2 states that rear extensions should not (amongst other things) have an adverse impact by way of overshadowing or loss of outlook of neighbouring properties. Paragraph 5.8 requires two storey rear extensions to be (amongst other things) separated from the property boundary by at least 1.5 metres, not exceed a height of 3 metres where the extension is within 1.5 metres of the boundary, and not adversely affect habitable room windows where they adjoin a neighbour's property.

20. No 12 adjoins the appeal property to the north and has a first floor bedroom window on its rear elevation close to the boundary. The two storey rear extension would be sited very close to the shared boundary and would fail to provide anything like the 1.5 metres separation distance required by the SPD. It would also be tall, extending up to the full height of the hipped roof and would project well back from the rear of No 12.
21. This being so the proposal would introduce considerable and bulky development in very close proximity to No 12. It would lead to a loss of outlook from the rear bedroom window from where it would be seen as a large and obtrusive feature which would have an overbearing visual impact. It would also lead to a reduction in daylight to that room which as a result would be more gloomy. This would adversely affect the quality of life of the occupiers of No 12.
22. Whilst not cited by the Council, I am also concerned about the effect of the proposal on No 12's rear ground floor glazed doors and raised patio area immediately to the rear of the house. Given the proposal's height and proximity I consider that these areas would also be detrimentally affected by loss of outlook and daylight. The room served by the glazed doors and the outdoor space outside them would become much more enclosed and less daylight would reach them.
23. In coming to this view I am aware of the fallback position of a prior approval application for a large single storey rear extension. However, I consider that a two storey addition as proposed would have considerably more impact over and above one at single storey height.
24. The appellant argues that to achieve a 1.5 metre gap from the boundary the extension would not be worth building since the additional expense would not justify the space added. It is also argued that any such extension would have a part flat roof next to the boundary with a strange roof design and disjointed appearance. However, the merits of any such alternative schemes are not before me for consideration, and these matters are not reasons to allow development which would be harmful.
25. Bringing matters together, for the reasons set out above, I therefore conclude on this main issue that the proposal would be harmful to the living conditions of the neighbouring occupiers at No 8 and No 12.
26. This would be contrary to Local Plan Policy LP24 which states at criterion b that proposals should promote good design by (amongst other things), providing a high standard of amenity for future and neighbouring occupiers.
27. It would also conflict with SPD paragraphs 5.4 and 5.8 as set out above, as well as with SPD Key Design Principle 4 which states that extensions and alterations should consider the design and layout of habitable and non-habitable rooms to reduce conflict between neighbouring properties relating to privacy, light, and outlook. In addition it would be contrary to SPD Key Design Principle 5 which advises that extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property, and to SPD Key Design Principle 6 which indicates that extensions and alterations should not unduly reduce the outlook from a neighbouring property.

Overall conclusion on the main issues

28. Although I have found that the proposal would cause no harm to the character and appearance of the surrounding area, it would be harmful to the living conditions of the occupiers of both No 8 and No 12. This provides compelling grounds to resist the proposal.
29. Since the proposal would conflict with the policies outlined above, and having taken all material considerations into account, it would therefore not be in accordance with the development plan as a whole. Furthermore, it would undermine the aims of paragraph 130 criterion f of the National Planning Policy Framework which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

30. There are no objections to the proposal from nearby occupiers, including the occupiers of No 8 and No 12. However, this does not alter my conclusions on the main issues.
31. The appellant argues that he has the right to the enjoyment of his own property and to provide accommodation for his family. With this in mind I have considered the appellant's human rights under Article 1 of the First Protocol, as set out in the Human Rights Act 1998. However, I am content that any interference with the appellant's right to peaceful enjoyment of their possessions as a result of the dismissal of this appeal, would be in accordance with the law and in pursuance of the well-established and legitimate aim of protecting the living conditions of neighbouring occupiers.

Conclusion

32. For the reasons set out above, and having regard to all the matters raised, I conclude that the appeal should be dismissed.

E Worthington

INSPECTOR