



Appeal Decision

Site visit made on 3 January 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/Z4718/D/22/3307226

5 Southway, Lindley, Huddersfield HD3 3LN

- 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 Dave Shepherd against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/62/91226/W, dated 4 April 2022, was refused by notice dated 3 August 2022.
 - The development was originally described as proposed dormer to side/ rear.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dormer window at 5 Southway, Lindley, Huddersfield HD3 3LN in accordance with the terms of the application Ref 2022/62/91226/W, dated 4 April 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 22186 – 02 Rev A (titled: As Proposed GA).
 - 3) Prior to the first use of external surfaces of the development hereby permitted, details/ samples of the materials to be used in the construction of the external surfaces of the dormer window hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/ samples.
 - 4) The development hereby permitted shall not be occupied until the dormer window shown on proposed north elevation (side) has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Preliminary Matters

2. The description of development in the formal decision above has been taken from the decision notice and the appeal form. This is because it is a more

accurate reflection of the development for which permission is sought than that given on the application form.

3. On my site visit I observed that a dormer has already been erected. However, it is clear from the evidence before me that the proposed scheme is different to that built. Therefore, for the avoidance of doubt, I have assessed the appeal proposal and based my decision on the plans before me, and this is reflected in the tense used in my decision.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the host dwelling and the surrounding area; and
 - the living conditions of the occupants of 6 Southway and 50 and 52 Daisy Lea Lane, with particular reference to outlook, sunlight and daylight.

Reasons

Character and appearance

5. No 5 is a red bricked bungalow with dormer windows in the roof slope. The surrounding area is characterised by a mix of bungalows and two-storey dwellings of varying style and designs. On my site visit I observed that there are examples of dormer windows within the surrounding area. I noted that those visible from public vantage points were small and did not dominate the roofscape.
6. Planning permission was granted for single and two storey extensions, dormer windows to front and rear and external alterations¹. This development has largely been completed (although there is an ongoing enforcement investigation), and therefore this permission is extant. My attention has also been drawn to a planning application approved in 2020². The appellant's case sets out the dimensions and volumes of the three different extensions.
7. The proposed dormer would be located within the north (side) elevation of the host dwelling, and within part of the extension granted under the extant permission. The recently built extension has increased the size of the dwelling and the proposal would undoubtedly further increase its size.
8. The proposed development would not be a large stark feature as it would be in keeping with the southern elevation dormer. The recently erected southern elevation dormer is located in a more discreet location than the dormer proposed. Nonetheless, the style, materials and scale of the dormer has been designed to match the appearance of that dormer.
9. Although the dormer would be flush with the roof ridge and would have a flat roof, it would relate to the appearance of the house and existing roof. It would also provide some balance and symmetry to the roof, rather than having a dormer to one side, and would not unduly dominate the roof scape. In addition, the proposal would not significantly increase the scale and massing of the

¹ 2021/92354

² 2020/91843

- dwelling. It would also have a lower roof ridge height than that previous approved in the 2020 application.
10. The development would be visible from neighbouring properties, but only glimpsed views of the proposed dormer would be visible from public vantage points. It would not be conspicuous due to its siting to the side elevation, set back of the host property from the highway, existing built development as well as nearby trees and vegetation. The proposed development would therefore have a negligible impact on the character and appearance of the area.
 11. Having regard to the previously approved planning applications (and cumulative impact), the existing dormer window on the southern elevation, as well as the siting, scale, massing and form of the proposed dormer, the proposed development would be a subservient addition to the host dwelling which would respect the character of the host dwelling and locality. For these reasons and taking into account the varied character of the area, the dormer would not be an incongruous addition and would not cause unacceptable harm to the character and appearance of the host dwelling and surrounding area.
 12. Consequently, the proposed development would comply with Policy LP24 of the Kirklees Local Plan: Strategy and Policies (2019) (LP). This states that proposals should promote good design by ensuring developments respect and enhance the character of the area, extensions should be subservient to the original building and should be in keeping with the existing buildings.
 13. The scheme would also comply with key design principles 1 and 2 within the Council's House Extensions and Alterations SPD (2021) (SPD). These seek to ensure that extensions are in keeping with the character of the locality and subservient to the original house. In addition, it would comply with chapter 12 of the National Planning Policy Framework (the Framework) which seeks to achieve well-design places and states development should be sympathetic to local character.

Living conditions

14. The proposed dormer would face towards the rear elevation and garden area of 52 Daisy Lea Lane. 50 Daisy Lea Lane and 6 Southway also adjoin the appeal site and are located towards the north. The dormer would be visible from these properties (including main habitable rooms) and their gardens.
15. The proposed development would increase the massing of the dwelling and built form to the roof. However, the increase in scale and massing would not be significant. In addition, the scheme would have a lower roof ridge height than that previously approved in the 2020 application. There would be a reasonable distance between the proposed dormer and the windows of Nos 6, 50 and 52. These dwellings also benefit from reasonably sized gardens.
16. Therefore, having regard to the scale and siting of the dormer, as well as taking into account the size of the neighbouring gardens, the proposed development would not have an oppressive impact and would not be overbearing or overly dominant on the occupiers of nearby properties (including their gardens) and would also not cause significant overshadowing to the neighbouring gardens. Subsequently, the proposed development would not adversely affect the amount of light presently enjoyed by occupiers of

neighbouring properties and would not unduly reduce the outlook from neighbouring properties.

17. For these reasons, the proposed dormer would have an acceptable effect on the living conditions of the occupants of 6 Southway and 50 and 52 Daisy Lea Lane, with particular reference to outlook, sunlight and daylight. Accordingly, it would comply with Policy LP24 of the LP which states, amongst other matters, that proposals should provide a high standard of amenity for future and neighbouring occupiers.
18. It would also comply with key design principles 5 and 6 of the SPD. These state extensions and alterations should not adversely affect the amount of natural light presently enjoyed by a neighbouring property, and should not unduly reduce the outlook from a neighbouring property. In addition, it would comply with chapter 12 of the Framework which states developments should create places with a high standard of amenity for existing and future users.

Other Matters

19. The Edgerton Conservation Area (CA) boundary wraps around the dwellings on Southway and is adjacent to the rear boundary of the appeal site. The Council raise no concerns in respect of the effect of the development on the setting of the CA, and I have no reason to consider otherwise. I am satisfied that the development would have a neutral impact on the character and appearance of the CA and the development would not cause harm to the significance of the designated heritage asset. This is due to the location of the dormer (on the side elevation), distance to the CA as well as the intervening built development, trees and vegetation.
20. I have considered the matters raised in the objection comments. In addition to matters relating to the main issues, these include concerns relating to overlooking, privacy, development not built in accordance with approved plans, dormer larger than that shown on plans, fascia's, original plan more appropriate, impact saleability and value of properties, application form incorrect and impact view.
21. The Council's submission does not raise concerns in relation to these matters, and the officer's report sets out responses to the objection comments. The drawings show that the window facing towards the properties to the north would serve an en-suite. A planning condition could ensure that the opening of the window is restricted, and the window is obscurely glazed to prevent undue overlooking.
22. I understand that there is currently an enforcement investigation relating to works carried out which are not in accordance with the approved plans. In terms of impact on property values, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.
23. Having regard to the evidence before me, I am satisfied that the proposed development would not have a harmful impact on the matters raised. Consequently, subject to appropriate conditions, there is no credible evidence before me that would lead me to an alternative conclusion to the Council on the other matters raised or that could justify the dismissal of the appeal on these grounds.

Conditions

24. The Council's questionnaire sets out only the three standard conditions are necessary. However, the officer's report sets out that the en-suite window could be conditioned as fixed shut and obscurely glazed. The Council and appellant were given the opportunity to comment on the conditions I consider should be imposed.
25. It is necessary to attach a condition specifying the approved plan as this provides certainty. I sought clarification with the Council and appellant regarding the drawings, and they confirmed that the submitted proposed drawings³ are identical. Therefore, for clarity, and to avoid confusion, I have only listed the drawing 22186 – 02 Rev A.
26. A condition relating to materials is also necessary in order to preserve the character and appearance of the area. Given that there is an ongoing enforcement investigation relating to the recently built development (which currently forms part of the existing dwelling), for the avoidance of doubt, it is necessary to ensure that details/ samples of the materials are submitted to and approved by the Council. Furthermore, a condition relating to the dormer window shown on the proposed north elevation (side) is necessary in order to protect the living conditions of neighbouring occupiers.
27. Although a dormer has already been erected, the proposed scheme is different to that built. Therefore, the wording of the conditions reflects this in that the development hereby permitted has not been built.

Conclusion

28. For the reasons given above, having considered the development plan as a whole, and all other material considerations, the appeal is allowed subject to the attached conditions.

L Wilson

INSPECTOR

³ 22186 02 A and 22186 03